probate and inheritance tax across the border: NI and the Republic compared

A F COLHOUN & CO
A MEMBER OF THE LAW GROUP

Client briefing · October 2026 · succession, IHT and CAT, reliefs, residence, trusts and planning

For families with assets in both jurisdictions

Families on both sides of the border often own land, savings or a business in both jurisdictions, and their children live in both. Two probate systems, two sets of succession rules and two different taxes then apply to the same estate. This briefing explains how they differ, where they collide, and how to plan so that the family is not taxed twice or caught by the wrong rules.

The two systems at a glance

	Northern Ireland (UK)	Republic of Ireland
The tax	Inheritance tax (IHT), charged on the estate of the person who dies or gives	Capital acquisitions tax (CAT), charged on each person who receives
Rate	40% (36% with 10% to charity)	33%
Tax-free amount	£325,000 nil-rate band, plus up to £175,000 residence band, per estate. Unused bands pass to a spouse	Per beneficiary, for life: €400,000 from a parent (Group A), €40,000 from a sibling, grandparent or aunt/uncle (Group B), €20,000 otherwise (Group C)
Who is in the net	Long-term UK residents (10 of the last 20 years) on worldwide assets; everyone else on UK assets	Worldwide assets if the giver or the receiver is Irish resident or ordinarily resident; otherwise Irish assets only
Lifetime gifts	Free after 7 years, tapered from 3 years	No time limit: all gifts and inheritances since 5 December 1991 from the same group count against the threshold
Farms and businesses	100% APR/BPR on the first £2.5m, 50% above. APR for UK land only	90% agricultural or business relief, with no cap, subject to conditions and a 6-year clawback
Spouses	Exempt, subject to a limit where the receiving spouse is not long-term resident	Exempt
Pensions	Unused pension funds come into the estate from April 2027	Approved retirement funds taxed on inheritance, with special rates for children
Grant of representation	Probate Office, Belfast. Valid across the UK	Probate Office, Dublin, or a district registry. Valid in the Republic only
Returns	IHT account (IHT400) unless the estate is excepted	Statement of Affairs (SA.2) before the grant; each beneficiary files an IT38 if over 80% of their threshold
Payment	Within 6 months of the end of the month of death; instalments for land and businesses	Pay and file by 31 October after a valuation date in the year to 31 August

Why it matters

The same estate can be taxed in both jurisdictions. The double taxation convention between the UK and Ireland gives credit for one tax against the other, but only if the estate is structured and administered correctly. Families also lose valuable reliefs where land or wills are arranged for one system only.

Our view

Anyone with property, family or a business on both sides of the border needs two wills, advice in both jurisdictions, and a plan that looks at IHT and CAT together. We advise in both.

Two probate systems, different succession rules, and the conflict of laws

Probate in Northern Ireland	Probate in the Republic
1. Value the estate worldwide, and establish whether it is an excepted estate or needs a full IHT account.	1. Value the estate, and file the Statement of Affairs (Form SA.2) with Revenue online.
2. IHT paid, or the excepted estate confirmed, before the grant issues.	2. CAT is paid later by each beneficiary, who files their own return (Form IT38).
3. Apply to the Probate Office of the High Court in Belfast, with the will and supporting papers.	3. Apply to the Probate Office in Dublin or a district registry, with the executor's oath and the SA.2 acknowledgement.
4. Grant issued. It is recognised throughout the UK, but not in the Republic.	4. Grant issued. It is needed for Irish assets even if a UK grant already exists.
5. Collect, pay debts and distribute, usually after the executor's year.	5. Collect, pay debts and distribute. The legal right share must be satisfied first.

Freedom to leave your estate as you wish

Northern Ireland has freedom of testation. You may leave your estate to anyone. Spouses, children and dependants can apply to court for reasonable provision under the Inheritance (Provision for Family and Dependants) (NI) Order 1979.

In the Republic a spouse or civil partner has a fixed legal right share under the Succession Act 1965: one third of the estate if there are children, one half if there are none. It overrides the will and cannot be removed except by a valid renunciation. Children can apply under section 117 if a parent failed in their moral duty to provide for them.

Where there is no will

Survivors	Northern Ireland	Republic
Spouse and children	Spouse takes chattels, £250,000, and half (one child) or one third (more) of the rest	Spouse two thirds, children one third
Spouse, no children	All, unless parents or siblings survive: then £450,000 plus half	Spouse takes all
Children only	Equally between children	Equally between children

The conflict of laws

- Land (immovable property) passes under the law of the place where it is. Irish land is governed by Irish succession law, including the legal right share, wherever the owner lived.
- Everything else (movables, such as money and shares) passes under the law of the country of domicile at death.
- A will that is formally valid in either jurisdiction is usually recognised in both, as both apply the Hague rules on the form of wills.

