

Payment of tax by means of donation of Heritage Property to an Irish Heritage Trust or the Commissioners of Public Works in Ireland

Part 42-05-02

This document should be read in conjunction with section 1003A of the Taxes Consolidation Act 1997

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Introduction

This manual outlines the tax relief available in respect of the donation of a heritage property to an Irish Heritage Trust or the Commissioners of Public Works in Ireland. The scheme takes the form of a non-refundable payment on account of tax of an amount equal to 50 per cent of the market value of the heritage property donated and can be credited against particular tax liabilities incurred by the donor. For donations made on or after 27 March 2013 the tax relief available is 50 per cent of the market value of the heritage property donated.

There is a ceiling of €6 million on the aggregate value of heritage properties that may be approved for donation in any one year.

1 How to qualify for the relief

In the first instance contact should be made with the Irish Heritage Trust or the Commissioners of Public Works in Ireland.

In the case of applications made to an Irish Heritage Trust, The Trust will undertake a feasibility study to determine the suitability of the property against the acquisition criteria.

If the acquisition is feasible the Trust will carry out a more detailed Business Planning exercise.

The feasibility study together with the business plan form the basis of an application by the donor to the Minister for Housing, Local Government and Heritage for a determination that the property is a heritage property and suitable for acquisition under section 1003A.

The Department of Housing, Local Government and Heritage will carry out an assessment of the proposal using independent consultants.

On receipt of an application the Minister for Housing, Local Government and Heritage must make a written request to the Revenue Commissioners for a valuation of the property.

In the case of a proposed donation of a heritage property to the Commissioners of Public Works, application should be made directly to those Commissioners. As with an application to the Trust, the Commissioners of Public Works must make a written request to the Revenue Commissioners for a valuation.

2 Structure of the Relief

The credit arising from the donation of a property can be set against income tax, corporation tax, capital gains tax, gift tax and inheritance tax.

The credit will be applied firstly, against outstanding tax, interest and penalties, then against any current liabilities to tax, with any balance remaining being available for set off against future liabilities to tax.

The tax credit granted is non-refundable and will not lead to any repayment of tax. No interest is payable on any overpayment which arises as a result of the tax credit.

In order to obtain the tax credit, the heritage property must be donated for no consideration other than the tax credit itself.

The donor is not entitled to any other tax relief in respect of the donation. This means in particular that the relief from capital gains tax for the disposal of the asset to the State is not available. Accordingly, the donation of the heritage property may lead to a capital gains tax liability for the donor. However, in most instances, the tax credit from the donation will cover this liability, so that no capital gains tax will be payable as a result of donations under section 1003A.

3 Heritage Property

“Heritage Property” is a building or garden which, following a written application by its owner, is determined by the Minister for Housing, Local Government and Heritage or the Commissioners of Public Works to be a building or a garden, which is

- an outstanding example of its type,
- pre-eminent in its class,
- intrinsically of significant scientific, historical, horticultural, national, architectural or aesthetic interest, and
- suitable for acquisition by the Trust or the Commissioners of Public Works.

For the purposes of the section, “building” includes any associated outbuilding, yard and land which is occupied or enjoyed with the building as part of its garden or designed landscape and which contributes to the appreciation of the building in its setting. It also includes any land necessary for the provision of access to the building or for the provision of parking facilities for visitors to the building and the contents of the building.

Contents of the building for the purposes of the legislation are defined as furnishings historically associated with the building where the Minister for Housing, Local Government and Heritage or, as the case may be, the Commissioners of Public Works is satisfied they are important in establishing the historic or aesthetic context of the building.

For the purposes of the section, “garden” includes any associated building, outbuilding or yard and also land which is occupied or enjoyed with the garden and which contributes to the appreciation of the garden in its setting. It also includes any land necessary for the provision of access to the garden or for the provision of parking facilities for visitors to the garden.

This section also provides that, where a heritage property is donated and the Trust or Commissioners of Public Works deem that lands outside of the ownership of the donor of the property are necessary for the provision of access to the property or for the provision of parking facilities, such lands may be donated for such purpose under the terms of the section and those lands shall be deemed to be a heritage property.

4 Valuation Rules

For the purposes of section 1003A the market value of the property shall be the lesser of –

- (i) the price which, in the opinion of the Revenue Commissioners, the property would realise if sold on the open market on the valuation date, and
- (ii) (I) the price which, in the opinion of the prospective donor, the property would fetch if sold on that date, or
(II) at the election of that person, the amount paid for the property by that person.

The Revenue Commissioners may ascertain the market value in such manner and by such means as they think fit and for this purpose, they may engage a person to inspect and value the property for them. All valuations of properties are handled by Business Taxes Policy and Legislation Division.

5 Certificate of receipt of heritage property

Once a heritage property is donated to the Trust or the Commissioners of Public Works a certificate must issue to the person who made the donation certifying receipt of the heritage property and the transfer of ownership of the property to the Trust or the Commissioners of Public Works. A duplicate certificate must be transmitted by the Trust or the Commissioners of Public Works to the Revenue Commissioners.

The original certificate must be submitted by the donor to the Collector-General’s office in the Revenue Commissioners to avail of the tax credit.

The Revenue Commissioners are required to compile and publish in their Annual Report details of all donations of heritage property in respect of which tax relief is given in any calendar year.