



STATUTORY INSTRUMENTS.

S.I. No. 341 of 2020



CAPITAL ACQUISITIONS TAX (ELECTRONIC PROBATE)
REGULATIONS 2020

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The Revenue Commissioners, in exercise of the powers conferred on them by section 48A(3) (inserted by section 63 of the Finance Act 2019 (No. 45 of 2019)) of the Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003), hereby make the following Regulations:

Citation and Commencement

1. (1) These Regulations may be cited as the Capital Acquisitions Tax (Electronic Probate) Regulations 2020.

(2) These Regulations come into operation on 14 September 2020 for any person who intends to apply for probate in relation to the estate of a deceased person on or after that date.

Interpretation

2. (1) In these Regulations —

“Act of 1965” means the Succession Act 1965 (No. 27 of 1965);

“Act of 1997” means the Taxes Consolidation Act 1997 (No. 39 of 1997);

“Act of 2003” means the Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003);

“Appeal Commissioner” has the meaning given to it by section 2 of the Finance (Tax Appeals) Act 2015;

“applicant” means a person referred to in section 48A(2) of the Act of 2003 who intends to apply for probate;

“Commissioners” means the Revenue Commissioners;

“electronic means” has the meaning given to it by section 917EA of the Act of 1997;

“estate” has the meaning given to it by section 14 of the Act of 1965;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 15th September, 2020.*

“property”, “personal property” and “real property” have the meanings given to them by section 2 of the Act of 2003;

“PPS number” means an individual’s personal public service number within the meaning of section 262 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005);

“probate” includes letters of administration;

“Probate Office” includes a district probate registry;

“residence” and “ordinary residence” have the meanings given to them by Part 34 of the Act of 1997;

“will” includes codicil.

(2) A word or expression that is not defined in paragraph (1) has the same meaning in these Regulations as it has in the Act of 2003.

Delivery of information to the Commissioners

3. (1) In relation to the estate of a deceased person, an applicant shall deliver to the Commissioners—

- (a) information referred to in section 48A(2) of the Act of 2003 which information shall contain the particulars specified in Schedules 1 to 4 of these Regulations and such other particulars as the Commissioners may from time to time reasonably require,
- (b) the will in the case of a testate death, and
- (c) any relevant supporting documentation.

(2) Subject to Regulation 5, the information, supporting documentation and will to be delivered to the Commissioners under this Regulation (referred to in these Regulations as “the required information”) shall be delivered by electronic means in such form as the Commissioners may specify.

(3) Where, following the delivery of required information to the Commissioners, an applicant becomes aware that there is a material error or omission in the required information, the applicant shall rectify the error or omission as soon as practicable after he or she becomes so aware.

Delivery of information by a person acting under authority

4. (1) The required information, or any additional information on foot of the rectification of a material error or omission referred to in Regulation 3(3),

may be delivered by an applicant or by another person acting under the applicant's authority in that regard.

(2) Information purporting to be delivered by or on behalf of an applicant shall, for the purposes of these Regulations, be deemed to have been delivered by the applicant or by that person's authority, as the case may be, unless the contrary is proved.

Exclusion from requirement to deliver information by electronic means

5. (1) In this Regulation "capacity" means sufficient access to the internet to deliver the required information to the Commissioners by electronic means and, in the case of an individual, also means not prevented by reason of age, or mental or physical infirmity from delivering the required information by electronic means.

(2) An applicant may, by application in writing to the Commissioners, be excluded from the requirement of Regulation 3(2) on the grounds that the person does not have the capacity to deliver the required information by electronic means and the application for such exclusion shall include all information relevant to the consideration by the Commissioners of the request.

(3) Where the Commissioners have received an application under paragraph (2), or where the Commissioners otherwise consider it appropriate, they may exclude an applicant from the requirement of Regulation 3(2) only if they are satisfied that, in all of the circumstances, the applicant could not reasonably be expected to have the capacity to deliver the required information by electronic means.

(4) A decision to exclude an applicant under paragraph (3) may be made at any time but, where an application for exclusion under paragraph (2) has been received, the decision shall be made within the period of 30 days after the receipt of the application.

(5) The Commissioners shall, in all cases, notify in writing the person who has applied for exclusion of their decision, whether the decision is to exclude that person from the requirement of Regulation 3(2) or not to so exclude.

(6) A person aggrieved by a decision of the Commissioners not to exclude the person from the requirement of Regulation 3(2) may appeal the decision to the Appeal Commissioners, in accordance with section 949I of the Act of 1997, within the period of 30 days after the date of the notice of the decision.

(7) On the adjudication of an appeal made under this Regulation, the Appeal Commissioners shall have regard only to whether an applicant does not have the capacity to deliver the required information by electronic means.

(8) Paragraph (2) of this Regulation shall not apply to a person acting under an applicant's authority and such a person may not be excluded from the requirement of Regulation 3(2).

Declaration to be made when delivering information

6. (1) When delivering the required information to the Commissioners, an applicant, or another person acting under the applicant's authority, shall make a declaration that the information delivered is full, correct and true to the best of the applicant's knowledge or belief.

