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CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

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Capital Acquisitions Tax Act 1976	1976, No. 8
Central Bank Act 1971	1971, No. 24
Companies Act 1963	1963, No. 33
Companies (Amendment) Act 1986	1986, No. 26
Customs and Inland Revenue Act 1881	44 & 45 Vict., c. 12
Ethics in Public Office Act 1995	1995, No. 22
Family Law Act 1995	1995, No. 26
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Finance Act 1894	57 & 58 Vict., c. 30
Finance (1909-10) Act 1910	10 Edw. 7, c. 21
Finance Act 1926	1926, No. 35
Finance Act 1954	1954, No. 22
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Finance Act 1985	1985, No. 10
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Finance (No. 2) Act 2000	2000, No. 19
Income Tax Acts	
Inland Revenue Regulation Act 1890	53 & 54 Vict., c. 21
Local Government Act 2001	2001, No. 37
Local Government Services (Corporate Bodies) Act 1971	1971, No. 6
Provisional Collection of Taxes Act 1927	1927, No. 7
Registration of Title Act 1964	1964, No. 16
Settled Land Act 1882	45 & 46 Vict., c. 38
Succession Act 1965	1965, No. 27
Stamp Duties Consolidation Act 1999	1999, No. 31
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Taxes Consolidation Act 1997	1997, No. 39
Unit Trusts Act 1990	1990, No. 37
Value-Added Tax Act 1972	1972, No. 22
Wills Act 1837	7 Will. & 1 Vict., c. 26



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CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

AN ACT TO CONSOLIDATE ENACTMENTS RELATING TO
CAPITAL ACQUISITIONS TAX. [21st February 2003]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY

1.—This Act may be cited as the Capital Acquisitions Tax Consoli- Short title.
dation Act 2003.

2.—(1) In this Act, unless the context otherwise requires—

General
interpretation.

“absolute interest”, in relation to property, includes the interest of a
person who has a general power of appointment over the property;

[CATA 1976 s2]

“accountable person” means a person who is accountable for the
payment of tax by virtue of *section 45*;

“benefit” includes any estate, interest, income or right;

“child” includes—

(a) a stepchild;

(b) a child adopted—

(i) under the Adoption Acts 1952 to 1998, or

(ii) under a foreign adoption which by virtue of section
2, 3, 4 or 5 of the Adoption Act 1991, is deemed to
have been effected by a valid adoption order within
the meaning of section 1 of that Act;

“Collector” means the Collector-General appointed under section
851 of the Taxes Consolidation Act 1997;

“Commissioners” means the Revenue Commissioners;

“date of the disposition” means—

(a) in the case of a will, the date of the testator’s death,

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- (b) in the case of an intestacy or a partial intestacy, the date of death of the intestate,
- (c) in the case of a benefit under Part IX or section 56 of the Succession Act 1965, the date of death of the relevant testator or other deceased person, and correspondingly in the case of an analogous benefit under the law of another territory,
- (d) in the case of a disposition which consists of the failure to exercise a right or a power, the date of the latest time when the disponent could have exercised the right or the power if that disponent were *sui juris* and not under any physical disability, and
- (e) in any other case, the date on which the act (or where more than one act is involved, the last act) of the disponent was done by which that disponent provided or bound that disponent to provide the property comprised in the disposition;

“date of the gift” means the date of the happening of the event on which the donee, or any person in right of the donee or on that donee’s behalf, becomes beneficially entitled in possession to the benefit, and a reference to the time when a gift is taken is construed as a reference to the date of the gift;

“date of the inheritance” means—

- (a) in the case where the successor or any person in right of the successor or on that successor’s behalf becomes entitled in possession to the benefit on the happening of any such event as is referred to in *section 3(2)*, the date of the event,
- (b) in the case of a gift which becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within 2 years prior to the death of the disponent, the date which would have been the date of the gift if the entitlement were a gift, and
- (c) in any other case, the date of the latest death which had to occur for the successor, or any person in right of the successor or on that successor’s behalf, to become beneficially entitled in possession to the benefit,

and a reference to the time when an inheritance is taken is construed as a reference to the date of the inheritance;

“discretionary trust” means any trust whereby, or by virtue or in consequence of which—

- (a) property is held on trust to accumulate the income or part of the income of the property, or
- (b) property (other than property to which for the time being a person is beneficially entitled for an interest in possession) is held on trust to apply, or with a power to apply, the income or capital or part of the income or capital of the property for the benefit of any person or persons or of any one or more of a number or of a class of persons whether at the discretion of trustees or any other

person and notwithstanding that there may be a power Pt.1 S.2
to accumulate all or any part of the income;

“disponer”, in relation to a disposition, means the person who, for the purpose of the disposition, directly or indirectly provided the property comprised in the disposition, and in any case where more than one person provided the property each is deemed to be the disponer to the extent that that disponer so provided the property; and for the purposes of this definition—

- (a) the testator is the disponer in the case of a disposition referred to in *paragraph (k)* of the definition of “disposition”,
- (b) the intestate is the disponer in the case of a disposition referred to in *paragraph (l)* of that definition,
- (c) the deceased person referred to in *paragraph (m)* of that definition is the disponer in the case of a disposition referred to in that paragraph, and
- (d) a person who has made with any other person a reciprocal arrangement by which that other person provided property comprised in the disposition is deemed to have provided that property;

“disposition” includes—

- (a) any act or omission by a person as a result of which the value of that person’s estate immediately after the act or omission is less than it would be but for the act or omission,
- (b) any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations,
- (c) the creation of a debt or other right enforceable against the disponer personally or against any estate or interest that disponer may have in property,
- (d) the payment of money,
- (e) the allotment of shares in a company,
- (f) the grant or the creation of any benefit,
- (g) the grant or the creation of any lease, mortgage, charge, licence, option, power, partnership or joint tenancy or other estate or interest in or over any property,
- (h) the release, forfeiture, surrender or abandonment of any debt or benefit, or the failure to exercise a right, and, for the purpose of this paragraph, a debt or benefit is deemed to have been released when it has become unenforceable by action through lapse of time (except to the extent that it is recovered subsequent to its becoming so unenforceable),
- (i) the exercise of a general power of appointment in favour of any person other than the holder of the power,
- (j) a *donatio mortis causa*,

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- (k) a will or other testamentary disposition,
- (l) an intestacy, whether total or partial,
- (m) the payment of a share as a legal right under Part IX of the Succession Act 1965, to a deceased person's spouse, or the making of provision for a widow or child of a deceased person under section 56 or section 117 of the Succession Act 1965, or an analogous share or provision paid or made on the death of a deceased person to or for the benefit of any person under the law of another territory, and
- (n) a resolution passed by a company which is deemed by *subsection (3)* to be a disposition;

