

Pre-Budget 2025 Submission



The narrow tax base and concentration of tax receipts are sources of fiscal vulnerability at a time of great instability, strain and future uncertainty. Yet €8 billion - €10 billion is currently being transferred annually at probate (Source: Dublin Probate Office 2021). This figure is set to explode in the coming years due to ever increasing wealth and a rapidly ageing population that will require significant, long term additional supports from both the State and charities.

The current annual value of charitable bequests is circa €94.7 million (Source: CRA 2023). **Significantly more people would include a cause in their will now if they were aware that it was a possibility and were encouraged and incentivised to do so, thus providing a very significant pressure safety valve for State expenditure and a sustainable, shock proof revenue stream for charities; whilst enabling a shared path to a more equal Irish society.**

There is currently no prompt or incentive other than admirable personal motivations for someone to include a gift in their will to charity in Ireland. It is, in effect, a voluntary wealth tax. However, given the rapid demographic changes underway in Ireland, we have the greatest opportunity in Europe to rapidly accelerate charitable giving through wills; but the opportunity will be lost if incentivising action is not taken now.

About My Legacy

My Legacy is a charitable umbrella organisation comprising over 90 Irish charities and growing. Our group vision is to create sustainable social change. We specifically seek to make charitable gifts in wills a social norm in Ireland and a strategic mechanism to support charities and benefit Irish society into the future.

As a group of national charitable organisations working together, we raise awareness of the great importance of having a will generally (a stated public policy objective given the familial and societal difficulties that can arise when there is no will) and how gifts in wills are vital for the ongoing work and scope of future charity services and the benefit to Irish society into the future.

We do this through a range of activities including our annual public awareness campaign - My Legacy Month - in September. My Legacy also conducts on-going research into Irish and international best practice. Since 2019, we also host a major educational seminar for members annually, showcasing the best in Irish and international insights. We also work closely with our member charities on an individual basis to build their capacity and burgeoning understanding of legacy fundraising throughout their organisations, also incorporating best practice administration and education around the probate system, for instance.

We engage with other stakeholders in the Irish legal and financial planning professions, with the wider charitable sector directly and with the Charities Regulator. We also engage regularly with national legacy promotion entities in 20 other countries through our LegaVision network, particularly in the EU, UK and Canada.

We were also glad to participate in the National Advisory Group for the development of the Government's newly published National Policy on Philanthropy and to continue our involvement in the Group as this vital social policy is now implemented.

Why Legacy Giving Matters

Legacy giving or the inclusion of charitable bequests in one's will is a fundamental part of the philanthropy mix in fairer societies. Wills typically perpetuate wealth by passing it through family generations. Charitable bequests strategically help those less well off in society in Ireland and abroad; typically supporting people who themselves may have no assets to leave. If more people with wealth or assets give more to charity, it is better for a fairer society. From a charity's perspective, legacy gifts are generally unrestricted; allowing them to strategically allocate these funds where they are most needed or for unmet needs that cannot be funded from existing resources or by way of statutory funding for core services. Legacy gifts also allow for future planning, investing in climate resilient programming or new capital projects which can be transformational. A recent, generous legacy gift to our Galway member, Croi, funded a new stroke centre for the west of Ireland. One in six lifeboats operated by our RNLI members are funded by gifts in wills is another example of the impact of legacy giving.

Legacy giving as an aspect of philanthropy is broadly representative in that any person with assets can include a gift in their will to a cause/causes that mean something deeply personal to them, including those who would/could not have been significant cash donors in their lifetime.

The Legacy Market

There is a positive upwards trend in the scale of legacy gifting globally and in Ireland. The *2023 Legacy Insights* report by Campaign Solutions identified verified Irish legacy income had grown to €88m by 2021 and suggested a total closer to €110m, when accounting for missing data (additional new data has increased the total of verified income to €103m).

The CRA subsequently produced its first legacy report, and identified legacy income of €94.7m for 2021 (this is also incomplete). However, the *2024 Legacy Insights* report by Campaign Solutions identified verified Irish legacy income had fallen to €76m and suggested a total closer to €90m, when accounting for missing data. This is a very significant drop (possibly related to recent conveyancing and probate delays).