Two wills, carefully drafted

Separate wills for NI and Irish assets speed up both grants. But the standard revocation clause in a new will can silently cancel the other one. Each will must be confined to its own assets and must expressly preserve the other. The executors, trustees and tax provisions must also work together across both.

The Irish spouse's election

Where a will leaves something to a spouse in the Republic, the spouse may choose between the gift in the will and the legal right share. The election must be made within six months of notice from the executors, or one year of the grant, whichever is later.

Time limits for family claims

In Northern Ireland, a claim for reasonable provision must usually be brought within six months of the grant. In the Republic, a child's section 117 claim must be brought within six months of the first grant. Executors should not distribute before these periods expire.

IHT or CAT: which is kinder, lifetime gifts, and farm and business reliefs

When each tax is more favourable

Because CAT gives each child their own €400,000 threshold and taxes at 33%, it is usually lighter than IHT when an estate is split between several children. IHT is usually lighter where a married couple use both nil-rate bands and both residence bands and the estate passes to one child.

- CAT is kinder for larger estates and larger families, and on farms and businesses above £5 million, where Irish 90% relief is uncapped.
- IHT is kinder for a couple's estate of up to £1 million including the family home, and for gifts made more than seven years before death.

For example, £1 million left by a widowed parent to one child is free of IHT with both bands and the residence allowance, but would carry CAT of about €256,000 if the parent were Irish resident.

Tax on an estate left equally to three children

Illustrative only. CAT converted at €1 = £0.85. No reliefs or previous gifts assumed.

Lifetime gifts: seven years against a lifetime total

	UK IHT	Irish CAT
Big gifts	Free if you survive 7 years; tapered relief from year 3	Taxed when made, once the lifetime threshold is used
Annual exemption	£3,000 a year from each giver, plus gifts out of surplus income	€3,000 a year from each giver to each recipient
Capital gains tax	Gift of land or shares is a disposal; holdover relief for UK business and farm assets	Gift is a disposal; CGT can usually be credited against CAT on the same event
Stamp duty	None on gifts of land	Payable on gifts, with consanguinity relief for farmland passed to relatives

Farm and business reliefs compared

	UK APR and BPR	Irish agricultural and business relief
Rate	100% on first £2.5m per person, transferable to a spouse; 50% above	90% reduction in value, no cap
Focus	The asset and the owner's use of it	The beneficiary: farmer test (80% of assets agricultural) and active farming or leasing for 6 years
Where	APR: UK land only since April 2024. BPR: trading businesses anywhere	Agricultural property in the EU, including Northern Ireland
Clawback	For lifetime gifts if the asset is not kept	If sold or not farmed within 6 years

Irish land owned by a UK resident: no UK agricultural relief

Since 6 April 2024, UK agricultural property relief applies only to land in the UK. A long-term UK resident who owns farmland in the Republic now has it fully exposed to IHT at 40%, unless business property relief applies because it is part of a genuine trading farm. Holdover relief on lifetime gifts of that land has also gone. Many wills and family farm plans made before 2024 no longer work, and should be reviewed.

The Irish dwelling house exemption

An inheritance of a house can be free of CAT in the Republic if the beneficiary lived in it as their main home for three years before the death, owns no other residential property, and keeps living there for six years afterwards. There is no UK equivalent.

UK gifts out of surplus income

Regular gifts made from income, which leave your normal standard of living intact, are immediately exempt from IHT with no seven-year wait. Records are essential. It is one of the most under-used UK exemptions.

Who each country taxes, the new ten-year rule, and a worked example

The UK's new ten-year rule

Since 6 April 2025, UK inheritance tax no longer turns on domicile. You are a long-term UK resident, taxed on your worldwide estate, if you have been UK tax resident for at least 10 of the previous 20 tax years. Everyone else pays IHT on UK assets only, such as a house or bank account in Northern Ireland.

If a long-term resident leaves, their worldwide estate stays in the UK net for a tail period:

Years UK resident (of last 20)	Tail after leaving
10 to 13	3 tax years
14 to 19	4 to 9 tax years
20	10 tax years

Trusts follow the settlor's status, so foreign assets in a trust made by a long-term resident are now within IHT.