“donee” means a person who takes a gift;

“entitled in possession” means having a present right to the enjoyment of property as opposed to having a future such right, and without prejudice to the generality of the foregoing a person is also, for the purposes of this Act, deemed to be entitled in possession to an interest or share in a partnership, joint tenancy or estate of a deceased person, in which that person is a partner, joint tenant or beneficiary, as the case may be, but that person is not deemed to be entitled in possession to an interest in expectancy until an event happens whereby this interest ceases to be an interest in expectancy;

“general power of appointment” includes every power, right, or authority whether exercisable only by will or otherwise which would enable the holder of such power, right, or authority to appoint or dispose of property to whoever the holder thinks fit or to obtain such power, right or authority, but exclusive of any power exercisable solely in a fiduciary capacity under a disposition not made by the holder, or exercisable by a tenant for life under the Settled Land Act 1882, or as mortgagee;

“gift” means a gift which a person is by this Act deemed to take;

“inheritance” means an inheritance which a person is by this Act deemed to take;

“interest in expectancy” includes an estate in remainder or reversion and every other future interest, whether vested or contingent, but does not include a reversion expectant on the determination of a lease;

“limited interest” means—

- (a) an interest (other than a leasehold interest) for the duration of a life or lives or for a period certain, or
- (b) any other interest which is not an absolute interest;

“local authority” has the meaning assigned to it by section 2(1) of the Local Government Act 2001 and includes a body established under the Local Government Services (Corporate Bodies) Act 1971;

“market value”, in relation to property, means the market value of that property ascertained in accordance with *sections 26 and 27*;

“minor child” means a child who has not attained the age of 18 years and is not and has not been married;

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“personal property” means any property other than real property; Pt.1 S.2

“personal representative” means the executor or administrator for the time being of a deceased person and includes—

- (a) any person who takes possession of or intermeddles with the property of a deceased person,
- (b) any person having, in relation to the deceased person, under the law of another country, any functions corresponding to the functions, for administration purposes under the law of the State, of an executor or administrator;

“property” includes rights and interests of any description;

“real property” means real and chattel real property;

“regulations” means regulations made under *section 116*;

“relative” means a relative within the meaning of *subsection (4)*;

“return” means such a return as is referred to in *section 46*;

“share”, in relation to a company, includes any interest whatever in the company which is analogous to a share in the company, and “shareholder” shall be construed accordingly;

“special power of appointment” means a power of appointment which is not a general power of appointment;

“successor” means a person who takes an inheritance;

“tax” means any tax chargeable under this Act;

“valuation date” has the meaning assigned to it by *section 30*;

“year of assessment” has the meaning assigned to it by section 2 of the Taxes Consolidation Act 1997.

(2) For the purpose of the definition of “general power of appointment” contained in *subsection (1)*, a person is deemed to have a general power of appointment—

- (a) notwithstanding that the person is not *sui juris* or is under a physical disability,
- (b) over money which the person has a general power to charge on property, and
- (c) over property of which the person is tenant in tail in possession.

(3) For the purpose of the definition of “disposition” contained in *subsection (1)*, the passing by a company of a resolution which, by the extinguishment or alteration of the rights attaching to any share of the company, results, directly or indirectly, in the estate of any shareholder of the company being increased in value at the expense of the estate of any other shareholder, is deemed to be a disposition made by that other shareholder if that other shareholder could have

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prevented the passing of the resolution by voting against it or otherwise; and in this subsection, “share” includes a debenture and loan stock and “shareholder” includes a debenture holder and a holder of loan stock.

(4) For the purposes of this Act, the following persons and no other person are relatives of another person, that is—

- (a) the spouse of that other person,
- (b) the father, mother, and any child, uncle or aunt of that other person,
- (c) any child (other than that other person), and any child of a child, of any person who is by virtue of *paragraph (a)* or *(b)* a relative of that other person, and
- (d) the spouse of a person who is by virtue of *paragraph (b)* or *(c)* a relative of that other person,
- (e) the grandparent of that other person.

(5) For the purposes of this Act, the relationship between a child, adopted in the manner referred to in *paragraph (b)* of the definition of “child” contained in *subsection (1)*, and any other person, or between other persons, that would exist if such child had been born to the adoptor or adoptors in lawful wedlock, is deemed to exist between such child and that other person or between those other persons, and the relationship of any such child and any person that existed prior to that child being so adopted is deemed to have ceased.

(6) For the purposes of this Act—

- (a) a reference to a person being resident in the State on a particular date is construed as a reference to that person being resident in the State in the year of assessment in which that date falls (but, for those purposes, the provisions of Part 34 of the Taxes Consolidation Act 1997, relating to residence of individuals is not construed as requiring a year of assessment to have elapsed before a determination of whether or not a person is resident in the State on a date falling in that year may be made), and
- (b) a reference to a person being ordinarily resident in the State on a particular date is construed as a reference to that person being ordinarily resident in the State in the year of assessment in which that date falls.

(7) In this Act, references to any enactment are, unless the context otherwise requires, construed as references to that enactment as amended or extended by any subsequent enactment.

(8) In this Act, a reference to a Part, Chapter, section or Schedule is a reference to a Part, Chapter, section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(9) In this Act, a reference to a subsection, paragraph, subparagraph, clause or subclause is to the subsection, paragraph, subparagraph, clause or subclause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.

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3.—(1) In this Act, “on a death”, in relation to a person becoming beneficially entitled in possession, means—

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Meaning of “on a death”.

- (a) on the death of a person or at a time ascertainable only by reference to the death of a person, [CATA 1976 s3]
- (b) under a disposition where the date of the disposition is the date of the death of the disponer,
- (c) under a disposition where the date of the disposition is on or after 1 April 1975 and within 2 years prior to the death of the disponer, or
- (d) on the happening, after the cesser of an intervening life interest, of any such event as is referred to in *subsection (2)*.

(2) The events referred to in *subsection (1)(d)* are any of the following—

- (a) the determination or failure of any charge, estate, interest or trust,
- (b) the exercise of a special power of appointment,
- (c) in the case where a benefit was given under a disposition in such terms that the amount or value of the benefit could only be ascertained from time to time by the actual payment or application of property for the purpose of giving effect to the benefit, the making of any payment or the application of the property, or
- (d) any other event which, under a disposition, affects the right to property, or to the enjoyment of that property.