The Legacy Insights report included a review of over 100 charities that received legacies in both 2016 and in 2021. This showed their combined legacy income had grown almost 40% in that six-year timeframe.

While this is good news, this is still relatively less than New Zealand or Belgium and equivalent to just 1/3 of what people leave in the UK on a per capita basis. *Sources: Legacy Insights 2023, Legacy Insights 2024, CRA 2023 and www.efa-net.eu/news/legacy-giving-on-the-rise-in-belgium*

Irish legacy income as a percentage of overall income for charities receiving charitable bequests was just 3.2% (CRA 2023). Both the percentage and overall value is very low by international standards as indicated below from comparisons included in the *Legacy Insights Ireland Overview 2022* report.

Our Ambition – Treble Legacy Giving in Ireland by 2050

Ireland has the potential to move into the premier league of legacy gifts in wills in Europe, indeed the world, for a number of reasons:

- Significantly increased income levels and crucially wealth.
- Massive inter-generational wealth as evidenced by the 2023 Central Bank report - *“The Long and the Short of it: Inheritance and Wealth in Ireland”*. Over a third of households in Ireland (approximately 690,000) have received some kind of inheritance or gift in the last 20 years. Accumulated value of these intergenerational transfers - €97 billion.
- Number of deaths set to increase from 29,500 in 2016 to between 54,400 and 56,500 by 2051, and up to 64,601 by 2057. *Source: CSO*.
- The population of ROI aged 65+ was estimated at 696,300 in 2019 and it is projected this will double to 1.56m by 2051 (CSO, 2019). This will feed into a higher death rate, but crucially, means there will be significant writing and updating of wills in the near and medium term. If the legacy messaging is created in tandem, there is a huge opportunity for Ireland.
- Under investment in legacy fundraising by charities.
- Small annual budget of My Legacy to promote legacy giving (c.€35k). Our colleagues in Belgium spend over €1m on their annual campaign and Denmark spends €150k.
- Lack of engagement by Law Society and legal sector to fully understand their part in the jigsaw.
- Absence of active promotion of legacy gifts from previous government philanthropy strategies.
- Lack of tax incentives and therefore engagement of professional advisors during estate planning / wealth management. This translates into low levels of legacy giving by HNWIs.

Note: *There is a danger that legacy income could drop if inheritance tax thresholds increase, as has been mooted. This could significantly reduce the amount available for residuary bequests. In 2021 residuaries made up 30% of bequests by number, but 64% by value. Source: 2021 Legacy Insights Report 2023.*

Budget 2025 - Incentivise and Grow Charitable Wills in Ireland through C.A.T.

As noted, charitable gifts in wills provide a shock-proof pipeline of sustainable income for an increasing number and variety of causes and is very democratic in that anyone with a will and assets to leave can be a philanthropist. There is increased interest globally and in Ireland in this form of strategic giving, yet the option to do so is not usually raised by will making professionals or wealth advisors who generally leave this topic up to the client to introduce during their consultation.

Currently raising approx. €95m in legacy income per annum out of a total transfer of wealth through Probate of between €8-10billion per year in Ireland, there is no incentive to either discuss this option at the critical point of making a will or to incentivise or prompt donors to consider including a charitable gift, large or small.

In the UK by contrast, €4billion is raised via charitable gifts in wills annually - their 4% reduction in estate tax where someone leaves 10% or more of their net estate to charity acting as both an important prompt for discussion at the point of will writing and as a strong incentive to include significant gifts to causes that are important to the donor.

In the Irish system, unlike the system in the UK, inheritance tax is not levied on the value of the estate. Instead, it is paid as Capital Acquisitions Tax (CAT) on individual inheritances (and gifts) in so far as they exceed certain thresholds and primarily defined by relationships within a family. Single people without children are at a disadvantage in terms of the dispersal of their assets as a result and we know from census figures that this cohort of the population is growing significantly. Single people without children also often account for the highest value residuary bequests. Charities are exempt from CAT: a charity that benefits from a legacy does not have to pay tax on that account.

The Irish system currently provides a much weaker incentive to make charitable bequests than the UK system. In the UK, not only is such a bequest tax-free in the hands of the receiving entity, but the amount of the bequest is fully deductible against the inheritance tax bill faced by the estate. Since inheritance tax in Ireland is not levied on the estate, this second incentivising element present in the UK is not replicable here under our current system.

