

# The Self-Assessment Return (Form IT38)

## Capital Acquisitions Tax Manual Part 3

This document should be read in conjunction with section 46 Capital Acquisitions Tax Consolidation Act 2003

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**Table of Contents**

- 3.1 Introduction ..... 3
  - 3.1.1 Pay and File Date.....3
  - 3.1.2 Self-Assessment Return (Form IT38).....3
  - 3.1.3 Surcharge for Late Filing .....4

## Part 3 - The Self-Assessment Return (Form IT38)

See [CAT Manual - Part 1](#) for an introduction to Capital Acquisitions Tax.

### 3.1 Introduction

A beneficiary is required to make a self-assessment Capital Acquisitions Tax (CAT) return, where benefits with a value of at least 80% (section 46(4) CATCA 2003) of the relevant [group threshold](#) have been received by the beneficiary. This 80% threshold value is calculated by aggregating the value of the current benefit with the value of benefits received by a beneficiary since 5 December 2001.

However, where a benefit comprises agricultural or relevant business property and agricultural or business relief applies, a return must be filed **regardless** of the taxable value of the agricultural property or business property and its proportion of the particular group threshold.<sup>1</sup>

The Self-Assessment Return is made on an IT38. As this is an annual return it can comprise more than one gift or inheritance.

For inheritances, based on an extract of beneficiary information from the Statement of Affairs (Probate) Form SA.2, Revenue's systems will automatically issue a letter to beneficiaries, whom it understands may have a requirement to pay and file a CAT return in a tax year. If for some reason the valuation date does not arise in the anticipated year, the beneficiary simply notifies Revenue and Revenue will note their records accordingly.

#### 3.1.1 Pay and File Date

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

The Finance Act 2011, brought forward the pay and file date to 30 September in respect of the year of assessment 2011.

The Finance Act 2012 amended the pay and file date for CAT from 30 September to 31 October.

**Example:**

Valuation Date 21 February 2014: File return and pay tax by 31 October 2014.

Valuation Date 6 November 2014: File return and pay tax by 31 October 2015.

Returns may be filed before the due date of 31 October in a year. However, where a return is filed without payment, any payment due must be made by 31 October.

#### 3.1.2 Self-Assessment Return (Form IT38)

The return can be filed and tax paid through [myAccount](#) or [ROS](#).

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<sup>1</sup> Requirement introduced by Finance Act 2020 (section 55), wef 19 December 2020.

An offline version of the IT38 can also be downloaded. When completed it can be uploaded and the tax paid.

The return may only be filed in paper form where:

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

The paper return requires the filer to compute the liability. If Revenue is satisfied based on the data in the return that the tax is correctly computed, an acknowledgement will issue.

However, if Revenue determines a higher liability (say due to the application of a late filing surcharge), an amended assessment will be made.

### 3.1.3 Surcharge for Late Filing

The Finance Act 2010 introduced a surcharge for those who do not comply with the filing deadline of 31 October. The surcharge is based on a percentage increase in the total tax payable for the year for which the return is late. The surcharge is subject to a grading by reference to the length of the delay, but there is an overall cap on the amount of the surcharge.

A 5% surcharge applies, subject to a maximum of €12,695, where the return is delivered within two months of the filing date (e.g. for the year of assessment 2016, any date between 1 November 2016 and 31 December 2016 inclusive).

A 10% surcharge, up to a maximum of €63,485, applies where the return is not delivered within two months of the filing date.

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