(1)

Donal Murtagh

From:	Lynch, Joe (ICTx_CapiTax) [redacted]
Sent:	26 June 2014 12:29
To:	Donal Murtagh
Cc:	Cillian Byrnes
Subject:	FW: Finance Bill 2014 - Section 86 Proposal to restrict exemption
Attachments:	Section 86 Proposal to restrict exemption.doc
Importance:	High

Donal/Cillian

Proposal to restrict Dwelling-house exemption for CAT is attached.

Joe

Finance Bill 2014

Proposal to Restrict Residential Property Exemption
Section 86, Capital Acquisitions Tax Consolidation Act 2003

1. Background

(1) Section 86 of the Capital Acquisitions Tax Consolidation Act 2003 provides an exemption form CAT in respect of a gift or inheritance of a dwelling house (as defined) and up to 1 acre of grounds with the dwelling house, subject to certain conditions.

The donee or successor must:

- have continuously occupied the house as his or her only or main residence throughout the period of 3 years immediately prior to and 6 years after the date of the gift or inheritance
- not be beneficially entitled, at the date of the gift or inheritance, to any other dwelling house

The exemption may be clawed back if the donee or successor disposes of the dwelling house before the expiry of 6 years from the date of the gift or inheritance. However, there is a provision that allows for the disposal of the dwelling house and replacing it with another, without losing the exemption.

(2) This exemption, introduced in Finance Act 2000 (replacing an existing exemption) was to cater for persons who had been living in a dwelling-house for a substantial period prior to the gift or, in the case of an inheritance prior to the inheritance, and would be faced with having to sell the house to pay the CAT liability. This would apply in particular to children who continued to reside with their parents into their old age – very often to care for the parents.

It was not the intention that persons could use this exemption for the purposes of providing tax-free gifts of dwelling-houses to each of their children (or to other persons) regardless of circumstances.

2. Issue

(3) Cases are coming to attention where wealthy parents are using this exemption to buy and gift houses to their children. There is nothing in the exemption as currently drafted to prevent a parent with (say) four children from purchasing a dwelling house for each of them and gifting/ bequeathing them, subject to the above conditions being satisfied – in practice, it can be difficult for Revenue to determine whether or not the conditions are satisfied.

(4) Additionally, the gifting of dwelling houses in this way has no impact on the CAT Thresholds – as this exemption is additional to the CAT Thresholds, i.e. each child retains their full Group A Threshold for any further gifts/inheritances they may get.

(5) Furthermore, the relief does not confine the gifting /inheritance of a dwelling-house to children. As enacted, the relief can apply to anyone to whom a house is gifted / bequeathed.

(6) It is considered that such gifts are outside the scope of the intended exemption provided by Section 86 Capital Acquisitions Tax Consolidation Act 2003.

3. Proposal

It is recommended that this exemption should be curtailed so as to apply it to the type of situations originally intended:

It is proposed that the "dwelling-house" exemption should only be available in respect of the disponer's only or main residence. This would effectively confine the opportunity to bequeath or gift a dwelling-house **once only** to any category of successor/donee. e.g. child of the disponer, brother or sister, carer, dependent relative, etc.

It is considered that where a disponer has the financial capacity to gift/bequeath houses to anyone he or she chooses without limitation, such gifts/bequests do not merit exemption.

One additional situation might also be provided for:

Gift / inheritance of a dwelling-house owned by the disponer which is provided rent-free and without any other consideration as the sole residence of a "dependent relative". [This would correspond broadly to the situation that qualifies for Principal Private Residence Relief for capital gains tax purposes]

"Dependent relative" would be defined to correspond with the definition in Section 604(11)(a), Taxes Consolidation Act 1997:

> "(11) (a) In this subsection, "dependent relative", in relation to an individual, means a relative of the individual, or of the wife or husband of the individual, who is incapacitated by old age or infirmity from maintaining himself or herself, or the widowed father or widowed mother (whether or not he or she is so incapacitated) of the individual or of the wife or husband of the individual.".

2

Donal Murtagh

From: O'Donoghue, Maurice [redacted]
Sent: 04 July 2014 09:23
To: Donal Murtagh
Subject: FW: Submission: [00373-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)]

Donal,

Submission herewith,

Regards,
Maurice.

From: Lynch, Joe (ICTx_CapiTax)
Sent: 03 July 2014 12:00
To: O'Donoghue, Maurice
Subject: RE: Submission: [00373-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)]

Maurice,

Is this OK with you ?

I've made just two minor suggestions – in red.

IF Ok with you, you can confirm to Donal.

Thanks,
Joe

From: Donal.M[redacted]]
Sent: 03 July 2014 11:50
To: Lynch, Joe (ICTx_CapiTax)
Subject: Submission: [00373-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)]

Joe/Maurice,

Draft submission on dwelling house exemption in required format for here is attached. Its based on your proposal of 26 June. Any views before it goes up the line?

Regards,

Donal

[00373-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)] - Draft

- **To:** Minister

- not be beneficially entitled, at the date of the gift or inheritance, to any other dwelling house.

- The exemption may be clawed back if the donee or successor disposes of the dwelling house before the expiry of 6 years from the date of the gift or inheritance. However, there is a provision that allows for the disposal of the dwelling house and replacing it with another, without losing the exemption.

- The intention of the dwelling house exemption is to remove from a charge to CAT the transfer of a home between home sharers. It is not the intention that parents who are wealthy enough could use this exemption for the purposes of providing tax-free gifts of dwelling-houses to each of their children or by persons to gift a house which is not their home or main residence to other persons, regardless of the circumstances.

- Additionally, the gifting of dwelling houses has no impact on the application of tax-free CAT Thresholds – as the dwelling house exemption is additional to the CAT Thresholds. For example, where a parent purchases and gifts a dwelling house to a child, the child retains their full Group A Threshold (currently set at €225,000) for any further gifts/inheritances they may get.

Proposed action

- It is recommended that this exemption be curtailed so as to apply it to the type of situations originally intended.

- It is proposed that the "dwelling-house" exemption should only be available in respect of the disponer's only or main residence. This would effectively confine the opportunity to bequeath or gift a dwelling-house once only to any category of successor/donee, e.g. child of the disponer, brother or sister, carer, dependent relative.

- One additional situation might also be provided for. This is where a dwelling-house owned by the disponer (other than his/her main residence) and which is provided rent-free and without any other consideration as the sole residence of a "dependent relative" which is gifted or bequeathed to the "dependent relative". [This would correspond broadly to the situation where a residence provided by an individual to a dependent relative qualifies for Principal Private Residence Relief for capital gains tax purposes].

- "Dependent relative" would be defined to correspond with the definition in Section 604(11)(a), Taxes Consolidation Act 1997: "dependent relative", in relation to an individual, means a relative of the individual, or of the wife or husband of the individual, who is incapacitated by old age or infirmity from maintaining himself or herself, or the widowed father or widowed mother (whether or not he or she is so incapacitated) of the individual or of the wife or husband of the individual.".

No

3

00445-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)

To: Minister	**Author:** Donal Murtagh
Status: For Review	**Owner:** Des O'Leary
Purpose: For Decision	**Reviewers:** Des O'Leary
Division/Office: Fiscal Division	
Decision By:	

Action Required

To approve amendments to s.86 Capital Acquisitions Tax Consolidation Act, 2003 (CATCA) to restrict the exemption from CAT of gifts or inheritances of dwelling houses.