The Irish test: residence of either side

CAT applies to worldwide assets if either the person giving or the person receiving is resident or ordinarily resident in the Republic. It applies to Irish assets, such as Irish land, shares in Irish companies and Irish bank accounts, whoever is involved.

A person not domiciled in Ireland is only treated as Irish resident for CAT after five consecutive tax years of Irish residence. Ordinary residence follows three years of residence and continues for three years after leaving.

Double taxation relief

The 1977 UK–Ireland convention on estates and gifts decides which country has first right to tax, generally the country where land is located or where the person was domiciled. The other country gives a credit for the first country's tax. The credit is limited to the tax on the same property, so the higher of the two rates usually prevails.

Worked example: a UK resident with three children and £1 million in an Irish bank account

Anne, a widow, has lived in Newry all her life. She leaves her home (£300,000) and €1,176,000 (about £1 million) in an Irish bank account equally to her three children, who all live in Northern Ireland.

UK IHT	£
Estate: home plus Irish account	1,300,000
Less her nil-rate band and her late husband's	(650,000)
Less residence bands, limited to the home's value	(300,000)
IHT at 40% on £350,000	140,000

Without her husband's unused bands, IHT would be £320,000.

Irish CAT: the account is an Irish asset, so it is within CAT even though no one is Irish resident. Each child receives about €392,000, below the €400,000 Group A threshold, so no CAT is due, provided they have had no earlier gifts or inheritances from either parent. Because each share exceeds 80% of the threshold, each child must still file a return.

If one child had already received €200,000 from their parents, that child would pay CAT of about €63,000. That would be credited against the UK IHT on the Irish account.

Probate: a grant from the Irish Probate Office and an SA.2 filing will normally be needed before the bank releases the money, as well as the NI grant for the house.

Spouses with different residence

Gifts between spouses are fully exempt in the Republic. In the UK, if the receiving spouse is not a long-term UK resident, the exemption is limited to £325,000 unless that spouse elects to be treated as a long-term resident. A couple where one spouse has always lived in the Republic should check this before relying on the spouse exemption in an NI will. The election brings that spouse's own worldwide assets into IHT, so it must be weighed carefully, and it can only be revoked once the spouse has been non-resident for four consecutive years.

A cross-border executor's timetable

Months 0 to 6	Value assets in both jurisdictions, file the SA.2 and IHT account, and pay IHT by the end of month six
Months 3 to 9	NI and Irish grants issue; collect assets on both sides
From month 6	Family claim periods expire; the Irish spouse's election is made
By 31 October	Beneficiaries file and pay CAT, claiming credit for UK IHT
Months 9 to 18	Distribute, file final income tax returns on both sides, and obtain clearance from HMRC and Revenue

An Irish resident with NI property, and a £10 million mixed farm and business

Irish resident parent, house in Newry, children on both sides

Seán has always lived in Dundalk and has never lived in the UK. He owns a rented house in Newry worth £400,000 and €600,000 of Irish assets. He leaves everything equally to his two children: one lives in Newry, the other in Dublin.

UK IHT, UK assets only	£
Newry house	400,000
Less nil-rate band (no residence band, as it was not his home)	(325,000)
IHT at 40%	30,000

Irish CAT, worldwide, as Seán was Irish resident	€
Each child: half the house (€235,000) plus €300,000	535,000
CAT at 33% above €400,000, each	44,600
Total CAT, both children	89,200
Less credit for UK IHT on the house	(35,300)
CAT payable	about 54,000

The Newry child pays CAT even though they live in Northern Ireland, because their father was Irish resident.

Illustration: a £10 million mixed farm and business

Patrick is a long-term UK resident and widower, with no transferable allowances in this example. His estate is shown below. His NI farm and company pass to his two children in Northern Ireland, and his Irish land to his son in Meath, who will farm it.

Asset	Value £	UK relief	Chargeable £
NI farm, farmed in hand	4,000,000	£2.5m at 100%, £3.5m at 50%	1,750,000
NI trading company	2,000,000		
Irish farmland, let	3,000,000	None: not UK land, not trading	3,000,000
Investments and cash	1,000,000	None	1,000,000
Less nil-rate band (residence band lost)			(325,000)
UK IHT at 40% on £5,425,000			2,170,000

Irish CAT on the Meath land (about €3.53m): it is Irish property, so CAT applies. If the son qualifies as a farmer, agricultural relief reduces its value by 90% to €353,000, below his €400,000 threshold, so no CAT. Without the relief, CAT would be about €1.03m (£878,000), credited against the UK tax.

