

Introduction to Capital Acquisitions Tax

Capital Acquisitions Tax Manual Part 1

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Table of Contents

1.1 Capital Acquisitions Tax.....	3
1.2 Gift and Inheritance Tax.....	3
1.2.1 What is a gift?.....	3
1.2.2 What is an inheritance?.....	3
1.2.3 Tax-free thresholds for Gift and Inheritance Tax	4
1.2.4 What property is liable to gift and inheritance Tax?.....	4
1.2.5 Exemptions and Reliefs for Gift and Inheritance Tax	5
1.2.6 Calculation of Gift and Inheritance Tax	6
1.2.7 Administration of Gift and Inheritance Tax.....	7
1.3 Discretionary Trust Tax	8

1.1 Capital Acquisitions Tax

Capital Acquisitions Tax (CAT), comprising both a Gift Tax and an Inheritance Tax, was introduced by the Capital Acquisitions Tax Act 1976 (CAT Act). Over the years the CAT Act provisions were amended and extended by various Finance Acts.

Capital Acquisitions Tax provides for the taxation of:

- Taxable Gifts taken on or after 28 February 1974
- Taxable Inheritances taken on or after 1 April 1975.

In addition to CAT on gifts and on inheritances, the Finance Acts of 1984 and 1986 introduced a Discretionary Trust Tax.

A [Probate Tax](#) was additionally introduced by the Finance Act 1993 but was abolished by the Finance Act 2001.

The [Capital Acquisitions Tax Consolidation Act 2003 \(CATCA 2003\)](#) consolidated the various legislative provisions enacted over the years.

The 2010 Finance Act introduced a number of administrative changes in CAT including the:

- introduction of a new pay and file regime,
- compulsory electronic filing of all CAT reliefs and certain exemptions,
- introduction of a surcharge for the late filing of CAT returns,
- abolition of secondary accountability, and
- abolition of the 12-year charge on property rule.

1.2 Gift and Inheritance Tax

1.2.1 What is a gift?

In general, where a person, the donee, becomes beneficially entitled in possession to any benefit for less than full consideration and there is no death involved s/he is deemed to take a gift.

1.2.2 What is an inheritance?

In general, where a person, the successor, becomes beneficially entitled in possession to any benefit for less than full consideration and it is taken on a death s/he is deemed to take an inheritance.

A person is also deemed to take an inheritance on the death of a joint tenant. Where property is owned by two or more persons as joint tenants, on the death of one joint tenant, the surviving joint tenant or tenants is deemed to take an inheritance.

Tax is payable if the aggregate taxable value of gifts and inheritances received since 5 December 1991 exceed certain [thresholds](#).

The tax [rate](#) is then applied on the excess over the threshold amount.

1.2.3 Tax-free thresholds for Gift and Inheritance Tax

There are three tax-free thresholds depending on the relationship between the person providing the gift or inheritance (the disponer) and the donee or successor receiving the gift or inheritance (the beneficiary)

Group A threshold - Applies where:

- the beneficiary is a child of the disponer (including certain foster children)
- the beneficiary is a child of the disponer's civil partner
- the beneficiary is a minor child of a deceased child of the disponer or the disponer's civil partner
- the beneficiary is a minor child of the civil partner of a deceased child of the disponer or of the disponer's civil partner
- the beneficiary is a parent of the disponer and inherits an absolute interest.

Note – a child includes a stepchild and an adopted child.

Group B threshold - Applies where:

- the beneficiary is a brother or sister of the disponer
- the beneficiary is a child of a brother or sister of the disponer
- the beneficiary is a lineal ancestor of the disponer
- the beneficiary is a lineal descendant of the disponer (other than a person referred to in Group A)
- the beneficiary is a child of the civil partner of a brother or a sister of the disponer.

Note – the Group B threshold will also apply in relation to gifts and inheritances received by a person from certain relatives of their foster parent or from other individuals fostered by the same foster parent.

Group C threshold - Applies in all other cases.

Please use this link to access [current and historic threshold](#) amounts.

1.2.4 What property is liable to gift and inheritance Tax?

All property situated in the State is liable to gift/inheritance tax.