PART 2

GIFT TAX

4.—A capital acquisitions tax, to be called gift tax and to be computed in accordance with this Act, shall, subject to this Act and any regulations made under the Act, be charged, levied and paid on the taxable value of every taxable gift taken by a donee.

Charge of gift tax.
[CATA 1976 s4
(part)]

5.—(1) For the purposes of this Act, a person is deemed to take a gift, where, under or in consequence of any disposition, a person becomes beneficially entitled in possession, otherwise than on a death, to any benefit (whether or not the person becoming so entitled already has any interest in the property in which such person takes such benefit), otherwise than for full consideration in money or money’s worth paid by such person.

Gift deemed to be taken.
[CATA 1976 s5; FA 1993 s121(1) (part); FA 1994 s147 (part)]

(2) A gift is deemed—

- (a) to consist of the whole or the appropriate part, as the case may be, of the property in which the donee takes a benefit, or on which the benefit is charged or secured or on which the donee is entitled to have it charged or secured, and

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(b) if the benefit is an annuity or other periodic payment which is not charged on or secured by any property and which the donee is not entitled to have so charged or secured, to consist of such sum as would, if invested on the date of the gift in the security of the Government which was issued last before that date for subscription in the State and is redeemable not less than 10 years after the date of issue, yield, on the basis of the current yield on the security, an annual income equivalent to the annual value of the annuity or of the other periodic payment receivable by the donee.

(3) For the purposes of *section 6(1)(c)* and *6(2)(d)*, the sum referred to in *subsection (2)(b)* is deemed not to be situate in the State at the date of the gift.

(4) Where a person makes a disposition under which a relative of the person becomes beneficially entitled in possession to any benefit, the creation or disposition in favour of the person of an annuity or other interest limited to cease on the death, or at a time ascertainable only by reference to the death, of the person, shall not be treated for the purposes of this section as consideration for the grant of such benefit or of any part of such benefit.

(5) For the purposes of this Act, “appropriate part”, in relation to property referred to in *subsection (2)*, means that part of the entire property in which the benefit subsists, or on which the benefit is charged or secured, or on which the donee is entitled to have it so charged or secured, which bears the same proportion to the entire property as the gross annual value of the benefit bears to the gross annual value of the entire property, and the gift shall be deemed to consist of the appropriate part of each and every item of property comprised in the entire property.

(6) (a) Where a contract or agreement was entered into, under or as a consequence of which a person acquired the right, otherwise than for full consideration in money or money’s worth, to have a benefit transferred to that person, or to another in that person’s right or on that person’s behalf, and an act or acts is or are done, on or after that date, in pursuance of, or in performance or satisfaction, whether in whole or in part, of such contract or agreement, then the gift or inheritance, as the case may be, taken by or in right or on behalf of that person, is deemed to have been taken, not when the right was acquired, but either—

(i) when the benefit was transferred to that person or to another in that person’s right or on that person’s behalf, or

(ii) when that person or another in that person’s right or on that person’s behalf became beneficially entitled in possession to the benefit,

whichever is the later.

(b) In this subsection, a reference to a contract or agreement does not include a reference to a contract or agreement—

(i) which is a complete grant, transfer, assignment or conveyance, or

(ii) which was enforceable by action.

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(7) (a) In *paragraph (b)*, the expression “shares in a private company” shall be construed by reference to the meanings that “share” and “private company” have, respectively, in *section 27*.

(b) Where a person becomes beneficially entitled in possession to a benefit, and the property in which the benefit is taken consists wholly or partly of shares in a private company and where the consideration referred to in *subsection (1)*, being consideration in relation to a disposition, could not reasonably be regarded (taking into account the disponent’s position prior to the disposition) as representing full consideration to the disponent for having made such a disposition, *subsection (1)* is deemed to apply as if “otherwise than for full consideration in money or money’s worth paid by such person” were deleted in that subsection.

6.—(1) In relation to a gift taken under a disposition, where the date of the disposition is before 1 December 1999, “taxable gift” in this Act means—

Taxable gift.
[CATA 1976 s6
(part)]

(a) in the case of a gift, other than a gift taken under a discretionary trust, where the disponent is domiciled in the State at the date of the disposition under which the donee takes the gift, the whole of the gift,

(b) in the case of a gift taken under a discretionary trust where the disponent is domiciled in the State at the date of the disposition under which the donee takes the gift or at the date of the gift or was (in the case of a gift taken after that donee’s death) so domiciled at the time of that donee’s death, the whole of the gift, and

(c) in any other case, so much of the property of which the gift consists as is situate in the State at the date of the gift.

(2) In relation to a gift taken under a disposition, where the date of the disposition is on or after 1 December 1999, “taxable gift” in this Act means—

(a) in the case of a gift, other than a gift taken under a discretionary trust, where the disponent is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift, the whole of the gift,

(b) in the case of a gift taken under a discretionary trust where the disponent is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift or at the date of the gift or was (in the case of a gift taken after the death of the disponent) so resident or ordinarily resident at the date of that death, the whole of the gift,

(c) in the case where the donee is resident or ordinarily resident in the State at the date of the gift, the whole of the gift, and

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(d) in any other case, so much of the property of which the gift consists as is situate in the State at the date of the gift.

(3) For the purposes of *subsections (1)(c) and (2)(d)*, a right to the proceeds of sale of property is deemed to be situate in the State to the extent that such property is unsold and situate in the State.

(4) For the purposes of *subsection (2)*, a person who is not domiciled in the State on a particular date is treated as not resident and not ordinarily resident in the State on that date unless—

(a) that date occurs on or after 1 December 2004,

(b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and

(c) that person is either resident or ordinarily resident in the State on that date.

(5) (a) In this subsection—

“company” and “share” have the same meaning as they have in *section 27*;

“company controlled by the donee” has the same meaning as is assigned to “company controlled by the donee or successor” by *section 27*.

(b) For the purposes of *subsection (2)(d)*, a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the gift) is a company controlled by the donee is deemed to be a sum situate in the State and is the amount determined by the following formula—

$$A \times \frac{B}{C}$$

where

A is the market value of that share at the date of the gift ascertained under *section 27*,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the gift, and

C is the total market value of all property in the beneficial ownership of that company at the date of the gift.

(c) *Paragraph (b)* shall not apply in a case where the disponent was domiciled outside the State at all times up to and including the date of the gift or, in the case of a gift taken after the death of the disponent, up to and including the date of that death or where the share in question is actually situate in the State at the date of the gift.