Executive Summary

- Section 86 of the Capital Acquisitions Tax Consolidation Act 2003 provides an exemption from CAT in respect of a gift or inheritance of a dwelling house (as defined).

- This exemption was primarily introduced to cater for persons who had been living in the disponer's house for a substantial period prior to the gift or inheritance and who might otherwise be faced with having to sell the house (their home) to pay the CAT liability. This would apply in particular to children who continued to reside with their parents into their old age – very often to care of them.

- Cases are coming to the attention of the Revenue Commissioners of wealthy parents using this exemption to buy and gift houses to all of their children. There is nothing in the legislation as currently drafted to prevent this. In fact, the relief can apply to anyone to whom a house is gifted / bequeathed. In practice, it can be difficult for Revenue to determine whether or not the conditions of the relief (see Additional Information below) are satisfied.

- It is considered that such gifts are outside the scope of the intended exemption provided by Section 86 Capital Acquisitions Tax Consolidation Act 2003 and it is proposed that the exemption be restricted to the gift inheritance of (i) the disponer's only or main residence and (ii) a dwelling house owned by the disponer and provided rent-free and without further consideration to a dependent relative.

Comments

There are no Comments.

The amendment is intended to ensure that the provision operates as originally intended

Detailed information

- The CAT exemption applies to the gift or inheritance of a dwelling house and up to one acre of grounds with the dwelling house.

- The conditions that must be satisfied by the donee/successor (the beneficiary of the gift or inheritance) are that he/she must:

-have continuously occupied the house as his or her only or main residence throughout the period of 3 years immediately prior to and 6 years after the date of the gift or inheritance .

- not be beneficially entitled, at the date of the gift or inheritance, to any other dwelling house.

- The exemption may be clawed back if the donee or successor disposes of the dwelling house before the expiry of 6 years from the date of the gift or inheritance. However, there is a provision that allows for the disposal of the dwelling house and replacing it with another, without losing the exemption.

- The intention of the dwelling house exemption is to remove from a charge to CAT the transfer of a home between home sharers. It was never the intention that parents who are wealthy enough could use this exemption for the purposes of providing tax-free gifts of dwelling-houses to each of their children or by persons to gift a house which is not their home or main residence to other persons, regardless of the circumstances.

- Additionally, the gifting of dwelling houses has no impact on the application of tax-free CAT Thresholds as the dwelling house exemption is additional to the CAT Thresholds. For example, where a parent purchases and gifts a dwelling house to a child, the child retains their full Group A Threshold (currently set at €225,000) for any further gifts/inheritances they may get.

Proposed action

- It is recommended that this exemption be curtailed so as to apply it to the type of situations originally intended.
- It is proposed that the "dwelling-house" exemption should only be available in respect of the disponer's only or main residence. This would effectively confine the opportunity to bequeath or gift a dwelling-house once only to any category of successor donee. e.g. child of the disponer. brother or sister. carer. dependent relative.
- One additional situation might also be provided for. This is where a dwelling-house owned by the disponer (other than his/her main residence) and which is provided rent-free and without any other consideration as the sole residence of a "dependent relative" which is gifted or bequeathed to the "dependent relative". [This would correspond broadly to the situation where a residence provided by an individual to a dependent relative qualifies for Principal Private Residence Relief for capital gains tax purposes].
- "Dependent relative" would be defined to correspond with the definition in Section 604 (11)(a). Taxes Consolidation Act 1997: "dependent relative". in relation to an individual. means a relative of the individual. or of the wife or husband of the individual. who is incapacitated by old age or infirmity from maintaining himself or herself. or the widowed father or widowed mother (whether or not he or she is so incapacitated) of the individual or of the wife or husband of the individual.".

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

Donal Murtagh
Cillian Byrnes

Read receipt list

Donal Murtagh

Action Logs

Created: 16/07/2014 09:11:44: Submission created by Donal Murtagh

Grant Access: 16/07/2014 09:12:56: Donal Murtagh granted access to Cillian Byrnes

Sent For Review: 16/07/2014 09:18:22: Submission sent to Des O'Leary for Review by Donal Murtagh

(4)

00445-14: CAT – Proposed changes to the dwelling house exemption (FB15# 07)

To: Minister	**Author:** Donal Murtagh
Status: Completed	**Owner:** Donal Murtagh
Purpose: For Decision	**Reviewers:** Des O'Leary
Division/Office: Tax Division	
Decision By:	

Final Comment

Minister's Comments/Decision- 2/9/14; not agreed

Action Required

To approve amendments to s.86 Capital Acquisitions Tax Consolidation Act, 2003 (CATCA) to restrict the exemption from CAT of gifts or inheritances of dwelling houses.

Executive Summary

- Section 86 of the Capital Acquisitions Tax Consolidation Act 2003 provides an exemption from CAT in respect of a gift or inheritance of a dwelling house (as defined).

- This exemption was primarily introduced to cater for persons who had been living in the disponer's house for a substantial period prior to the gift or inheritance and who might otherwise be faced with having to sell the house (their home) to pay the CAT liability. This would apply in particular to children who continued to reside with their parents into their old age – very often to care of them.

- Cases are coming to the attention of the Revenue Commissioners of wealthy parents using this exemption to buy and gift houses to all of their children. There is nothing in the legislation as currently drafted to prevent this. In fact, the relief can apply to anyone to whom a house is gifted / bequeathed. In practice, it can be difficult for Revenue to determine whether or not the conditions of the relief (see Additional Information below) are satisfied.

- It is considered that such gifts are outside the scope of the intended exemption provided by Section 86 Capital Acquisitions Tax Consolidation Act 2003 and it is proposed that the exemption be restricted to the gift/inheritance of (i) the disponer's only or main residence and (ii) a dwelling house owned by the disponer and provided rent-free and without further consideration to a dependent relative.

Comments

- (16/07/2014 12:49:14) Derek Moran:
- (16/07/2014 12:28:24) Derek Moran: This is a FINANCE BILL measure. The amendment proposed is intended to ensure that the provision operates as originally intended.

Detailed Information

- The CAT exemption applies to the gift or inheritance of a dwelling house and up to one acre of grounds with the dwelling house.

- The conditions that must be satisfied by the donee/successor (the beneficiary of the gift or inheritance) are that he/she must:

-have continuously occupied the house as his or her only or main residence throughout the period of 3 years immediately prior to and 6 years after the date of the gift or inheritance .

- not be beneficially entitled, at the date of the gift or inheritance, to any other dwelling house.

- The exemption may be clawed back if the donee or successor disposes of the dwelling house before the expiry of 6 years from the date of the gift or inheritance. However, there is a provision that allows for the disposal of the dwelling house and replacing it with another, without losing the exemption.

- The intention of the dwelling house exemption is to remove from a charge to CAT the transfer of a home between home sharers. It was never the intention that parents who are wealthy enough could use this exemption for the purposes of providing tax-free gifts of dwelling-houses to each of their children or by persons to gift a house which is not their home or main residence to other persons, regardless of the circumstances.

- Additionally, the gifting of dwelling houses has no impact on the application of tax-free CAT Thresholds – as the dwelling house exemption is additional to the CAT Thresholds. For example, where a parent purchases and gifts a dwelling house to a child, the child retains their full Group A Threshold (currently set at €225,000) for any further gifts/inheritances they may get.