The lesson: because the Irish land gets no UK relief, the UK tax on it, about £1.13m, is the real cost, whatever Ireland charges. Planning should focus on the UK exposure. Options include bringing the Irish land into the trading farm business, a lifetime transfer to the son more than seven years before death, or, for a married couple, making sure both spouses' allowances are used.

Changing residence: think before you move

Moving south does not immediately take you out of UK IHT. A long-term resident keeps the tail of up to 10 years, and becomes liable to CAT on worldwide gifts once Irish resident, or after five years if not Irish domiciled. Moving north brings Irish assets into IHT after 10 years. A move can increase, as well as reduce, the family's exposure, and the timing of gifts around a move matters.

Claiming the credit in practice

Credit is not automatic. The executors or beneficiaries must claim it, with evidence of the tax paid in the other country, on the UK IHT account or the Irish IT38. One tax may have to be paid in full first and the excess reclaimed later.

Valuations and currency

Each country values assets at the date of death, in its own currency, and may accept different valuations. Use one valuer for both. Exchange rate movements can change the credit available.

Discretionary trusts on both sides, what works, and the traps to avoid

	UK discretionary trust	Irish discretionary trust
Going in	Lifetime transfers above the nil-rate band taxed at 20%. On death, the estate pays IHT in the normal way	CAT on the eventual beneficiaries, not on entry. A once-off 6% discretionary trust tax, reduced to 3% if fully appointed out within 5 years
While it runs	Up to 6% of value above the nil-rate band every 10 years	1% of the trust value every year, once the youngest principal object is 21
Coming out	Proportionate exit charge, up to 6%	CAT on each beneficiary, using their own group threshold from the original disponer
Exemptions	Trusts for disabled beneficiaries, and some trusts for minors	Trusts where the principal objects are the disponer's children under 21, and trusts for incapacitated persons
Scope	Follows the settlor's long-term residence status	Applies if the disponer was Irish domiciled, or the property is Irish

What works

- Separate NI and Irish wills, drafted together.
- Using both spouses' UK nil-rate, residence and £2.5m relief allowances.
- Giving each child their full Irish threshold, and using the annual €3,000 and £3,000 exemptions every year.
- Passing Irish farmland to a child who will farm it or lease it for six years, so 90% agricultural relief applies.
- Section 72 life policies to pay Irish CAT, and UK life policies written in trust to pay IHT.
- Lifetime gifts of UK assets more than seven years before death, with CGT holdover where available.
- Short-term discretionary will trusts, appointed out within two years in the UK or five years in Ireland, to decide later who takes what.

Traps to avoid

- A new will that revokes the will made in the other jurisdiction.
- Assuming Irish farmland still qualifies for UK agricultural relief.
- Ignoring the Irish legal right share where a parent is domiciled in, or owns land in, the Republic.
- Gifts to an Irish-resident child that use up their €400,000 threshold early, leaving the later inheritance exposed.
- Selling or ceasing to farm Irish land within six years, triggering a clawback of agricultural relief.
- Long-running UK discretionary trusts holding Irish assets, which may pay the 6% and 1% Irish charges as well as UK ten-year charges.
- Moving across the border without checking the IHT tail and the CAT residence rules first.

How we help

We review your assets on both sides of the border, your residence history and your family's circumstances. We model IHT and CAT side by side, prepare coordinated NI and Irish wills and enduring powers of attorney, and, when the time comes, take out both grants and deal with HMRC and Revenue together. We review the plan whenever the law changes, a family member moves, or land or a business is bought or sold, so that it stays effective as circumstances develop.

Bring to your first meeting

A list of assets and where they are, with rough values. Your residence history over the last 20 years. Copies of any existing wills in either jurisdiction. Details of earlier gifts to your children. Pension and life policy details, and any farm or company accounts. Details of any trusts you have created or benefit from, and of anyone who farms or leases your land.

A F Colhoun & Co Solicitors

The Old Library, 41 Dublin Road, Omagh, BT78 1HE · T +44 28 8224 2136
A member of The Law Group

The law is rarely one size fits all. While the same legal principles apply, every case turns on its own facts. This guide is reviewed and updated as the law and tax rules change. This briefing is general information based on the law and rates in force in October 2026. The worked examples are simplified and illustrative, using €1 = £0.85. The Irish Budget and the UK Budget may change the figures. Please take advice before acting.

THE LAW GROUP
INCLUSIVE LEGAL SERVICES