

Using Life Assurance to fund for Gift and Inheritance Tax – Life Advisory Services

This document gives a brief outline of the Revenue conditions that apply to Section 72 and Section 73 relief. The tax information included in this document is correct as of January 2012.

Section 72 Relief - formerly known as Section 60 Relief.

Relief was introduced by Section 60, of the 1985 Finance Act (now contained in Section 72 of Capital Acquisitions Tax Consolidation Act 2003) to allow people to plan for the payment of Inheritance Tax in an efficient way.

If a life assurance plan is put in place to provide for the tax, the Revenue will not charge Inheritance Tax on the policy proceeds if the money is used to pay Inheritance Tax arising on the death of the lives assured under the plan.

The relief is granted subject to certain conditions:

Main Revenue conditions

- ⇒ The plan must be expressly effected under the provisions of Section 72; normally the plan is endorsed to this effect when it is issued.
- ⇒ To qualify for Section 72 relief the person covered under the plan must also pay the premium.
- ⇒ The level of protection or cover on the plan normally must be at least eight times the value of the premium being paid each year.
- ⇒ A joint-life plan can only be taken out by a married couple or registered civil partners.
- ⇒ You must continue to make regular premium payments for at least eight years.
- ⇒ If you stop paying regular premiums, even after the eight-year period, you cannot restart.
- ⇒ Your premium cannot increase or reduce by more than 50% in any continuous eight-year period unless as a result of a plan review by the life company.

The original Section 72 legislation envisaged a protection plan (term assurance, whole life type plan) being taken out to provide a cash payment on death to be used to fund inheritance tax liabilities.

Section 73 Relief - formerly known as Section 119 Relief.

Section 119, of the 1991 Finance Act (now Section 73 CAT Consolidation Act) introduced a complementary relief for the proceeds of certain plans in the payment of Gift Tax. The plan proceeds in the event of a full or partial surrender would be exempt from Gift Tax when used to pay Gift Tax in connection with a lifetime gift made by the owner of the plan, within one year of the encashment of the plan.

Again certain conditions apply.

The conditions are similar, but there are some differences in the conditions for Section 72 and Section 73 relief:

- ⇒ The plan must be expressly effected under the provisions of Section 73; normally the plan is endorsed to this effect when it is issued.
- ⇒ To qualify for Section 73 relief the person who takes out the plan must also pay the premium.
- ⇒ A joint-life plan can only be taken out by a married couple or registered civil partners.
- ⇒ You must continue to make regular premium payments for at least eight years.
- ⇒ If you stop paying regular premiums, even after the eight-year period, you cannot restart.
- ⇒ Your premium cannot increase or reduce by more than 50% in any continuous eight-year period.
- ⇒ Once regular premiums have been paid for at least 8 years, any encashment from the plan after the plan has been in force for 8 years will be exempt from Gift Tax when used to pay Gift Tax within one year of making the encashment.

Section 73 is designed to allow people to use the cash value of a savings plan, or combined life and savings plan, to pay Gift Tax during their lifetime.

The main difference in the conditions for Section 73 versus Section 72 relief is that to qualify for the payment of gift tax after 8 years there is no minimum level of life cover required under the plan.

Can a Section 73 plan be used to pay Inheritance Tax?

A Section 73 plan, which does not have life cover of at least 8 x Annual Premium, will **never** qualify for relief in the payment of Inheritance Tax as it will not meet the Section 72 conditions.

So if the owner of a Section 73 savings plan dies before the end of the minimum 8-year period, the cash value of the plan will not qualify for relief in the payment of either Gift Tax or Inheritance Tax. Indeed if the owner died after the 8 years, and had not used the funds to pay Gift Tax before death, the value of the plan would **not** be exempt from Inheritance Tax.

Can a Section 72 policy be used to pay Gift Tax?

To qualify for relief under Section 72 there must be a minimum level of life cover, however if the plan also provides a surrender value, any encashment, after 8 years premiums have been paid, can qualify for relief in the payment of Gift Tax, subject to the conditions being met as previously outlined.

Should your client purchase a Section 72 or a Section 73 Plan?

It depends on whether your client wants the plan proceeds to be capable of qualifying for relief in the payment of Gift Tax only, Inheritance Tax only or both, or whether they want the proceeds to be capable of being used to pay Gift or Inheritance Tax.

If the proceeds are required to be available for the payment of Inheritance Tax then the minimum level of life cover must be included on the plan, thereby qualifying for Section 72 relief, assuming all the other conditions are met.

If your client is not concerned about Inheritance Tax, then a savings plan with no life cover can be taken out, but this will only qualify for relief in the payment of Gift Tax, again assuming all the other Section 73 conditions are met.

A savings plan only might be suitable where your client has already effected life cover for the payment of Inheritance Tax, or in the case of someone who simply cannot get life cover due to ill health.

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's personal circumstances.

Information is correct as at 3 January 2012 but is subject to change.