Property situated outside of the State is subject to gift/inheritance tax if:

- the disponer or transferor is resident or ordinarily resident in the State at the date of the disposition, or
- the beneficiary or recipient is resident or ordinarily resident in the State at the date of the gift or inheritance.

1.2.5 Exemptions and Reliefs for Gift and Inheritance Tax

CATCA 2003 provides for a number of exemptions and reliefs from CAT, which apply where certain conditions are met. Some of these exemptions and reliefs are summarised below.

- A gift or inheritance taken by a beneficiary, who at the date of the gift or inheritance, is the spouse or civil partner of the donor is exempt from CAT.
- The first €3,000 of the total value of all gifts taken from any one donor in a calendar year is exempt from CAT.
- An inheritance taken by a parent on the death of a child to whom either parent had made a non-exempt gift in the previous 5 years is exempt from CAT.
- A gift or inheritance for public or charitable purposes is exempt from CAT.
- An [inheritance of a dwelling house](#), which was the principal private residence of the donor at the date of his or her death and which was continuously occupied by the beneficiary as his or her only or main residence for three years immediately prior to the inheritance, may be exempt from CAT. The beneficiary must not be entitled to any interest in any other dwelling house at the date of the inheritance or at the valuation date. If the dwelling house is subsequently sold or disposed of, or the beneficiary ceases to occupy the dwelling house as his or her only or main residence within 6 years of the date of the inheritance the relief may be withdrawn.
- A [gift of a dwelling house](#), to a dependent relative of a donor, may also qualify for the exemption. A dependent relative is a direct relative of the donor, or of the donor's spouse or civil partner, who is permanently and totally incapacitated because of physical or mental infirmity from maintaining himself or herself or who is over the age of 65. Where a gift of a dwelling house qualifies for the exemption, the dwelling house does not have to have been the principal private residence of the donor.
- A gift or inheritance of [heritage](#) property is exempt from CAT provided certain conditions are met.
- Where a gift or inheritance consists of [agricultural](#) property, the market value of the agricultural property may be reduced by 90% provided certain conditions are met. For further information please see [CAT Manual Part 11 - Agricultural Relief](#).
- Where a gift or inheritance consists of [business](#) property, the taxable value of the business property may be reduced by 90% provided certain conditions are met. For further information please see [CAT Manual Part 12 – Business Relief](#).
- Where certain conditions are met the Group A threshold may apply to gifts and inheritances of certain business assets, taken by
 - a child of the donor's brother or sister, or
 - a child of the civil partner of the donor's brother or sister.

This is commonly referred to as [Favourite Nephew or Niece Relief](#).

- Where [Capital Gains Tax](#) (CGT) and CAT arise on the same property on the [same event](#), the CGT paid by the disponer may be credited against the CAT liability of the beneficiary, provided the property is not disposed of within 2 years of the event giving rise to the CAT and CGT.
- Where CAT is charged more than once on the same property on the [same event](#) the tax which is earlier in priority is allowed as a credit against the tax which is later in priority.

For further information on CAT exemptions please see [CAT Manual 23 - Exemptions from Capital Acquisitions Tax \(CAT\)](#)

1.2.6 Calculation of Gift and Inheritance Tax

Any benefit received since 5 December 1991 from within the same group threshold is [aggregated](#) for the purposes of determining whether any tax is payable on the current benefit.

Example

Alan has received a gift of €20,000 from his sister Jade. He identifies the CAT threshold as Group B and the threshold is €32,500.

He adds together the taxable value of all prior benefits he has received in Group B since 5 December 1991. Alan calculates that he has received prior benefits with a taxable value of €15,000.

CAT aggregation rules (post 5 December 1991)

Description	Calculation	Value
Group threshold		€32,500
Total taxable value of prior benefits in group		€15,000
Unused balance of threshold	€32,500 – €15,000	€17,500
Value of current benefit		€20,000
Excess Amount	€20,000 – €17,500	€2,500

Alan must pay tax on the excess amount of €2,500.

[Current and historic rates](#) of CAT are available on the Revenue website.

