Capital Acquisitions Tax Changes in Finance Act 2016

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The Finance Act 2016 also includes significant changes to the rules governing dwelling house relief

The 2016 Finance Act was passed into law on Christmas Day. The increases to the tax-free thresholds that apply to gifts and inheritances that were announced in the last Budget are included. These increased thresholds apply to gifts and inheritances taken on or after the 12th of October 2016.

CURRENT CAT THRESHOLDS (FROM 12 OCTOBER 2016)

Threshold	Applies
Group A : €310,000 (increased from €280,000)	Applies where the beneficiary is a child (including adopted child, step-child and certain foster children) or minor child of a deceased child of the disponer. Parents also fall within this threshold where they take an inheritance of an absolute interest from a child.
Group B : €32,500 (increased from €30,150)	Applies where the beneficiary is a brother, sister, niece, nephew or lineal ancestor or lineal descendant of the disponer.
Group C : €16,250 (increased from €15,075)	Applies in all other cases.

There was no change to the Capital Acquisitions Tax rate of 33 per cent.

The Finance Act 2016 also includes significant changes to the rules governing dwelling house relief granted under section 86 of the Capital Acquisitions Tax Consolidation Act 2003. Amendments made to the relief by the Act considerably narrow its scope so that, with effect from the 25th of December 2016, the exemption no longer applies to gifts of dwelling houses unless the gift is made to a dependent relative of the donor. Prior to the Act, the relief applied to gifts of any dwelling house to any recipients. However, section 52 has significantly restricted the relief, particularly in relation to the ability to make tax-exempt gifts of dwelling houses. In addition, in the case of an inheritance, the exemption now applies only to the principal private residence of a disponer.

Dwelling House Exemption now applies where residential properties are bequeathed by individuals who live there to successors who

1. have lived there for a specified period of time before the inheritance,
2. will continue to live there for a specified period of time after the inheritance, and
3. have no beneficial interest in any other residential property at the date of the inheritance.

A dwelling house will now qualify for the exemption where

- it was occupied as the only or main residence of a disponer at the date of his or her death,
- it was occupied by a successor as his or her only or main residence for the three years preceding the date of the inheritance or, where the dwelling house for which the exemption is claimed replaced another dwelling house as the successor's only or main residence, the combined period of occupation was at least three years falling within the four years preceding the date of the inheritance,
- it is the only dwelling house in which a successor has a beneficial interest at the date of the inheritance, and
- it transferred by way of an inheritance except in the case of a gift of a dwelling house to a dependent relative,* or
- a gift that becomes an inheritance when a disponer dies within two years of making the gift.

A dwelling house will cease to be exempt where, within the period of six years beginning on the date of an inheritance,

- it is sold or otherwise disposed of by a successor, or
- a successor ceases to occupy the dwelling house as his or her only or main residence.

If a dwelling house ceases to be exempt, then tax is chargeable as if it had not qualified for the exemption at the date of the inheritance. The inheritance must then be taken into account under the aggregation rules when computing tax on later gifts or inheritances within the same group threshold. However, a sale, disposal or cessation of occupation does not result in the withdrawal of the exemption in the following circumstances.

- The proceeds from a sale are re-invested in a replacement dwelling house that will be the only or main residence of the successor. If less than the full proceeds are re-invested there will be a proportional clawback.
- The successor was 65 years of age or older on the date of the inheritance.
- The successor was required to reside somewhere other than the dwelling house because of an infirmity certified by a doctor.
- The successor was required to live somewhere else, whether in the State or abroad, in order to perform their duties of employment.

Where a person who was 55 years of age or older received a gift or inheritance of a dwelling house prior to the 25th of December 2016 and satisfied the other qualifying conditions for the exemption at that time, there will be no clawback of the exemption as a result of the age threshold being increased to 65 years by Finance Act 2016.

* *Dependent relative means a relative of the donor who is incapacitated to such an extent that they are unable to maintain themselves by earning an income from working or who is aged 65 or over.*