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7.—The liability to gift tax in respect of a gift taken by persons as joint tenants is the same in all respects as if they took the gift as tenants in common in equal shares.

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Liability to gift tax in respect of gift taken by joint tenants.

[CATA 1976 s7]

8.—(1) Where a donee takes a gift under a disposition made by a donor (in this section referred to as the original donor) and, within the period commencing 3 years before and ending 3 years after the date of that gift, the donee makes a disposition under which a second donee takes a gift and whether or not the second donee makes a disposition within the same period under which a third donee takes a gift, and so on, each donee is deemed to take a gift from the original donor (and not from the immediate donor under whose disposition the gift was taken); and a gift so deemed to be taken is deemed to be an inheritance (and not a gift) taken by the donee, as successor, from the original donor if—

Donor in certain connected dispositions.

[CATA 1976 s8]

(a) the original donor dies within 2 years after the date of the disposition made by that original donor, and

(b) the date of the disposition was on or after 1 April 1975.

(2) This section shall not apply in the case of any disposition (in this subsection referred to as the first-mentioned disposition) in so far as no other disposition, which was connected in the manner described in *subsection (1)* with such first-mentioned disposition, was made with a view to enabling or facilitating the making of the first-mentioned disposition or the recoupment in any manner of the cost of such first-mentioned disposition.

PART 3

INHERITANCE TAX

CHAPTER 1

General

9.—A capital acquisitions tax, to be called inheritance tax and to be computed in accordance with this Act, shall, subject to this Act and any regulations made under the Act, be charged, levied and paid on the taxable value of every taxable inheritance taken by a successor.

Charge of inheritance tax.

[CATA 1976 s10 (part)]

10.—(1) For the purposes of this Act a person is deemed to take an inheritance, where, under or in consequence of any disposition, a person becomes beneficially entitled in possession on a death to any benefit (whether or not the person becoming so entitled already has any interest in the property in which such person takes such benefit), otherwise than for full consideration in money or money's worth paid by such person.

Inheritance deemed to be taken.

[CATA 1976 s11; FA 1993 s123 (1) (part); FA 1994 s148 (part)]

(2) *Subsections (2), (4) and (5) of section 5* shall apply, with any necessary modifications, in relation to an inheritance as they apply in relation to a gift.

(3) For the purposes of *section 11(1)(b)* and *11(2)(c)*, the sum referred to in *section 5(2)(b)* is deemed not to be situated in the State at the date of the inheritance.

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(4) (a) In *paragraph (b)*, the expression “shares in a private company” is construed by reference to the meanings that “share” and “private company” have, respectively, in *section 27*.

(b) Where a person becomes beneficially entitled in possession to a benefit, and the property in which the benefit is taken consists wholly or partly of shares in a private company and where the consideration referred to in *subsection (1)*, being consideration in relation to a disposition, could not reasonably be regarded (taking into account the disponent’s position prior to the disposition) as representing full consideration to the disponent for having made such a disposition, *subsection (1)* is deemed to apply as if “otherwise than for full consideration in money or money’s worth paid by such person” were deleted in that subsection.

Taxable inheritance.
[CATA 1976 s12
(part)]

11.—(1) In relation to an inheritance taken under a disposition, where the date of the disposition is before 1 December 1999, “taxable inheritance” in this Act means—

(a) in the case where the disponent is domiciled in the State at the date of the disposition under which the successor takes the inheritance, the whole of the inheritance, and

(b) in any case, other than the case referred to in *paragraph (a)*, where, at the date of the inheritance—

(i) the whole of the property—

(I) which was to be appropriated to the inheritance,
or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, the whole of the inheritance;

(ii) a part or proportion of the property—

(I) which was to be appropriated to the inheritance,
or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, that part or proportion of the inheritance.

(2) In relation to an inheritance taken under a disposition, where the date of the disposition is on or after 1 December 1999, “taxable inheritance” in the Act means—

(a) in the case where the disponent is resident or ordinarily resident in the State at the date of the disposition under which the successor takes the inheritance, the whole of the inheritance,

(b) in the case where the successor (not being a successor in relation to a charge for tax arising by virtue of *sections 15(I)* and *20(I)*) is resident or ordinarily resident in the State at the date of the inheritance, the whole of the inheritance, and

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- (c) in any case, other than a case referred to in *paragraph (a)* or *(b)*, where at the date of the inheritance—
- (i) the whole of the property—
- (I) which was to be appropriated to the inheritance,
or
- (II) out of which property was to be appropriated to the inheritance,
- was situate in the State, the whole of the inheritance;
- (ii) a part or proportion of the property—
- (I) which was to be appropriated to the inheritance,
or
- (II) out of which property was to be appropriated to the inheritance,
- was situate in the State, that part or proportion of the inheritance.
- (3) For the purposes of *subsections (1)(b)* and *(2)(c)*—
- (a) “property which was to be appropriated to the inheritance” and “property out of which property was to be appropriated to the inheritance” shall not include any property which was not applicable to satisfy the inheritance, and
- (b) a right to the proceeds of sale of property is deemed to be situate in the State to the extent that such property is unsold and situate in the State.
- (4) For the purposes of *subsection (2)*, a person who is not domiciled in the State on a particular date is treated as not resident and not ordinarily resident in the State on that date unless—
- (a) that date occurs on or after 1 December 2004,
- (b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and
- (c) that person is either resident or ordinarily resident in the State on that date.
- (5) (a) In this subsection—
- “company” and “share” have the same meaning as they have in *section 27*;
- “company controlled by the donee” has the same meaning as is assigned to “company controlled by the donee or successor” by *section 27*.
- (b) For the purposes of *subsection (2)(c)*, a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the inheritance) is a company controlled by the successor is

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deemed to be a sum situate in the State and is the amount determined by the following formula—

$$A \times \frac{B}{C}$$

where

A is the market value of that share at the date of the inheritance ascertained under *section 27*,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the inheritance, and

C is the total market value of all property in the beneficial ownership of that company at the date of the inheritance.

(c) *Paragraph (b)* shall not apply in a case where the disponent was not domiciled in the State at the date of the disposition under which the successor takes the inheritance or where the share in question is actually situate in the State at the date of the inheritance.

Disclaimer.

[CATA 1976 s13]

12.—(1) If—

(a) (i) a benefit under a will or an intestacy, or
(ii) an entitlement to an interest in settled property,
is disclaimed;

(b) a claim—

(i) under a purported will in respect of which a grant of representation (within the meaning of the Succession Act 1965) was not issued, or
(ii) under an alleged intestacy where a will exists in respect of which such a grant was issued,

is waived; or

(c) a right under Part IX of the Succession Act 1965, or any analogous right under the law of another territory, is renounced, disclaimed, elected against or lapses,

any liability to tax in respect of such benefit, entitlement, claim or right shall cease as if such benefit, entitlement, claim or right, as the case may be, had not existed.