(2) The declaration to be made under paragraph (1) shall be in a form specified by the Commissioners.

Disclosure of taxpayer information by the Commissioners

7. (1) The Commissioners may disclose required information that is taxpayer information (within the meaning of section 851A(1) of the Act of 1997) to the Probate Office where such information is required by the Probate Office to perform its functions under Part IV of the Act of 1965.

(2) Information disclosed under paragraph (1) may be used by the Probate Office solely for the purpose of performing the functions referred to in that paragraph.

Acknowledgement of information delivered

8. (1) Where the Commissioners are satisfied that the required information has been delivered by an applicant, or by another person acting under the applicant's authority, as the case may be, they shall issue, by electronic means, a notice of acknowledgement of such delivery.

(2) The notice of acknowledgement issued under paragraph (1) shall contain such information as the Probate Office may require to perform its functions under Part IV of the Act of 1965.

Delegation of acts and functions of the Commissioners

9. Any act or function to be performed by the Commissioners which is authorised by these Regulations may be performed by any one or more of their officers acting under their authority.

Functions of Probate Office

10. The Probate Office shall notify the Commissioners as soon as is practicable by electronic means—

- (a) if a will delivered under Regulation 3(1) corresponds to the will delivered to the Probate Office,
- (b) of the date on which probate was granted, and
- (c) where probate was granted but was subsequently revoked, of the date on which probate was revoked.

SCHEDULE 1
INFORMATION RELATING TO AN APPLICANT

1. Name.
2. Postal address.
3. Occupation.
4. Relationship to the deceased person.
5. Contact details of the person to whom Revenue should address any queries.

SCHEDULE 2
INFORMATION RELATING TO THE DECEASED PERSON

1. Name.
2. Postal address.
3. PPS number.
4. Date of birth.
5. Date of death.
6. Place of death.
7. Occupation.
8. Country of domicile at date of death and domicile of origin.
9. Country of residence or ordinary residence at date of death.
10. Marital or civil status and whether he or she was a minor child.
11. Number of surviving relatives and the deceased person's relationship to each.
12. Expenses, debts and liabilities in the State payable out of the deceased person's estate.
13. Expenses, debts and liabilities outside the State payable out of the deceased person's estate.
14. Gross value of property outside the State.
15. Discretionary trusts created by the deceased person.
16. Limited interests held by the deceased person at the date of his or her death.
17. Dispositions made by the deceased person subject to a power of revocation.
18. Transfers of interests in property resulting from the deceased person's exercise, or failure to exercise, a general power of appointment.
19. Benefits transferring in the State under a nomination or by survivorship on the death of the deceased person.
20. Benefits transferring outside of the State under a nomination or by survivorship on the death of the deceased person.
21. Charitable donations in the deceased person's will.
22. Surrender of life interests by the deceased person prior to his or her death.
23. Use of the deceased person's property free of charge or for less than full consideration prior to his or her death.
24. Entitlement to interests in expectancy arising on the death of the deceased person.
25. Payments received from the Department of Social Protection, Community and Rural Development and the Islands.

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26. Elections made under section 115 of the Act of 1965 by a surviving spouse or civil partner.

SCHEDULE 3
INFORMATION RELATING TO ASSETS COMPRISING THE ESTATE OF
A DECEASED PERSON

1. Real property.
2. Personal property.
3. Household contents exceeding €2,000 in value.
4. Accounts held in financial institutions.
5. Cash.
6. Insurance policies, mortgage protection policies or annuities.
7. Payments related to the deceased person's retirement or termination of employment.
8. Agricultural assets.
9. Business assets.
10. Stocks, shares or securities.
11. Dividends.
12. Debts owing to the deceased person.
13. Other assets.

SCHEDULE 4
INFORMATION RELATING TO BENEFICIARIES

1. Name.
2. Postal address.
3. PPS number.
4. Date of birth.
5. Country of Residence and ordinary residence at date of death.
6. Country of domicile at date of death.
7. Relationship of each beneficiary to the deceased person.
8. Value of any benefit transferring to each beneficiary.
9. Group threshold amount relevant for any benefit transferring.
10. Value of prior aggregable benefits received by each beneficiary within each group threshold under Schedule 2 of the Act of 2003 since 5 December 1991.
11. Aggregated value of benefits received by each beneficiary where that value exceeds €12,000.

GIVEN under my hand,
10 September 2020

NIALL CODY,
Revenue Commissioner.

EXPLANATORY NOTE

(This note is not part of the instrument and does not purport to be a legal interpretation.)

Section 48A (inserted by section 63(1)(b) of the Finance Act 2019) of the Capital Acquisitions Tax Consolidation Act 2003 provides for information to be delivered to Revenue where a person intends to apply for probate in respect of the estate of a deceased person.

These Regulations specify the nature of the information to be delivered to Revenue together with associated matters relating to such delivery (for example the requirement to deliver the information by electronic means) where probate is being applied for on or after 14 September 2020.

The Regulations also include provision for communications between Revenue and the Probate Office.

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