Note: The legislation provides that the relevant group thresholds, rates of tax, reliefs, etc. used to determine a beneficiary's tax liability are those pertaining at the date of the gift or inheritance and not the valuation date.

1.2.7 Administration of Gift and Inheritance Tax

A beneficiary is required to file a self-assessment return (Form IT.38) where benefits with a value of at least 80% of the applicable tax-free threshold have been received by that beneficiary (section 46(4) CATCA 2003). This 80% threshold value is calculated by aggregating the value of the current benefit(s) with the taxable value of previous benefits received by that beneficiary since 5 December 1991.

However, where a benefit comprises agricultural or business property and agricultural or business relief applies, a return must be filed **regardless** of the taxable value of the agricultural or business property and its proportion of the particular group threshold. This requirement was introduced in Finance Act 2020(section 55), with effect from 19 December 2020.

A CAT return is required where a person receives a gift in respect of certain interest-free loans. In such circumstances a return is required **regardless** of the taxable value of the benefit of the loan. This requirement was introduced in Finance Act 2023(section 80), with effect from 1 January 2024. Further information is available at <https://www.revenue.ie/en/gains-gifts-and-inheritance/filing-obligations/index.aspx>.

The Finance Act 2010 introduced a fixed pay and file regime for CAT. All gifts and inheritances with a [valuation date](#) in the 12 month period ending on the previous 31 August must be included in the return to be filed by 31 October of that year.

The valuation date of a gift is the date of the gift. The valuation date of an inheritance is generally the date of the grant of probate or grant of letters of administration. However, in certain circumstances the valuation date may be earlier.

CAT returns **must** be filed through [myAccount](#) or [ROS](#) unless the following criteria apply:

- no relief/exemption/credit is claimed, apart from the small gift exemption,
- the benefit taken is an absolute interest without conditions or restrictions, and
- the property included in the return was taken from only one disponer and is not part of a larger benefit or series of benefits taken by the beneficiary on the same day.

If the above criteria apply the return may be filed on the [short form](#) or through myAccount or ROS.

In line with other taxes a surcharge is applied as a sanction for those who do not comply with the filing deadline. The surcharge is based on a percentage increase in the total tax payable for the year for which the return is late (subject to an overall cap).

- A 5% surcharge applies, subject to a maximum of **€12,695**, where the tax return is delivered within two months of the filing date (e.g., for the year of assessment 2023, any date between 1 November 2023 and 31 December 2023 inclusive).
- A 10% surcharge, up to a maximum of **€63,485**, will be applied where the tax return is **not** delivered within two months of the filing date.

Interest also arises for late payments.

Taxpayers can file a return with payment or pay separately and while it is recommended that payments be made through myAccount or ROS, payment can also be made through the post by cheque.

Payment of tax may be facilitated by the use of certain [policies of insurance](#), the proceeds of which are exempt from CAT provided they are used to pay the tax liability.

1.3 Discretionary Trust Tax

The term discretionary trust is generally applied to a trust under which trustees have absolute discretion to apply the income and/or the capital of the trust property in favour of a particular person or persons, who are named as objects of the trust. The object of the trust has no interest in possession in the trust property; he or she has merely a hope that the trustees may exercise their discretion in his or her favour. For CAT purposes the term discretionary trust also includes a trust in which property is held on trust to accumulate all or part of the income of the property.

CATCA 2003 provides for a once-off charge to [Discretionary Trust Tax](#) at the rate of 6% on the latest of the following dates:

- the date on which the property becomes subject to the trust
- the date of death of the disponent
- the date on which there are no principal objects of the trust aged less than 21 years.

The principal objects of a discretionary trust are:

- the spouse or the civil partner of the disponent
- the children of the disponent or of the disponent's civil partner
- the children of a predeceased child of the disponent or of the disponent's civil partner
- the children of the civil partner of a predeceased child of the disponent, or
- the children of the civil partner of a predeceased child of the civil partner of the disponent.

The 6% once-off charge is reduced to 3% if the property is transferred absolutely out of the trust within 5 years.

An annual charge at the rate of 1% also arises on 31 December each year on the property in the trust.