Proposed action

- It is recommended that this exemption be curtailed so as to apply it to the type of situations originally intended.
- It is proposed that the "dwelling-house" exemption should only be available in respect of the disponer's only or main residence. This would effectively confine the opportunity to bequeath or gift a dwelling-house once only to any category of successor/donee, e.g. child of the disponer, brother or sister, carer, dependent relative.
- One additional situation might also be provided for. This is where a dwelling-house owned by the disponer (other than his/her main residence) and which is provided rent-free and without any other consideration as the sole residence of a "dependent relative" which is gifted or bequeathed to the "dependent relative". [This would correspond broadly to the situation where a residence provided by an individual to a dependent relative qualifies for Principal Private Residence Relief for capital gains tax purposes].
- "Dependent relative" would be defined to correspond with the definition in Section 604 (11)(a), Taxes Consolidation Act 1997: "dependent relative", in relation to an individual, means a relative of the individual, or of the wife or husband of the individual, who is incapacitated by old age or infirmity from maintaining himself or herself, or the widowed father or widowed mother (whether or not he or she is so incapacitated) of the individual or of the wife or husband of the individual.".

Related Submissions

There are no related Submissions.

User Details

Users with access to Submission

Donal Murtagh
Cillian Byrnes
Sub_FIN Sec Gens Office
Sub_FIN Ministers Office

Read receipt list

Donal Murtagh
SP-ContentAccess
Des O'Leary
Derek Moran
Mary Young
Rosemary Kearney
Neasa Sherry
Cillian Byrnes
Alex Lalor

Action Logs

Created: 16/07/2014 09:11:44: Submission created by Donal Murtagh

Grant Access: 16/07/2014 09:12:56: Donal Murtagh granted access to Cillian Byrnes

Sent For Review: 16/07/2014 09:18:22: Submission sent to Des O'Leary for Review by Donal Murtagh

Sent to the Secretary General: 16/07/2014 09:31:18: Submission sent to Secretary General for Review by Des O'Leary

Sent to the Minister: 16/07/2014 12:49:14: Submission sent to Minister for Review by Derek Moran

Completed: 10/12/2015 09:53:41: Submission completed on behalf of the Minister's Office by Neasa Sherry

5

CAT

(1)

12/1/15

- Referred by Sol.
- Tax exemption for dwelling house (CAT)
- £1m house for each
- Immoral
- Wealth manager
- Bringing tax legislation into disrepute.

- Last 18 months, this will have taken off

- Cash transactions

- Large + small legal firms

②

- Rent-free gift of house by parent to child

- 4 children, 4 houses purchased of £1m.

★ Family Partnership.

- ~~Hus~~ Husband / Wife

- Set up P/ship around a portfolio of assets

- Ownership of assets would reside with the father + mother and the uplift in value ~~wt~~ would rest with the children

3

- Illiquid assets

- P/ship assets
  they owned by
  parents and controlled
  by them – appreciation
  of assets under the
  agreement goes to
  children.

→ Bare-trusts / assignment

→ Assignment of £3K

→ Bare-trust – gift each
  year

→ Assignment ? – Legal
  work

6

Donal Murtagh

From:
Sent: 06 February 2015 12:00
To: Donal Murtagh
Subject: Residential Property CAT Relief

Donal

Since we met I have come across two situations where clients have bought €1M+ properties for each of their children in the last twelve months with a view to passing over ownership after 3 years. It's up to you but I think it is going to be a substantial revenue loss for you.

On the other side, I would like to see the 1% life fund levy abolished on investment-based life policies (not protection-based policies) because it creates a distortion in the savings market vis a vis shares, UCITS and unit trusts and creates a disincentive for new savers. I believe there is a revenue neutral way of doing this by increasing the annual tax on growth in pre 2001 net life funds from 20% which seems like an anachronism when compared to the rate of 41% prevailing on post-2001 gross roll-up funds. Is this your area and could I present my case to you?

Best regards,

[redacted]

Managing Director

7

Donal Murtagh

From: Donal Murtagh
Sent: 09 April 2015 10:21
To: Des O'Leary
Cc: Gary Tobin; Lynch, Joe (ICTx_CapiTax)
Subject: CAT - Dwelling house exemption

Des,

We originally had this issue on the FB list for further consideration but following discussion of the list last month, it was decided not to proceed with it this year. I'm not advocating that we necessarily re-instate the item but we might keep an eye on this. You will recall that we had reps from a wealth manager indicating abuse of this exemption.

Regards,

Donal

From: Mary Young
Sent: 09 April 2015 10:12
To: Donal Murtagh
Subject: Email as requested

From: Joan Burton [[redacted]]
Sent: 30 March 2015 15:30
To:
Cc: Minister,
Subject: RE: CAT - unfair relief for rich parents

Dear .

On behalf of the Tánaiste and Minister for Social Protection, Joan Burton TD I wish to acknowledge receipt of your email, dated 26/3/2015.

As this matter is proper to Revenue, I will bring your email to the attention of Minister Michael Noonan at the Dept of Finance for direct reply.

Yours sincerely

Colm Lawless

Dublin West Constituency Office of Tánaiste Joan Burton, TD
Minister for Social Protection
[redacted]

6/03/2015 12:33:57---Tánaiste,

From

Joan Burton [illegible]
26/03/2015 12:33
RE: CAT - unfair relief for rich parents

Tanaiste,

The Dwelling House exemption from CAT (Inheritance tax)

This is grossly unfair to working people and needs to be abolished ASAP

I know of 3 families who were out bid on trying to buy family homes

In each situation the son or daughter moved in and will take ownership in 3 years time FREE of CAT

Apparently, tax advisors advocate this as a way of avoiding CAT (the whole purpose of the relief I guess)

and are saying even if the house goes down in value by 30% - The CAT saved is 33% so the are still saving!!!! - and happy to overpay for a property !

This is a socially divisive exemption and should be removed

There has also been some press articles on it,

yours

Subject: Major Jobs Boost for [redacted]
To: joan.burton@oireachtas.ie
From: joan.burton@oireachtas.ie
Date: Fri, 14 Nov 2014 16:30:40 +[redacted]

Major Jobs Boost for [redacted]

Friends,

It is was with great pleasure today that I announced up to 400 jobs for Dublin West. US biologics company Bristol-Myers Squibb is to create 350 to 400 manufacturing jobs and 1,000 construction jobs at a new facility in Cruiserath, Co. Dublin. Bristol-Myers Squibb is at the cutting-edge of biological medicine, and the decision to construct its new manufacturing facility in Dublin West represents a massive vote of confidence in the area. Bristol-Myers Squibb is already a significant employer with a long and proud record in Ireland, and I'm delighted that the company has chosen to expand its presence so significantly.

This project will be a hugely important boost for Dublin West, bringing 1,000 jobs in the construction phase, and up to 400 high-quality manufacturing jobs, including engineers, quality specialists and scientists, once the facility is up and running.

Dublin West is fast becoming a major hub for IT and R&D, with an array of high-tech companies already located here. The number of universities, ITs and colleges close by makes the area a strong academic corridor, so Dublin West is brilliantly located to secure more such jobs.

Ireland will see the fastest growth in the EU this year, and we continue to outperform our competitors in attracting inward investment because of our highly-skilled workforce, our extensive R&D capacity, and the ease of doing business in Ireland.

With best wishes,

Joan

Constituency Office of Tánaiste Joan Burton, TD
Minister for Social Protection
Email: joan.burton@oireachtas.ie
Ph 01 6184006
www.joanburton.ie

Oireachtas email policy and disclaimer.
http://www.oireachtas.ie/parliament/about/oireachtasemailpolicyanddisclaimer/

Beartas ríomhphoist an Oireachtais agus séanadh.
http://www.oireachtas.ie/parliament/ga/eolas/beartasriomhphoistanoireachtaisagusseanadh/

Our Ref: 15/0989/MF

April 2015

Mr

Dear Mr

The Minister for Finance, Mr Michael Noonan TD, has asked me to thank you for your correspondence regarding the dwelling house CAT exemption.