(2) Notwithstanding anything contained in this Act—

(a) a disclaimer of a benefit under a will or intestacy or of an entitlement to an interest in settled property;

(b) the waiver of a claim—

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- (i) under a purported will in respect of which a grant of representation (within the meaning of the Succession Act 1965) was not issued, or
- (ii) under an alleged intestacy where a will exists in respect of which such a grant issued; or
- (c) (i) the renunciation or disclaimer of,
- (ii) the election against, or
- (iii) the lapse of,
- a right under Part IX of the Succession Act 1965, or any analogous right under the law of another territory,

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is not a disposition for the purposes of this Act.

(3) *Subsection (1)* shall not apply to the extent of the amount of any consideration in money or money's worth received for the disclaimer, renunciation, election or lapse or for the waiver of a claim; and the receipt of such consideration is deemed to be a gift or an inheritance, as the case may be, in respect of which no consideration was paid by the donee or successor and which was derived from the disponent who provided the property in relation to which the benefit, entitlement, claim or right referred to in *subsection (1)*, arose.

13.—(1) On the death of one of several persons who are beneficially and absolutely entitled in possession as joint tenants, the surviving joint tenant or surviving joint tenants is or are deemed to take an inheritance of the share of the deceased joint tenant, as successor or successors from the deceased joint tenant as disponent.

Surviving joint tenant deemed to take an inheritance, etc.
[CATA 1976 s14]

(2) The liability to inheritance tax in respect of an inheritance taken by persons as joint tenants is the same in all respects as if they took the inheritance as tenants in common in equal shares.

CHAPTER 2

Initial levy on discretionary trusts

14.—In this Chapter—

Interpretation
(Chapter 2).

“object”, in relation to a discretionary trust, means a person for whose benefit the income or capital, or any part of the income or capital, of the trust property is applied, or may be applied;

[FA 1984 s104]

“principal objects”, in relation to a discretionary trust, means such objects, if any, of the trust for the time being as are—

- (a) the spouse of the disponent,
- (b) the children of the disponent, or
- (c) the children of a child of the disponent where such child predeceased the disponent.

15.—(1) Where, on or after 25 January 1984, under or in consequence of any disposition, property becomes subject to a discretionary trust, the trust is deemed, on—

Acquisitions by discretionary trusts.
[FA 1984 s106]

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- (a) the date on which that property becomes or became subject to the discretionary trust,
- (b) the date of death of the disposer, or
- (c) where there are principal objects of the trust, the date on which there ceases to be a principal object of the trust who is—
 - (i) under the age of 25 years, where the property became subject to the trust on or after 25 January 1984 and before 31 January 1993, or
 - (ii) under the age of 21 years, where the property becomes or became subject to the trust on or after 31 January 1993,

whichever date is the latest, to become or to have become beneficially entitled in possession to an absolute interest in so much, if any, of that property or of property representing that property and of accumulations of income of that property or of property representing those accumulations as remains subject to the discretionary trust on that latest date, and to take or to have taken an inheritance accordingly as if the trust, and the trustees as such for the time being of the trust, were together a person for the purposes of this Act, and that latest date shall be the date of the inheritance.

(2) Property which, under or in consequence of any disposition, was subject to a discretionary trust on 25 January 1984 is, for the purposes of *subsection (1)*, deemed to have become subject to the trust on that date.

(3) Property which, under or in consequence of any disposition, was subject to a discretionary trust on 31 January 1993 is, for the purposes of *subsection (1)*, deemed to have become subject to the trust on that date.

(4) For the purposes of this section—

- (a) an interest in expectancy is not property until an event happens whereby the interest ceases to be an interest in expectancy or is represented by property which is not an interest in expectancy,
- (b) an interest in a policy of assurance on human life is not property until, and then only to the extent that, the interest becomes an interest in possession under *section 41* or is represented by property which is not an interest in expectancy.

(5) Where, apart from this subsection, property or property representing such property would be chargeable under this section, or under this section and the corresponding provisions of the repealed enactments, with tax more than once under the same disposition, such property is so chargeable with tax once only, that is, on the earliest occasion on which such property would become so chargeable with tax.

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16.—In relation to a charge for tax arising by reason of *section 15*—

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Application of this Act.

- (a) a reference in *section 27* to a company controlled by the successor and the definition in that section of “group of shares” is construed as if (for the purpose of that reference) the list of persons contained in *subsection (3)* of that section and (for the purpose of that definition) the list of persons contained in that definition included the following, that is, the trustees of the discretionary trust, the living objects of the discretionary trust, the relatives of those objects, nominees of those trustees or of those objects or of the relatives of those objects, and the trustees of a settlement whose objects include the living objects of the discretionary trust or relatives of those living objects, [FA 1984 s107 (a) to (d) and (g)]
- (b) *section 30* shall apply, with the modification that the valuation date of the taxable inheritance is—
- (i) the date of the inheritance, or
- (ii) the valuation date ascertained in accordance with that section,
- whichever is the later, and with any other necessary modifications;
- (c) a person who is a trustee of the discretionary trust concerned for the time being at the date of the inheritance or at any date subsequent to that date is a person primarily accountable for the payment of the tax;
- (d) an object of the discretionary trust concerned to whom or for whose benefit any of the property subject to the trust is applied or appointed is also accountable for the payment of tax the charge in respect of which has arisen prior to the date of the application or appointment of the property to that person or for that person’s benefit, and this Act shall apply, in its application to that charge for tax, as if that object of the discretionary trust were a person referred to in *section 45(2)*; and
- (e) *section 45(1)*, *sections 50, 56 and 81* and *Schedule 2* shall not apply.

17.—(1) *Section 15* shall not apply in relation to a discretionary trust which is shown to the satisfaction of the Commissioners to have been created exclusively— Exemptions. [FA 1984 s108]

- (a) for public or charitable purposes in the State or Northern Ireland,
- (b) for the purposes of—
- (i) any scheme for the provision of superannuation benefits on retirement established by or under any enactment or by or under an instrument made under any enactment, or
- (ii) any sponsored superannuation scheme within the meaning of subsection (1) of section 783 of the Taxes

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Consolidation Act 1997 or a trust scheme or part of a trust scheme approved by the Commissioners under that section or section 785 of that Act, but shall not include a scheme or arrangement which relates to matters other than service in particular offices or employments;

(c) for the purposes of a registered unit trust scheme within the meaning of the Unit Trusts Act 1990;

(d) (i) for the benefit of one or more named individuals, and

(ii) for the reason that such individual, or all such individuals, is or are, because of age or improvidence, or of physical, mental or legal incapacity, incapable of managing that individual or those individuals' affairs;

or

(e) for the purpose of providing for the upkeep of a house or garden referred to in *section 77(6)*.

