



**CERTIFICATE OF
NO DEATHS OR
VOLUNTARY
DISPOSITIONS ON
TITLE**

A Certificate is required in the case of registered land where the Vendor/Lessor/Mortgagor has not been registered as full owner for twelve years or more. A Certificate is not required with regard to unregistered land as the devolution of the property will be clear from an examination of the title.

Under the provisions of Section 47 of the Capital Acquisition Tax Act 1976 gift tax and inheritance tax are a charge on the property forming part of the gift or inheritance. The Act provides that the tax shall not as against a bona fide purchaser for value remain charged after the expiration of a period of 12 years from the date of the gift or inheritance. A Purchaser/Lessee/Mortgagee of registered land should obtain on closing a Certificate confirming that there have been no deaths or voluntary dispositions on title within the previous twelve years. A Certificate of no Deaths or voluntary dispositions is not required for unregistered property as the position would be apparent from an examination of Title. In the event of there being deaths or voluntary dispositions on title within the previous twelve years an appropriate Certificate of Discharge from Capital Acquisition Tax will be required.

Under the provisions of the Bankruptcy code an Official Assignee in Bankruptcy has power to set aside voluntary dispositions in certain circumstances. The Conveyancing Committee has previously recommended that should a voluntary disposition appear on title within the previous 10 years¹ a Declaration as to the disponent's solvency at the date of the disposition should be furnished. The practice accordingly grew up of seeking on closing a Certificate that there were no voluntary dispositions within the previous 10 years¹. The Certificate mentioned above as to deaths or voluntary dispositions within the 12 year period covers in addition to dispositions which might give rise to CAT liability any dispositions for which a Declaration of Solvency will be required. A Certificate that there were no voluntary dispositions for the previous 10 years¹ would be adequate for Bankruptcy purposes but inadequate for gift tax purposes (gift tax being a charge for 12 years).

The Committee recommends that the former practice with regard to registered land of obtaining a Certificate that there were no deaths on title within the last 12 years and no voluntary dispositions on title within the last 10 years¹ should be altered and a Certificate should be obtained that there were no deaths or voluntary dispositions within the last 12 years.

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*1. See Bankruptcy Act, 1988 -
"10 years" is now "5 years"*

UPDATE: This Practice Note should be read in conjunction with the Practice Note on page 3.26 hereof.