The Minister has noted your concerns in this matter and will bear the issue in mind for the future.

Yours sincerely,

Alex Lalor
Private Secretary

8

Donal Murtagh

From: Donal Murtagh
Sent: 24 April 2015 15:15
To: Lynch, Joe (ICTx_CapiTax)
Cc: 'O'Donoghue, Maurice'; Ciaran Parkin; Des O'Leary
Subject: CAT Dwelling House exemption - Data and evidence gathering
Attachments: CAT Dwelling House Relief - Final.doc

Joe,

As discussed, this item is no longer on the Finance Bill list at this time. One of the reasons for this was a view that the collection of data and evidence necessary in order to take a view on the need for and scale of any changes to the existing provisions might not be available in the truncated timespan available for consideration of FB issues.

I know from our conversation that Revenue have already set in train some actions to gather whatever data on transactions in this area may be available together establishing whether there is evidence of significant abuse. In this regard, I am attaching a copy of the Finance Bill 2007 submission on the dwelling house exemption (the last occasion on which the provision was significantly amended). The submission included significant detail extracted from the records of Revenue's various districts of the numbers, value ranges and overall value of gifts and inheritances of dwelling house exemption transactions together with limited instances of potential abuse of the measure.

Would it be feasible for Revenue to carry out a similar examination of the records available to it in respect of the latest year for which the fullest data would be available and to revert to us with the results?

Regards,

Donal

Finance Bill 2007
Capital Acquisitions Tax - Dwelling House Relief

Mr Moran – to see

Mr McNally – to see

Minister

From Liam Murphy

Summary of Issue

A dwelling house relief for Capital Acquisitions Tax was introduced for inheritances in the 1991 Finance Act and was considerably extended and widened to include gifts in the 2000 Budget and Finance Bill. The features of the relief are:

- The beneficiary must live in the gifted / inherited house for 3 years before and 6 years after the gift or inheritance
- The beneficiary must not have an interest in any other house at the time of the gift or inheritance
- There is no limit on either the value of the house or the size of the land surrounding the house
- The donor / deceased does not have to live in the house prior to the gift / inheritance

Following a PQ last June, which is attached for reference, Revenue examined the relief and are concerned that it may now being used for tax avoidance by the wealthy – specific examples below suggest gifts have been made in the range €2½m to €9½m. It is accordingly felt that the matter should be re-examined and it is proposed that the following changes are made.

Inheritances of dwelling houses

- continue to give full exemption, but only where both lived in the house for 3 years prior to the death of the disponer, and
- where this is not the case, exempt the first €0.5m of value in addition to the normal class thresholds.

Gifts of dwelling houses

- abolish the exemption, **or**, if it is felt to be too extreme,
- exempt the first €0.5m of the value of the house, but only where both lived in the house for 3 years prior to the gift.

However, if it is felt that these restrictions go too far, consideration should at least be given to tightening any changes to tightening up the current provisions in relation to Gifts only:

- Make it a condition of the relief that the beneficiary lived in a house owned by the disponer for 3 years before the gift. This is to copper-fasten the existing legislation to ensure that an individual who owned and sold his or her own home cannot claim that a house that is subsequently gifted to him or her (within weeks) is "directly or indirectly" replacing the home he or she sold, for the purposes of the 3 years condition, and
- Eliminate the potential of parents using this exemption to transfer capital to children living at home by buying a house for a child and gifting it to him/her.

Background

Finance Act 1991

A relief was introduced in the Finance Act 1991 in respect of inheritance of a dwelling-house taken by elderly brothers and sisters of the deceased. The conditions for the relief were:

- the brother/sister must have been 55 or over;
- he/she must have lived with the deceased for a minimum period of 5 years prior to the date of the inheritance; and
- he/she must have had no interest in any other house on the date of the inheritance.

The relief was capped at the lesser of £50,000 or 50% of the value of the house. Subsequent amendments (up until FA 1998) to this relief extended it to include siblings under the age of 55, nephews, nieces, parents and grandparents. The amount of the relief was extended to the lesser of 80% of the value of the house or £150,000. The period for which both the disponer and the successor were required to be resident in the house, prior to the date of the inheritance, was increased from 5 years to 10 years.

Budget and Finance Act 2000

The relief was radically altered in the Budget and Finance Act 2000. The underlying reason for this was that increases in house prices, particularly in Dublin, meant that other categories of persons could face hardship in paying a CAT liability when inheriting a house. This could happen in particular, where the survivor of an unmarried couple inherited the house they had both lived in. The survivor, in such circumstances, would only have been entitled to the Class 3 threshold, which is relatively small (€16,328 in 1999 and €23,908 in 2006). It could also happen where a child, who lived in a house with a parent, inherited the house on the death of the parent.

However, in the event, the terms of the new relief in 2000 made it significantly more generous and more widely available because of the following features:

- it applies to gifts as well as inheritances;
- it applies to all beneficiaries regardless of their relationship to the disponer;

- the requirement that the disponer resided in the house along with the beneficiary was abolished and the period of residence of the beneficiary, prior to the transfer, was reduced to 3 years : and
- there is no limit to the value of the house – i.e. the relief became an exemption.

According to a survey recently undertaken by Revenue, the cost of the relief in respect of gifts and inheritances in the year ended 31 December 2005 was up to €28m. A breakdown of the value and number of the properties (or part thereof) involved are as follows:

Category	Number	Value
Gifts	189	€32,749,331
Inheritances	346	€107,345,595

A breakdown of these figures as between location and value of property is set out in the Annex[1].

The Issue

The changes to the Relief in FA 2000 have provided opportunities (acknowledged by the tax profession back in 1999 when announced) for CAT avoidance and it would appear that they are being utilised for that purpose by the wealthy. The 2005 figures show that property with a value in excess of €1m was inherited tax-free on 19 occasions and was received as a gift tax-free on 4 occasions. More recent examples that have come to light are as follows:

- A couple sold their investment property so that they could claim a CAT exemption for a gift of a €2.25m house (in which they had been living for 3 years) from the wife's father – (she had already received a gift valued at €19m which was eligible for business relief). Her sister, who had likewise received a similar gift valued at €19m, is living in a house owned by her parents and one can expect that it will be gifted to her in due course. (A condition of the relief is that at the time of the gift, the successor beneficiary did not have a beneficial interest in any other dwelling-house.)

- Two children of a settlor of a trust are beneficiaries of that trust. They have utilised their tax-free threshold in respect of parental gifts already received. The trustees bought a house, the children lived in it for 3 years, and it has now been gifted to them - valued at €2.5m.

- A newspaper report, earlier this year, indicated that a wealthy individual had purchased a house worth €9.6m, for his daughter to live in. No doubt in 3 years time it will be gifted to her.

[1] Whereas these figures are for 2005, the successor donee would have been in occupation of the house concerned for not less than 3 years prior to the date of the inheritance gift.

It would appear, therefore, that section 86 is being used by some wealthy individuals to avoid CAT and its provisions are, from a policy perspective, decidedly unfocussed. It is highly probable that, if section 86 relief is not curtailed, it will become the vehicle of choice for CAT avoidance when passing on wealth to the next generation.

