

CAPITAL ACQUISITIONS TAX

If you leave property by will to someone other than a spouse then they must pay Capital Acquisitions Tax (formerly Inheritance Tax) on their share at the rate of 25%. Estate planning is important in the reduction or avoidance of Capital Acquisitions Tax (C.A.T.) which is a tax on gifts and inheritances. There are certain thresholds under which C.A.T. will not be payable and these thresholds vary depending on the relationship the beneficiary has with the Testator/rix (the person who made the will). The thresholds are as follows:

Group	Threshold Amount (2009)	Relationship to Deceased.
1	€434,000-00	Child, minor child of deceased child, parent. (Child includes natural child (marital or non-marital), adopted children, step child, foster child (where certain criteria are met))
2	€43,400-00	Lineal ancestor (i.e. parent, grandparent etc) Lineal descendant other than child or minor child of deceased child (i.e. grandchildren etc), brother or sister or child of brother or sister.
3	€21,700-00	Everybody else including Uncles, Aunts etc.

The amount of the tax free threshold is exempt from Tax and it is the amount in excess of this threshold which is liable to tax. However, if you have received gifts or inheritances since 5th December, 1991 they are added together (aggregated) with the inheritance. The thresholds are lifetime thresholds with the result that the tax free threshold can be reduced or removed. The tax free thresholds increase every year in line with inflation.

Are there any tax reliefs available?

There are various reliefs available. The following are some of the reliefs which may be availed of:

1. Business Relief
2. Agricultural Relief
3. Dwelling House Relief
4. Favourite Nephew /Niece relief
5. Minor child of a deceased child

Business Relief

Business assets (including goodwill and a business premises) can be passed on by Deed or will and the beneficiary can claim business relief which means that for tax purposes the value of the business passing is reduced by 90% and the person taking the business assets (beneficiary) is deemed to have taken same at only 10% of their actual value.

The deceased must have owned the business assets for a period of at least two years prior to his/her death. This relief can be clawed back if the beneficiary sells/transfers the business assets within six years of obtaining same or if the business ceases.

Agricultural Relief

A similar relief is available for agricultural property. The beneficiary must be a farmer to be eligible for the relief (i.e. 80% of their assets must be agricultural). Provided certain conditions are met, the value of agricultural property passing by deed or will is reduced by 90%. To qualify for the relief the inheritance must consist of agricultural property (or can be a legacy with a condition that the monies be invested in agricultural land within two years of the inheritance).

Again, the relief can be clawed back if the beneficiary sells/disposes of the lands within six years of the inheritance.

Dwelling House Relief

If a person inherits a dwelling house which has been owned by the deceased for at least three years prior to the Gift or Inheritance, and has been occupied by the deceased as his/her main residence for the three years immediately prior to the gift/inheritance, the dwelling house is exempt from Inheritance tax. There are restrictions, however. The beneficiary must not own or have any interest in any other dwellinghouse. If the beneficiary is under 55, there will be a claw back if he/she sells the house within 6 years of the Gift/Inheritance but allowance is made if the beneficiary replaces the house with another within this period.

The exemption applies only to a house and garden of up to one acre. Where this relief applies, a beneficiary does not have to bring into account, in determining their Class Threshold, the dwelling in relation to any future benefits they take from the same deceased or a person within the same tax Class.

Favourite Nephew/Niece Relief

A nephew or niece who has worked substantially on a full time basis in the business or farm being passed on to them for five years prior to the Gift/Inheritance, may be entitled to the same Class Threshold (currently €434,000-00 (yr 2009)) as a child provided certain circumstances are met

Minor Child of a Deceased Child

Grandchildren taking a benefit from their grandparents usually fall in to the Class B Threshold but where they are under 18 and they are children of a pre-deceased child of the Donor, they can claim the Class A threshold.

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