- **The CAT Incentive:** If someone gives 10% or more of their estate to charity, they would be certified by the Revenue as a “certified disponent”. This would be a box that can be ticked very easily on the SA2 Statement of Affairs form submitted to Revenue by the Executors when somebody dies. Revenue can do a very simple check to see what is the total value of the estate (from information they already have to hand) and if the disponent has included a bequest of at least 10% to charity. The relief would be received by reducing the CAT rate payable by beneficiaries of that person’s estate.

Notwithstanding the differing probate tax treatment in Ireland compared to the UK, some % offset for the Irish donor’s beneficiaries would give rise to serious consideration and discussion at the point of devising this charitable will.

It will also crucially encourage professional advisers – tax advisers, accountants, lawyers etc to reference the option in discussions with clients - to help develop a more encouraging environment for philanthropy in Ireland. Professional advisers could then become a key part of the jigsaw for helping to grow philanthropy in Ireland. It would also give rise to discussions within families who are planning for the future.

It is difficult to assess the cost to the Exchequer but the legislative change would be relevant only to small number of those who write a will, i.e. percentage of inheritances where tax is relevant.

We know that one third of households received an inheritance, that the median amount received was €100,000. An analysis of the same underlying data suggests less than 10% of this third received more than €335,000: that is, less than 3% of households overall. *Source: Barra Roan, Assistant Professor in Economics and Programme Director of the MSc in Economic Policy at Trinity College Dublin, Irish Times 2024.*

Any change would likely have far less impact than any changing of the threshold as has been mooted during summer 2024 by people in government parties. According to The Department of Finance's Tax Strategy Group in July 2024 'Raising the parent-to-child threshold of €335,000 to €350,000 would cost €15 million while raising it to €400,000 would cost €52 million'. My Legacy's proposal would be expected to 'cost' less AND bring many more advantages for society as a whole.

Budget 2025 – Gift in Wills Conversation prompt mechanisms

For social norming purposes and to encourage everyone with assets to leave to consider the option of including a charitable gift at the critical point of discussion with advisors, a refund of professional will-making fees where a gift is included could be also considered – potentially via a modest income tax credit against the solicitor fee for charitable will writing services in recognition of this socially beneficial intent; the official solicitor invoice serving as a de facto notarized document confirming to Revenue that a charitable will was made. Once a charitable gift is included in a will, it is likely to be extremely rare for it to be subsequently removed.

This incentive could be introduced on a time-limited basis, perhaps over the lifetime of the National Philanthropy Policy 2024-2028, as a strategic step-change mechanism and a very important conversational prompt to overcome a major barrier to widespread charitable giving through wills (see rationale below).

Alternatively, the recent introduction of a farm succession planning advice voucher scheme by the Department of Agriculture is noted; contributing up to 50% of vouched legal, accounting, and advisory costs, subject to a maximum payment of €1,500, to help older farmers plan for the succession of their land.

As a further alternative, adding the function of writing or amending a will when a charitable bequest is included to exempt legal services in the VAT Consolidation Act 2010 and/or under EU derogations which may be applicable by virtue of fulfilling the parameters which have in principle to be met in order for a given service to merit or deserve a lower rate of VAT: (i) the "benefit of the final consumer", and (ii) the pursuance of "objectives of general interest" & "as part of social policy".

The new EU VAT Directive came into force in April 2022 and the consolidation & final policies around VAT derogations across the EU continues. There is an opportunity for a strategic benefit to the State to incentivise legacy giving now by including this service to the Irish list of legal services that are exempt.

We note that The Council of Bars and Law Societies of Europe (CCBE) has been more broadly calling for more legal services to be considered exempt. Also of note, in most EU countries, wills are generally made by the client, assisted by a Notary. In other cases, as in Ireland, the general services of solicitors are utilised and We note that in Ireland, VAT is not applicable to Public Notary services & functions under the VAT Consolidation Act 2010.

Rationale

Legacy giving is internationally projected to double again over the next five years and people tend to write or amend their wills at key life stages or when faced with their morality through serious illness, incapacity or external shocks like the threat of Covid. In 2020, in response to Covid, 76% of solicitors surveyed by My Legacy reported an increase in will making enquiries. The average increase in enquiries up 28%.