(2) *Section 15* shall not apply—

(a) in relation to a discretionary trust in respect of the property subject to or becoming subject to the trust which, on the termination of the trust, is comprised in a gift or an inheritance taken by the State, or

(b) in respect of an inheritance which, apart from this subsection, would be deemed, by the combined effect of *section 15* and *section 40*, to be taken by a discretionary trust.

Computation of tax. **18.—(1)** In this section—
[FA 1984 s109]

“earlier relevant inheritance” means a relevant inheritance deemed to be taken on the date of death of the disponer;

“later relevant inheritance” means a relevant inheritance which, after the date of death of the disponer, is deemed to be taken by a discretionary trust by virtue of there ceasing to be a principal object of that trust who is under the age of 21 years;

“relevant inheritance” means an inheritance which, by virtue of *section 15(1)*, is deemed to be taken by a discretionary trust;

“relevant period” means—

(a) in relation to an earlier relevant inheritance, the period of 5 years commencing on the date of death of the disponer,

(b) in relation to a settled relevant inheritance, the period of 5 years commencing on the date of death of the life tenant concerned, and

(c) in relation to a later relevant inheritance, the period of 5 years commencing on the latest date on which a later relevant inheritance was deemed to be taken from the disponer;

“settled relevant inheritance” means a relevant inheritance taken on the death of a life tenant;

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“the appropriate trust”, in relation to a relevant inheritance, means Pt.3 S.18
the trust by which that inheritance was deemed to be taken.

(2) Subject to *subsection (3)*, the tax chargeable on the taxable value of a taxable inheritance which is charged to tax by reason of *section 15* is computed at the rate of 6 per cent of such taxable value.

(3) Where, in the case of each earlier relevant inheritance, each settled relevant inheritance or each later relevant inheritance, as the case may be, taken from the same disponer, one or more objects of the appropriate trust became beneficially entitled in possession before the expiration of the relevant period to an absolute interest in the entire of the property of which that inheritance consisted on and at all times after the date of that inheritance (other than property which ceased to be subject to the terms of the appropriate trust by virtue of a sale or exchange of an absolute interest in that property for full consideration in money or money’s worth), then, in relation to all such earlier relevant inheritances, all such settled relevant inheritances or all such later relevant inheritances, as the case may be, the tax so chargeable is computed at the rate of 3 per cent.

(4) Where 2 or more persons are together beneficially entitled in possession to an absolute interest in property, those persons shall not, by reason only that together they are beneficially so entitled in possession, be regarded for the purposes of *subsection (3)* as beneficially so entitled in possession.

(5) Notwithstanding *section 57*, interest shall not be payable on any repayment of tax which arises by virtue of *subsection (3)*.

CHAPTER 3

Annual levy on discretionary trusts

19.—In this Chapter—

Interpretation
(Chapter 3).

“chargeable date”, in relation to any year, means 5 April in that year; [FA 1986 s102]

“chargeable discretionary trust” means a discretionary trust in relation to which—

(a) the disponer is dead, and

(b) none of the principal objects of the trust, if any, is under the age of 21 years;

“object” and “principal objects”, in relation to a discretionary trust, have the meanings respectively assigned to them by *section 14*.

20.—(1) Where, in any year commencing with the year 2003, under or in consequence of any disposition, property is subject to a chargeable discretionary trust on the chargeable date, the trust is deemed on each such date to become beneficially entitled in possession to an absolute interest in that property, and to take on each such date an inheritance accordingly as if the trust, and the trustees as such for the time being of the trust, were together a person for the purposes of this Act, and each such chargeable date shall be the date of such inheritance. Annual acquisitions by discretionary trusts. [FA 1986 s103]

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(2) (a) In this subsection, “property” includes property representing such property.

(b) Where—

- (i) under or in consequence of any disposition, property was subject to a discretionary trust prior to a chargeable date,
- (ii) that property is not on that chargeable date subject to that discretionary trust (being on that date a chargeable discretionary trust) because such property is on that date property to which for the time being a person is beneficially entitled for an interest in possession, and
- (iii) on that chargeable date that property is property which is limited to become subject again to that chargeable discretionary trust, or will do so by the exercise of a power of revocation,

that property is deemed to be subject to that chargeable discretionary trust on that chargeable date if that interest in possession is an interest which is revocable or which is limited to cease on an event other than—

- (I) the death of that person, or
- (II) the expiration of a specified period, where that interest is taken by that person under a power of appointment contained in that disposition and is, at the time of the appointment of that interest, an interest for a period certain of 5 years or more.

(3) For the purposes of this section—

- (a) an interest in expectancy is not property until an event happens whereby the interest ceases to be an interest in expectancy or is represented by property which is not an interest in expectancy;
- (b) an interest in a policy of assurance on human life is not property until, and then only to the extent that, the interest becomes an interest in possession under the provisions of *section 41* or is represented by property which is not an interest in expectancy.

(4) This section shall not apply in relation to property which is subject to a chargeable discretionary trust on a chargeable date if that property or property representing that property is subject to a charge for tax arising under or in consequence of the same disposition by reason of *section 15*, or that provision of the repealed enactments which corresponds with *section 15*, on that same date or within the year prior to that date.

Application of this Act.

