



Inheritances between Spouses have not been liable for Inheritance Tax since the 30th January 1985 (Section 59 Finance Act 1985) and Gifts between Spouses have not been liable to Gift Tax since the 31st January 1990 (Section 127 Finance Act 1990). The relevant provisions of both Finance Acts provide that not only are the Gifts and Inheritances exempt from C.A.T., but also that they will not be taken into account in computing liability for Tax on other Dispositions.

The Revenue Commissioners have taken the view that as the Gifts and Inheritances are exempt from Tax there is no necessity to obtain a Certificate of Discharge from Capital Acquisitions Tax. The Conveyancing Committee have been asked for their Opinion on this practice and are in agreement with it subject to the Vendor producing evidence that the Parties to the Gift or Inheritance were in fact Spouses at the date of the disposition. It is considered that this evidence should consist of a Statutory Declaration, confirming that the parties were spouses at the date of the gift or date of the death. Such declaration should exhibit the Marriage Certificate of the Parties which Declaration in the case of a Gift should be made by both Parties to the Gift and in the case of an Inheritance by the surviving Spouse. This Declaration should be retained as part of the Title Documents.

Section 114 of the Finance Act 1990 provides that where the property is transferred between Spouses no Stamp Duty should be payable on the instrument. The Adjudication Office of the Revenue Commissioners have adopted a practice of returning un-adjudicated Deeds of Conveyance and Transfer between Spouses on the basis that adjudication is not required. Having regard to the fact that the exemption from Duty only applies where the Parties are Spouses the Committee consider that such Conveyances and Transfers should be accompanied by a Statutory Declaration of the Parties exhibiting their Marriage Certificate and confirming that they were Spouses as at the date of the Disposition.

GIFTS AND INHERITANCES BETWEEN SPOUSES, TRANSFERS BETWEEN SPOUSES

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