The conversion from enquiry to wills was 86%. These results mirrored research also undertaken in other countries. It is also noteworthy that people are writing their first wills at a much younger age than previously.

The Law Society does not engage or offer any meaningful support in the promotion or education around legacy giving in a general sense – unlike their counterparts in other jurisdictions. Whilst it is not the role of will-making solicitors to fundraise, for most people it will be their first visit to a solicitor's office and their desire to recognise a cause that is personally important to them can be easily overlooked.

Whilst some individual solicitors see it as a duty of care to their clients to make them aware that it is possible to include a tax free gift to charity, many others do not mention charitable bequests at all, thus potentially excluding a significant proportion of people who would otherwise like to give.

A survey of solicitors who participated in our 2015 public awareness campaign revealed just 17.02% always bring up the subject of bequests, 63.83% do so occasionally and 19.15% never do so. The solicitors also reported that 59% of these conversations are prompted by the client, 34.04% through the will making process and 12.77% through written materials. A review of the Probate/Wills section of firms websites by Campaign Solutions in August 2023 of 158 Probate solicitors identified that just 11 (7%) referenced gifts to charity.

Triggering this reminder and conversation at the point of consideration and action in the solicitors office will help to close the gap between the public's willingness to give and the number of legacy gifts ultimately received.

Research conducted in 2013 and updated in 2016, by the UK Cabinet Office Behavioral Insights Team, in partnership with Bristol University & Remember A Charity, indicated that if advisors remind their clients of the option of including a charitable bequest, it can double the number of gifts. The research also found the average gift value rose by 50%.

Source: <https://www.rememberacharity.org.uk/about-us/latest-news/remember-a-charity-leads-sector-campaign-for-vat-exemption-on-charitable-wills/>

Other Legacy Gift Growth Strategies for Ireland

- **A Match Grant to Promote & Inform Cultural Change Now**

My Legacy has charitable status and our modest annual income is derived from our charity membership fees. To better promote legacy giving, an increase in our current annual marketing campaign spend of c. €35,000 is required. We ask that the Irish government consider a matching grant – so that for every euro currently committed directly by My Legacy charities, the government would match this amount, initially on a trial basis for three years. This would demonstrate leadership and commitment to the long-term sustainability of the charitable sector in Ireland. It will also be good for society as we also promote the importance of making or updating a will and the very real difficulties that can occur for families & loved ones or in a wider social context (i.e. derelict properties and conveyancing issues) when there is none.

Ideally, the promotion would be in tandem with a new government initiative around will-making, legacies and philanthropy, but a matching grant will help better target three key audiences: charity sector, general public and professional advisers - those with private clients engaging in estate planning, will writing, probate and tax.

- **Capacity grant of €30,000 annually to move My Legacy from a part-time to a full-time operation**

My Legacy is a three day a week operation with one part-time staff member. Membership has grown by 50% since pre-Covid, as there is a greater awareness within the charity sector of the legacy growth potential. We need to grow to a full-time operation to maximise opportunities. We ask for a grant to help us do so, initially on a trial basis for three years.

- **Introduce a tax incentive and/or giving mechanism for beneficiaries of wills to increase philanthropic giving at the point of inheritance.**

Given the scale of inter-generational wealth being transferred via probate every year, the Government has an opportunity to incentivise beneficiaries of large estates to donate to a charitable or philanthropic entity at the point of their inheritance by providing relief from Capital Acquisitions Tax (CAT) on donations over €1million – to increase the rate and current low value of philanthropic giving in Ireland and provide a platform for the further growth and development of a philanthropic culture in Ireland.

Taking a dual approach would be innovative and will encourage giving on both sides - by the person who has died and by the person who received the inheritance. Unlike the UK, Ireland has tax on gifts (not just inheritances) and, again unlike the UK, Ireland taxes the person receiving a gift or inheritance (rather than taxing the estate). This makes it appropriate to have a relief that is targeted at the person who receives the gift or inheritance and encourage them to give 10% to charity or a philanthropic entity – as well as mechanisms to incentivise and provide a reliable and sustainable stream of charitable gifts in wills by donors now.

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