[FA 1986 s104 (a) to (e) and (g)]

21.—In relation to a charge for tax arising by reason of *section 20*—

- (a) a reference in *section 27* to a company controlled by the successor and the definition in that section of “group of shares” is construed as if (for the purpose of that reference) the list of persons contained in *subsection (3)*

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of that section and (for the purpose of that definition) the list of persons contained in that definition included the following, that is, the trustees of the discretionary trust, the living objects of the discretionary trust, the relatives of those objects, nominees of those trustees or of those objects or of the relatives of those objects, and the trustees of a settlement whose objects include the living objects of the discretionary trust or relatives of those living objects;

- (b) (i) subject to the provisions of *subparagraph (ii)*, the valuation date of the taxable inheritance is the relevant chargeable date;
- (ii) where—
- (I) a charge for tax arises on a particular date by reason of *section 15*, or that provision of the repealed enactments which corresponds with *section 15*, giving rise to a taxable inheritance (in this subparagraph called the first taxable inheritance),
 - (II) on a later date, a charge for tax arises under or in consequence of the same disposition by reason of *section 20* giving rise to a taxable inheritance (in this subparagraph called the second taxable inheritance) comprising the same property or property representing that property, and
 - (III) the valuation date of the first taxable inheritance is a date after the chargeable date of the second taxable inheritance,
- the valuation date of the second taxable inheritance is the same date as the valuation date of the first taxable inheritance;
- (c) a person who is a trustee of the discretionary trust concerned for the time being at the date of the inheritance or at any date subsequent to that date is a person primarily accountable for the payment of the tax;
- (d) an object of the discretionary trust concerned to whom or for whose benefit any of the property subject to the trust is applied or appointed is also accountable for the payment of tax the charge in respect of which has arisen prior to the date of the application or appointment of the property to that object or for that object's benefit, and this Act shall apply, in its application to that charge for tax, as if that object of the discretionary trust were a person referred to in *section 45(2)*;
- (e) any person who is primarily accountable for the payment of tax by virtue of *paragraph (c)* shall, within 3 months after the valuation date—
- (i) deliver to the Commissioners a full and true return—
 - (I) of every inheritance in respect of which that person is so primarily accountable,

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(II) of all the property comprised in such inheritance,
and

(III) of an estimate of the market value of such
property;

(ii) notwithstanding any other provision of this Act, make
an assessment of such amount of tax as, to the best
of that person's knowledge, information and belief,
ought to be charged, levied and paid on that valua-
tion date; and

(iii) pay the amount of such tax to the Collector;

and

(f) *section 30, section 45(1), section 46(2), (3), (4) and (5) and
sections 50, 54, 56 and 81 and Schedule 2* shall not apply.

Exemptions.
[FA 1986 s106]

22.—*Section 20* shall not apply in relation to a discretionary trust
referred to in *section 17(1)* or in respect of the property or the
inheritance referred to in *section 17(2)*.

Computation of tax.
[FA 1986 s106]

23.—The tax chargeable on the taxable value of a taxable inherit-
ance which is charged to tax by reason of *section 20* is computed at
the rate of one per cent of that taxable value.

Values agreed.
[FA 1986 s107]

24.—(1) Where—

(a) under or in consequence of any disposition, a charge for tax
arises by reason of *section 20* on a chargeable date (in
this section called the first chargeable date),

(b) an accountable person has furnished all the information
necessary to enable the Commissioners to ascertain the
market value of—

(i) real property, or

(ii) shares which are not dealt in on a stock exchange,

comprised in the taxable inheritance so taken on the val-
uation date of that taxable inheritance,

(c) pursuant to an application in writing to the Commissioners
on that behalf, the market value of such property on that
valuation date is agreed on between that person and the
Commissioners,

(d) under or in consequence of the same disposition, a charge
for tax arises by reason of *section 20* on either or both of
the 2 chargeable dates in the years next following the
year in which the first chargeable date occurs (in this
section called the subsequent chargeable dates), and

(e) the same property at *subparagraph (i) or (ii) of paragraph
(b)* is comprised in the taxable inheritances so taken on
the subsequent chargeable dates,

the value so agreed on is treated for the purposes of this Chapter as
the market value of such property on that valuation date and on the
valuation dates of the taxable inheritances so taken on the sub-
sequent chargeable dates.

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(2) Notwithstanding *subsection (1)*, the market value so agreed is not binding— Pt.3 S.24

- (a) in any case where there is failure to disclose material facts in relation to any part of the property comprised in the taxable inheritances taken on the first chargeable date or on the subsequent chargeable dates, or
- (b) where, at any time after the first chargeable date and before the third of those chargeable dates—
 - (i) in the case of real property, there is any alteration in the tenure under which the property is held or let, or
 - (ii) in the case of shares, there is any alteration in the capital or the ownership of the capital of the company concerned or of the rights of the shareholders *inter se*,or
- (c) where, at any time after the first chargeable date and before the third of those chargeable dates—
 - (i) in the case of real property, there is any change whatever, whether affecting that or any other property, which would materially increase or decrease the market value over and above any increase or decrease which might normally be expected if such a change had not occurred, or
 - (ii) in the case of shares, there has been any material change in the assets of the company or in their market value over and above any such change which might normally be expected,

and in such cases the market value of the real property, or of the shares, may be ascertained again by the Commissioners for each of the relevant valuation dates, but in the case of any change referred to in *paragraph (c)*, the market value may be ascertained again by the Commissioners only at the request of the person primarily accountable for the payment of the tax arising by reason of *section 20* on that relevant valuation date.

(3) Any agreement made under this section shall be binding only on the persons who as such are accountable for the payment of the tax arising by reason of *section 20* on the first chargeable date and on the subsequent chargeable dates.

25.—Any person who contravenes or fails to comply with any requirement under *paragraph (e)* of *section 21* is liable to a penalty of— Penalty.
[FA 1986 s108]

- (a) €1,265, or
- (b) twice the amount of tax payable in respect of the taxable inheritance to which the return relates,

whichever is the lesser.

PART 4

VALUE OF PROPERTY FOR TAX

Market value of
property.
[CATA 1976 s15]

26.—(1) In *subsection (6)*, “unquoted shares or securities” means shares or securities which are not dealt in on a stock exchange.

(2) Subject to this Act, the market value of any property for the purposes of this Act is estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market on the date on which the property is to be valued in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property.

(3) In estimating the market value of any property, the Commissioners shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time.

(4) The market value of any property shall be ascertained by the Commissioners in such manner and by such means as they think fit, and they may authorise a person to inspect any property and report to them the value of such property for the purposes of this Act, and the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the Commissioners consider necessary.

(5) Where the Commissioners require a valuation to be made by a person named by them, the costs of such valuation shall be defrayed by the Commissioners.

(6) Subject to this Act, in estimating the price which unquoted shares or securities might be expected to fetch if sold in the open market, it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if that prudent prospective purchaser were proposing to purchase them from a willing vendor by private treaty and at arm’s length.