Proposals

Up until FA 2000, the section was focussed on relieving possible hardship arising where certain relations of a deceased became liable for CAT when inheriting a "modest" dwelling house, which they did not own, but in which they had lived with the deceased for a period of time prior to the death of the deceased. This continues to be a reasonable policy approach and the question is whether any of the extensions to the relief made in FA 2000 depart from this policy approach in an unjustified manner. These extensions are considered below.

From the inheritance perspective

a) requirement that successor be related to the deceased

It is appropriate that the relief should continue to include "non-relatives" who have lived for a certain period along with the now deceased in a house owned by the deceased. This caters for among others, unmarried couples including same-sex partners. (No CAT applies in the case of spouses.)

b) requirement that the successor lives with the deceased for a period up to date of death

The removal of this requirement meant that an individual could provide a house for a dependent relative. If a person has been allowed, prior to the death of the deceased, to live in a house owned by the deceased (rent-free or otherwise) it might be argued that hardship could arise if the person, on inheriting the house in which he/she lives, has a liability to CAT, whether or not the deceased had also lived in the house. However, other than in the case of children, this scenario where the deceased did not live with the successor is likely to be significantly less common than the scenario where that the successor lived with the deceased. Even if there was hardship in such a scenario, section 59 CATCA 2003 gives power to the Revenue Commissioners to "*postpone the payment of CAT for such period, to such extent and on such terms (including the waiver of interest) as they think fit*".

The abolition of the requirement, that the successor lives with the deceased, allows parents to purchase a house for a child to live in, and on the death of the parents, the child inherits the house tax-free. To all intents and purposes, this is a mechanism for the tax-free passing on of wealth to the next generation. As already noted, 19 dwellings with a value of €1m plus were inherited in the y/e 31December 2005 in respect of which section 86 relief was claimed. (The available data does not indicate whether the deceased and the successor both lived in the house concerned up until the date of death.)

In the light of the foregoing, consideration might be given to amending section 86 such that, where the deceased and the successor did not both live in the house

---

This extension came after "The Report of the Working Group Examining the Treatment of Married, Cohabiting and One-Parent Families under the Tax and Social Welfare Codes" – August 1999 concerned, only the first €500,000 of the value of the house be exempt from CAT, with the remaining benefit taxable (but subject to the relevant exemption thresholds, which is now €478,155 in the case of a child) and at 20% thereafter. Where the deceased and the successor both lived in the house concerned, the existing full exemption would continue to apply.

c) requirement that the successor lives in the house for 3 years prior to the death. This is a reasonable requirement.

From the gift perspective

d) Extension of the relief to gifts as well as inheritances.

The focus of the original relief was to alleviate hardship caused by a CAT liability imposed on a person who inherits a house in which they had been living with the deceased. It has subsequently been extended to include gifts. The reason may have been that similar hardship might arise to a person who is gifted a house in which he or she has been living for 3 or more years. As with inheritances, apart from transfers to children, this is an unlikely scenario and a legislative mechanism already exists to address hardship. Such a transfer is even less likely if the donor and donee are both living in the house concerned.

This extension to include gifts can, therefore, be used as a tax-free mechanism to pass on wealth to one's children or whoever during one's lifetime. Whereas Revenue have not as yet encountered such a case, it appears that it could be argued that the legislation affords CAT exemption to a child who takes up residence in a new dwelling (purchased by his/her parents) which is then gifted to him/her by his parents, all within a few days of the child leaving the parental home.

As with inheritances, it is appropriate that the beneficiary need not be related to the deceased. If there is justification for the relief for gifts, it would probably not be too restricting to require donor and donee to both live in the house.

Consideration should, therefore, be given to either—

- abolishing the relief, as it applies to gifts; or, if this goes too far
- exempting from CAT the first €500,000 of the value of a house which is gifted, but only where both lived in the house for 3 years prior to the gift.

The legislation combines the period of occupation in the new dwelling-house with the period of occupation in a dwelling-house that has directly or indirectly replaced other property for the purposes of the 3 year period. Another scenario that may be difficult to argue against is where parents buy a child's house and immediately gift it back and the child claims CAT exemption. In a recent case at Circuit Court a section 86 claim was rejected where—

- *an individual sold his existing house in which he had lived in for 10 years,*
- *he moved into another house which his mother had purchased for €1.15m, and*
- *two weeks later the mother gifted that other house to him.*

The claim was that CAT exemption for the gift of the house should be available as the house replaced a house that he had previously occupied. While the claim was rejected, Revenue's legal advice is that provisions of section 86 relating to replacement dwellings need to be tightened up.

Conclusion

The current provisions of section 86 leave the CAT exemption afforded thereby too unfocussed. Consideration should be given to the following changes.

As regards inheritances of dwelling houses—

- continue to give full exemption where both lived in the house for 3 years, and
- exempt the first €0.5m of value where the successor and the deceased did not both live in the house

As regards gifts of dwelling houses—

- abolish the exemption, or
- exempt the first €0.5m of the value of the house.

However, if it considered that the above proposals go too far, you may wish to consider the following technical amendments:
Keep the relief unchanged for inheritances, but in the case of gifts tighten up the current provisions relating to the replacement of one dwelling-house with another to ensure that

- both houses are required to be owned by the disponer. This is to copper-fasten the existing legislation to ensure that an individual who owned and sold his or her own home cannot claim that a house that is subsequently gifted to him or her (within weeks) is "directly or indirectly" replacing the home he or she sold, for the purposes of the 3 years condition.
- a child is not treated as occupying a dwelling owned and also lived in by his her parent(s), for the purposes of this relief. This is to deal with the situation where a child has been living at home with his or her parents and the parent buys a house which is then gifted to the child. (The legislation combines the period of occupation in the new dwelling-house with the period of occupation in a dwelling-house that has directly or indirectly replaced other property for the purposes of the 3 year period).

Liam Murphy

ANNEX

COST OF SECTION 86 CACTA 2003 IN Y/E 31/12/2005

	GIFTS		INHERITANCES	
Region	Number	Value €	Number	Value €
DUBLIN	75	20,216,263	140	67,384,554
BMW	25	3,851,763	64	12,151,931
ESE	56	6,689,891	73	15,549,760
SW	33	2,991,414	69	12,259,350
TOTAL	**189**	**32,749,331**	**346**	**107,345,595**

<u>INHERITANCES</u> OF DWELLING HOUSE OR PART THEREOF

per value range

VALUE RANGE €	DUBLIN	EAST SOUTH EAST	SOUTH WEST	BORDER MIDLANDS WEST	TOTAL
up to 99,000	17	15	26	11	69
100, 000 to 199,999	22	33	26	32	113
200,000 to 299,999	18	10	8	11	47
300,000 to 399,999	21	3	3	4	31
400,000 to 499,999	15	7	1	3	26
500,000 to 599,999	16	2	2	1	21
600,000 to 699,999	6	1	1	1	9
700,000 to 799,999	7	-	-	-	7
800,000 to 899,999	1	1	-	-	2
900,000 to 999,999	2	-	-	-	2
1m to 1,499,999	10	1	2	1	14
1.5m to 1,999,999	1		-	-	1
2m to 2,999,999.	2	-	-	-	2
3m and upwards.	2	-	-	-	2
TOTAL	**140**	**73**	**69**	**64**	**346**

GIFTS OF DWELLING HOUSE OR PART THEREOF
per value range

VALUE RANGE €	DUBLIN	EAST SOUTH EAST	SOUTH WEST	BORDER MIDLANDS WEST	TOTAL
up to 99,000	31	29	11	3	74
100, 000 to 199,999	23	18	16	14	71
200,000 to 299,999	7	6	4	3	20
300,000 to 399,999	2	3	2	5	12
400,000 to 499,999	3	-	-	-	3
500,000 to 599,999	1	-	-	-	1
600,000 to 699,999	1	-	-	-	1
700,000 to 799,999	2	-	-	-	2
800,000 to 899,999	1	-	-	-	1
900,000 to 999,999	-	-	-	-	-
1m. to 1,499,999	1	-	-	-	1
1.5m to 1,999,999	1	-	-	-	1
2m to 2,999,999.	1	-	-	-	1
3m and upwards.	1	-	-	-	1
TOTAL	**75**	**56**	**33**	**25**	**189**

9

Donal Murtagh

From: O'Donoghue, Maurice <[redacted]>
Sent: 23 June 2015 15:58
To: Donal Murtagh
Subject: FW: Re: Queries on Dwelling House Exemption for 3 siblings

Importance: High

Donal,

You asked me to forward details of some dwelling-house claims for exemption.

I have sent this on without comment for your information at this stage,

Regards,
Maurice.

From: Rochfort, Bernadette
Sent: 13 April 2015 15:54
To: O'Donoghue, Maurice
Subject: Re: Queries on Dwelling House Exemption for 3 siblings
Importance: High

Hi Maurice

I am in the process of conducting an audit on 3 siblings, they all received gifts of a Dwelling House each from their father ( ) and they all claimed Dwelling House Exemption on same .

Per Sect 86 (3) (c) CAT CA 2003 "Subject to subsections (4), (5), (6) & (7), a dwelling house comprised in a gift or inheritance which is taken by a done or successor who- (c) - continues to occupy that dwelling house as that done or successor's only or main residence throughout the relevant period [relevant period being 6 years commencing on the date of the gift or inheritance]"
Subsection 5 states - For the purpose of para (c) of subsection (3), the done or successor is deemed to occupy the dwelling house concerned as that done or successor's only or main residence throughout any period of absence during which that done or successor worked in an employment or office all the duties of which were performed outside the State

Two of the siblings – after receiving the gift of DH worked abroad, but both rented out the houses on which they had claimed DHE. is no longer working abroad and is now living in the house again. [redacted] is still working in the UK. They both were registered as landlords with the PRTB

I believe that there should be a clawback of the DHE for each of the above 2 beneficiaries, because the houses were rented out "during the relevant period" which meant that they were no longer their PPR's (full details below)

Case 1: T Period: 1/9/11-31/8/12

Date of gift: 1/12/11 Address of House: MV €850,000
DHE claimed
PRTB records indicate that this house has been rented since 20/5/12 for €2,700 monthly, and is still being rented out currently.

Agent stated that [redacted] is working abroad and that it is a condition of her employment here.

Case 2: 'eriod: 1/9/12-31/8/13

Date of gift: 29/11/12 Address of House: ıV: €1,000,000
DHE claimed

Per PRTB records this property was rented out and rent payable was €5,500 monthly. Income Tax returns were submitted by t/p showing rental income for 2012 €22,000 & 2013 €27,500.

Agent stated that is was a condition of his employment that he had to work abroad. Beneficiary is now working in Ireland and living in

<u>The third sibling</u> – :c'd gift of house d) from father on 2/12/11 and claimed DHE on same. He & his wife purchased another house in September'14 and sent an e-mail to Revenue notifying us of a change of address for his PPR as ,on 2/12/14). The house at ın which DHE claimed) is up for sale with Sherry Fitzgerald (asking price €695,000) and now is showing up as sale agreed.

Should the beneficiary have sold house at first and then used sale proceeds to purchase the replacement property? The house at u to be his PPR once he started living at

Case 3: CAT Period: 1/9/11-31/8/12

Date of gift: 2/12/11 Address of House: ..1V: €700,000
DHE claimed

T/P and his wife purchased a house at . ·n 15/9/14 for €1,800,000 and an e-mail was received from

12/14 informing Revenue of a change to his PPR.

(8) Where a dwelling-house exempted from tax by virtue of subsection (3) (in this section referred to as the "first-mentioned dwelling-house") is replaced within the relevant period by another dwelling-house, the condition specified in paragraph (c) of subsection (3) is treated as satisfied if the donee or <u>successor</u> has occupied as that donee or successor's only or main residence the first-mentioned dwelling-house, that other dwelling-house and any dwelling-house which has within the relevant period directly or indirectly replaced that other dwelling-house for periods which together comprised at least 6 years falling within the period of 7 years commencing on the <u>date of the gift</u> or the <u>date of the inheritance</u>.

Maurice I would really appreciate your advice on the above 3 cases

Kind regards

Bernie
Dublin CAT Audit Unit

VPN: 34678

10

Donal Murtagh

From: O'Donoghue, Maurice <[redacted]>
Sent: 24 August 2015 11:55
To: Ciaran Parkin; Kennedy, Jean
Cc: Donal Murtagh
Subject: RE: CAT budget submission

Ciaran,

The submission sets out various options and costings fairly in my view and I have no particular issues with the submission.

Just to clarify at point 30 that a taxpayer has a statutory entitlement under s54 CATCA 2003 to pay tax on all gifts or inheritances (other than on gifts or inheritances on absolute interests in personal property) by monthly instalments over a period of 5 years and this is not a matter over which Revenue has a discretion to accept payment in this manner. The taxpayer is entitled to pay by instalments under s54.

On the broad issue of the CAT dwelling-house exemption my preferred option in an ideal world would be to levy CAT on all gifts and inheritances of dwelling-houses but on a reduced market value of say, 50% of the market value of the house.

The concept of levying CAT on a reduced market value of particular assets is already in existence for agriculture and business assets (90% reduction in market value).

This would be in conjunction with the abolition of the much abused dwelling-house exemption, would spread the burden over all house, and not result in certain houses being complete exempt from tax and other houses being fully taxed all based on certain arbitrary conditions.

Regards,
Maurice.

From: Ciaran Parkin [mailto:Ciaran.Parkin@finance.gov.ie]
Sent: 20 August 2015 16:59
To: Kennedy, Jean; O'Donoghue, Maurice
Cc: Donal Murtagh
Subject: CAT budget submission

Jean, Maurice,

Find attached a draft of the submission that Donal and I are preparing for the Minister regarding CAT thresholds and related elements. It's still very much in development (Donal will doubtless mould my slightly esoteric analysis into something more concrete) but we would appreciate any thoughts you may have on it. Donal says we're specifically interested in knowing about "anything that grates with you". Responses would be appreciated at some point next week, to both Donal and myself.

Many thanks,

Ciarán Parkin
Administrative Officer
Fiscal Policy Division
Department of Finance
[redacted]

Title: Changes to the Capitals Acquisitions Tax tax-free thresholds and related issues.

Action Required

(i) To approve an increase in Capital Acquisitions Tax (CAT) tax-free thresholds and (ii) to consider several other issues relating to CAT.

Executive Summary

- Gift and inheritance taxes are applied on amounts received above certain tax-free thresholds. Since the financial crash the rate of CAT has been raised significantly (though not to the pre-2000 higher level) and thresholds have been reduced.

- With rising property prices the range of individuals receiving transfers beyond the thresholds, and so paying tax, has grown and some pressure has emerged to increase the thresholds.

- While, as outlined below, there does not seem to be a strong case for linking the thresholds to property prices generally, in the context of improved yield you may consider making a one off threshold increase, based on property price increases in recent years, of

    - 25% (bringing the A, B and C thresholds to €281,250, €37,700 and €18,800 respectively and costing €48 million in 2016 and €56 million for a full year), or

    - 33.33% (bringing the A, B and C thresholds to €300,000, €40,200 and €20,100 respectively and costing €61 million in 2016 and €71 million in a full year).

- Alternatively an increase in the Group A threshold <u>only</u>, which applies to transfers from parents to their children, would cost €28 million in 2016 and €33 million in a full year (based on a 25% increase) or €35 million in 2016 and €41 million in a full year (based on a 33.33% increase). In this case the Group B and C thresholds would remain unchanged.

- Two other issues are considered: the possibility of indexing the thresholds and the possible reintroduction of progressive CAT rates.

Detailed Information

1. Capital Acquisitions Tax is the tax on gifts and inheritances. A 33% rate applies on values over lifetime thresholds defined by the relationship of the disponee (beneficiary) to the disponer.

    Group A: €225,000

(Broadly to a son or daughter)

Group B: €30,150

(Parent, sibling, niece, nephew or grandchild)

Group C: €15,075

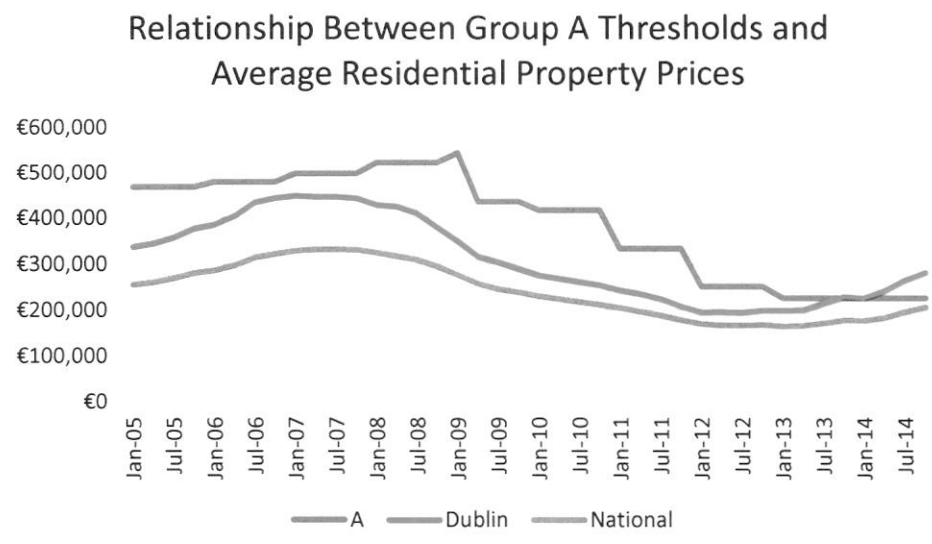
(All other relationships, except spouses and civil partners, who are exempt)

2. The thresholds have been reduced a number of times over recent years while rates have been increased (having been significantly reduced in 2000). The primary reason cited for these changes has been protection of yields. In 2014 there was a significant growth in yield compared to 2013:

	2007	2008	2009	2010	2011	2012	2013	2014
Yield (€million)	392	332	254	238	244	283	279	387
Rate*	20%	22%	25%	25%	30%	33%	33%	33%
Group A Threshold	€496,824	€521,208	€434,000	€332,084	€250,000	€225,000	€225,000	€225,000
Group B Threshold	€49,682	€52,121	€43,400	€33,208	€33,500	€30,150	€30,150	€30,150
Group C Threshold	€24,841	€26,060	€21,700	€16,604	€16,750	€15,075	€15,075	€15,075

*Rates and thresholds are those at year's end. Prior to 2000 there were three rates of 20%, 30% and 40%, applied in progressive slices.

3. A very large part of the value of gifts and inheritances is in the form of residential property, so that property prices have a significant impact both on CAT yield and on the range of people who are subject to the tax. Because falling property prices contributed to reduced yields the threshold changes since 2009 designed to protect yield have largely tracked the changes in property prices, up until 2014.



4. Property prices reached a peak in 2007 and then began to fall. The CAT thresholds continued to rise in line with inflation, but then since 2009 were reduced through a series of discretionary changes as property prices continued to fall. The last time this occurred was late 2012, since when property prices have begun to increase, although this process has slowed over this year.

5. As well as yield protection there have been two main justifications for rate increases and threshold reductions, as outlined in previous submissions. The first is that increased inheritance taxation has less of a negative effect on economic activity than many other taxation measures. The second is that gifts and inheritances are unearned and as such taxing them is more justifiable compared to taxing earned income.

6. Historically the Group A threshold has been higher than the average national house price, (although this may not have been intentional). This remains the case, however the Group A threshold is now below both the average and median house price in Dublin for the first time in recent years (at least according to some price sources), including when properties over €1 million are excluded*. When considering this fact it may be worth recalling the concentration of wealth in the capital and the large Dublin rental market. This means that many of these properties will belong to the relatively wealthy, or be owned on a commercial basis, meaning that, from a national perspective, it may not be inappropriate that they fall within the range of taxable inheritances.

   *Source: PSRA RPPR. National mean (excluding outliers) €209,300; Dublin mean (excluding outliers) €282,929; Dublin median €250,000. Figures for 2015 Q2. Other sources suggest somewhat lower average and median prices.

7. A certain amount of pressure has emerged recently to increase CAT thresholds. This comes mainly from two sources. Firstly from farming organisations, as reported by the Department of Agriculture and in pre-Budget submissions. Secondly from certain homeowners, primarily in Dublin, who have submitted a number of representations. In both cases it is based on increased property values. There are, however, also calls for reductions in the thresholds, for instance from ICTU.

8. Agricultural and business CAT reliefs reduce the taxable value of business and agricultural assets by 90%, subject to certain conditions.

9. With regard to homeowners, there seem to be two possible perspectives from which the rise in property prices might be viewed as meaning there should be a rise in the thresholds. The first of these, which some have taken to calling the "inheritance tax trap" is the suggestion that inheritors are being forced to sell their parents' homes to pay the CAT liability.

10. Someone receiving a gift or inheritance of the house they use as their main residence may be able to claim dwelling house relief, which means that no CAT is payable on such a gift or inheritance, provided certain conditions are met. As such, the "inheritance tax trap" presumably applies to inheritors who do not live in the property in question, or are otherwise ineligible for the exemption. The issue would therefore seem to be that people are having to sell a property to which they have an emotional attachment.

11. Only in quite particular circumstances would an inheritor find it necessary to sell a property to pay the CAT liability. If they move into the property then various options, other than payment from savings, could be open to them, including: payment of the tax from the sale of another property; substitution of the CAT payment (which can be done through instalments) for rental costs; or the use of credit. If they did not move into the property they could rent it and pay the tax from rental income. Only if none of these options is available would the "trap" apply. It is also only relevant in cases where an inheritor would not have chosen to sell the property anyway. There is no evidence about the number of cases where this applies.

12. The second perspective from which rising property prices might entail an increase in the thresholds is that there is some principled link between the two.

13. CAT thresholds were previously linked to inflation, through the Consumer Price Index (CPI). The basis for this was that, as prices rise, the real value of a tax-free amount is reduced. To maintain the real value of the tax free amount it is therefore necessary to increase its nominal value. It may be worth noting that the cost of housing forms part of the CPI. When the thresholds have been reduced over recent years, and the link with inflation broken, this has not been done because there was felt to be a stronger principled connection between property prices and the thresholds than between the thresholds and inflation, but to protect yield.

14. There are two possible principles on which one could say that property prices and the tax free thresholds should be linked.

    - One would be that the thresholds should be linked with the average amount received through gift and inheritance. Because property makes up a large part of the value of transfers subject to CAT, property prices can act as a proxy for the amount that people receive through gift and inheritance. A reason to follow this principle might be a belief that only some portion of recipients (for instance the top quarter) should pay CAT. By changing the thresholds in line with the value of the asset-type which makes up the bulk of receipts this fraction could be roughly maintained.

- The would be that the real value of receipts is defined by the ability they convey to hold or buy property (either a property received by gift or inheritance or another one to be bought with the receipt), rather than the average basket of goods used in the CPI. In this case, as property prices go up the real value of a tax free amount would go down and the nominal amount should be raised. This may be most relevant for disponees who prefer to move into the property which they receive and not sell it – if the thresholds are not related to property prices then those who happen to receive a property at a time when prices are high will be worse off than those who happen to receive one at a time when prices are lower.

15. Overall, the case for linking CAT thresholds to property prices generally does not appear to be strong.

16. Without agreeing with either of these perspectives you could of course still choose to ease the imposition of CAT, for instance on the basis that yield protection is no longer such a great priority. This could be done either through a reduction in the rate or an increase in the thresholds.

17. CAT plays an important part in Ireland's equitable and progressive tax system. As a tax on lifetime receipt of gifts and inheritances it fulfils these goals more effectively than, for instance, an estate tax. A reduction in the rate of CAT would be more beneficial to those receiving comparatively larger gifts and bequests, while a change in thresholds would primarily benefit those receiving gifts and bequests at a value comparatively close to the threshold. As such, it is recommended that any overall easing of the tax be done through changes to the thresholds rather than a reduction in the rate.

18. Should you wish to increase the thresholds a number of options are open. The following options have been costed by Revenue (full year cost, with all three thresholds changing by the same percentage):
    - An 11% increase, bringing the Group A threshold to €250,000: €28 million.
    - A 20% increase, bringing the Group A threshold to €270,000: €46 million.
    - A 25% increase, bringing the Group A threshold to €281,250: €56 million.
    - A 33.3% increase, bringing the Group A threshold to €300,000: €71 million.
    - A 56% increase, bringing the Group A threshold to €350,000: €103 million.
    - A 78% increase, bringing the Group A threshold to €400,000: €129 million.

19. While, as noted in paragraph 15, there does not appear to be a strong case for linking the tax-free thresholds to property prices generally, changes in property values since the thresholds were last set could provide a useful basis for a figure for a one off threshold increase, which would essentially be an easing of the tax.

20. Different sources give different figures for increases in property prices since the thresholds were last changed in December 2012, however they fall between 20% and 30%. The Economics Section's preferred source indicates 22% growth in Dublin and 28% growth nationally up to Q2 2015. As such it is recommended, subject to your approval, that the thresholds be increased by c. 25%, or alternatively 33.33%. While these proposed increases

do not match exactly with property price movements to the middle of this year, the increases would take account of further marginal increases in the interim.

Appendix A

Indexation of Thresholds

21. If the imperative to be able to protect yield through threshold reductions is no longer such a priority you may feel that it would be appropriate to reinstate indexation of thresholds.

22. The advantages of indexation are that the process occurs automatically, removing the need for review, and that it should mean that, once the thresholds are initially set at an appropriate level, they will broadly continue as such. As indexation was previously in place Revenue should have the tools to operate it again.

23. Possible disadvantages include the possibility that indexation would make future discretionary changes (particularly reductions in the thresholds) more difficult, as well as increased administrative costs. Revenue have indicated that when indexation was in place it was administratively quite burdensome, particularly for members of the public and tax and legal professionals dealing with inheritance. Recent technological improvements in Revenue's operations may mean that this burden would be reduced.

24. Two options for indexation would be a return to CPI, the justification for which is outlined in paragraph 13, or a property based index, such as the CSO's Residential Property Price Register (RPPR). As the CSO are currently reviewing the way in which this is compiled it is recommended that consideration of indexation to the RPPR should wait until that process has been completed next year.

25. At this time indexation of thresholds is not recommended. Instead it is suggested that they be kept under review, allowing for occasional discretionary changes. Inflation is an important factor in light of which these changes could be made.

Appendix B

Progressive CAT rates

26. As described in paragraph 17 a feature of threshold increases compared to rate reductions is that they primarily advantage those receiving smaller gifts and inheritances. Another way in which CAT could be eased for those receiving more modest transfers is the reintroduction of progressive rates. Up to 1999 CAT was payable in "slices", with rates increasing depending on the amount inherited above the tax free thresholds. When progressive CAT rates were abolished they were replaced with a single rate at what had been the lowest level*. This was essentially a rate reduction for those receiving larger transfers.

27. The reintroduction of progressive rates could ease the tax for more modest transfers while protecting yield. Revenue estimate that, with current thresholds, charging 25% on the first €100,000 of taxable receipts and 40% thereafter (rather than the single current rate of 33%) would have a small cost of €3 million. Progressive rates could also be introduced alongside changes in the thresholds. Introducing the rates just outlined while at the same time increasing the thresholds by 33% (bringing the Group A threshold to €300,000) is predicted to produce a saving of €3 million compared to changing the thresholds and not the rates (ie. It would cost €68 million, rather than the €71 million that the thresholds change alone would cost). Initial discussions with Revenue also suggest that the change would not significantly increase administrative or compliance costs.

28. This would have the effect of de-coupling the rates of Capital Acquisitions Tax and Capital Gains Tax. As either CAT or CGT could potentially be paid on the same asset, depending on what is done with it, a difference in the rates could allow for tax planning and as such lead to distortionary incentives. Specifically, if a lower rate of CAT than CGT would apply on an asset the holder of that asset may be incentivised not to dispose of it, and instead to bequeath it. As different set of reliefs and tax-free arrangements apply to the two taxes, this is, however, already somewhat the case.

29. There may be a case for the reintroduction of progressive CAT rates. It would, however, be a more radical change compared, for instance, to a simple change in thresholds.

*Prior to 2000 three rates of 20%, 30% and 40% applied.

11

Ciaran Parkin

From: O'Reilly, Sharonne [redacted]
Sent: 16 March 2016 12:47
To: Ciaran Parkin
Subject: RE: dwelling house

Ciaran,

Thanks for that. I've been liaising with the team re some of the cases and I will be paying them a visit next week to get the full picture.

Regards,
Sharonne

From: Ciaran Parkin [redacted]e]
Sent: 11 March 2016 17:48
To: O'Reilly, Sharonne
Subject: dwelling house

Hi Sharonne,

Yesterday I spent some time with the CAT audit team on Cathedral Street. It was a very interesting visit. One of the things they were keen to do was show me examples of, among other things, abuses of the dwelling house exemption. I think you and they are likely to be working together in any case but it might be especially worthwhile to see what examples they have around the dwelling house exemption, either that they have or haven't already sent to Maurice. Perhaps this is already underway or planned but I thought I'd just mention in case.

Best,

Ciarán Parkin
Tax Policy Division
Department of Finance, Government Buildings, Upper Merrion Street, Dublin 2 DO2 R583
Direct: [redacted]
Website: www.finance.gov.ie