Market value of
certain shares in
private companies.
[CATA 1976 s16]

27.—(1) In this section—

“group of shares”, in relation to a private company, means the aggregate of the shares in the company of the donee or successor, the relatives of the donee or successor, nominees of the donee or successor, nominees of relatives of the donee or successor, and the trustees of a settlement whose objects include the donee or successor or relatives of the donee or successor;

“nominee” includes a person who may be required to exercise that person’s voting power on the directions of, or who holds shares directly or indirectly on behalf of, another person;

“private company” means a body corporate (wherever incorporated) which—

(a) is under the control of not more than 5 persons, and

(b) is not a company which would fall within section 431 of the Taxes Consolidation Act 1997 if the words “private company” were substituted for the words “close company” in subsection (3) of that section, and if the words “are

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beneficially held by a company which is not a private company” were substituted for the words of paragraph (a) of subsection (6) of that section; Pt.4 S.27

“share”, in relation to a private company and in addition to the interpretation of “share” in *section 2(1)*, includes every debenture, or loan stock, issued otherwise than as part of a transaction which is wholly and exclusively a bona fide commercial transaction.

(2) (a) The market value of each share in a private company which (after the taking of the gift or of the inheritance) is, on the date of the gift or on the date of the inheritance, a company controlled by the donee or successor, shall be ascertained by the Commissioners, for the purposes of tax, as if, on the date on which the market value is to be ascertained, it formed an apportioned part of the market value of a group of shares in that company, such apportionment, as between shares of a particular class, to be by reference to nominal amount, and, as between different classes of shares, to have due regard to the rights attaching to each of the different classes.

(b) For the purpose of ascertaining the market value of a share in a private company in the manner described in *paragraph (a)*, the benefit to any private company (in this paragraph referred to as “the first-mentioned company”) by virtue of its ownership of an interest in shares in another private company (in this paragraph referred to as “the second-mentioned company”) is, where each of the companies so connected is a company which (after the taking of the gift or of the inheritance) is, on the date of the gift or on the date of the inheritance, a company controlled by the donee or successor, deemed to be—

(i) such benefit as would be appropriate to the ownership of that interest if the second-mentioned company were under the control of the first-mentioned company in the same manner as (on the date on which the market value is to be ascertained) the second-mentioned company is under the control of the following, that is, the first-mentioned company, the donee or successor, the relatives of the donee or successor, nominees of the donee or successor, nominees of relatives of the donee or successor, and the trustees of a settlement whose objects include the donee or successor or relatives of the donee or successor, or

(ii) the actual benefit appropriate to the ownership of that interest,

whichever is the greater.

(3) In this section, a reference to a company controlled by the donee or successor is a reference to a company that is under the control of any one or more of the following, that is, the donee or successor, the relatives of the donee or successor, nominees of the donee or successor, nominees of relatives of the donee or successor, and the trustees of a settlement whose objects include the donee or successor or relatives of the donee or successor; and for the purposes of this section, a company which is so controlled by the donee or successor shall be regarded as being itself a relative of the donee or successor.

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(4) For the purposes of this section—

(a) a company is deemed to be under the control of not more than 5 persons if any 5 or fewer persons together exercise, or are able to exercise, or are entitled to acquire control, whether direct or indirect, of the company and for this purpose—

- (i) persons who are relatives of any other person together with that other person,
- (ii) persons who are nominees of any other person together with that other person,
- (iii) persons in partnership, and
- (iv) persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person,

shall respectively be treated as a single person, and

(b) a person is deemed to have control of a company at any time if—

- (i) that person then had control of the powers of voting on all questions, or on any particular question, affecting the company as a whole, which, if exercised, would have yielded a majority of the votes capable of being exercised on such questions or question, or could then have obtained such control by an exercise at that time of a power exercisable by that person or at that person's direction or with that person's consent,
- (ii) that person then had the capacity, or could then by an exercise of a power exercisable by that person or at that person's direction or with that person's consent obtain the capacity, to exercise or to control the exercise of any of the following powers, that is:
 - (I) the powers of a board of directors of the company,
 - (II) powers of a governing director of the company,
 - (III) power to nominate a majority of the directors of the company or a governing director of the company,
 - (IV) the power to veto the appointment of a director of the company, or
 - (V) powers of a like nature;
- (iii) that person then had a right to receive, or the receipt of, more than one-half of the total amount of the dividends of the company, whether declared or not, and for the purposes of this subparagraph, "dividend" is deemed to include interest on any debentures of the company, or

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- (iv) that person then had an interest in the shares of the company of an aggregate nominal value representing one-half or more of the aggregate nominal value of the shares of the company. Pt.4 S.27

28.—(1) In this section, “incumbrance-free value”, in relation to a taxable gift or a taxable inheritance, means the market value at the valuation date of the property of which the taxable gift or taxable inheritance consists at that date, after deducting any liabilities, costs and expenses that are properly payable out of the taxable gift or taxable inheritance. Taxable value of a taxable gift or inheritance.
[CATA 1976 s18]

(2) Subject to this section (but except where provided in *section 89*), the taxable value of a taxable gift or a taxable inheritance (where the interest taken by the donee or successor is not a limited interest) is ascertained by deducting from the incumbrance-free value of such a taxable gift or a taxable inheritance the market value of any bona fide consideration in money or money’s worth, paid by the donee or successor for the gift or inheritance, including—

- (a) any liability of the disponent which the donee or successor undertakes to discharge as that disponent’s own personal liability, and
- (b) any other liability to which the gift or inheritance is subject under the terms of the disposition under which it is taken,

and the amount so ascertained is the taxable value, but no deduction shall be made under this subsection in respect of any liability which is to be deducted in ascertaining the incumbrance-free value.

(3) Where a liability (other than a liability within the meaning of *subsection (9)*) for which a deduction may be made under *subsection (1)* or *(2)* is to be discharged after the time when it is to be taken into account as a deduction under either of those subsections, it is valued for the purpose of making such a deduction at its current market value at the time when it is to be so taken into account.

(4) The taxable value of a taxable gift or a taxable inheritance, where the interest taken by the donee or the successor is a limited interest, is ascertained as follows—

- (a) the value of the limited interest in a capital sum equal to the incumbrance-free value is ascertained in accordance with the Rules contained in *Schedule 1*, and
- (b) from the value ascertained in accordance with *paragraph (a)* a deduction is made in respect of the market value of any bona fide consideration in money or money’s worth paid by the donee or the successor for the gift or the inheritance and the amount remaining after such deduction is the taxable value, but no deduction is made under this paragraph in respect of any liability which is to be deducted in ascertaining the incumbrance-free value.

(5) A deduction shall not be made under this section—

- (a) in respect of any liability the payment of which is contingent on the happening of some future event, but if the event on the happening of which the liability is contingent happens and the liability is paid, then, on a claim for relief being made to the Commissioners and subject to the

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other provisions of this section, a deduction is made in respect of the liability and such adjustment of tax as is appropriate is made; and such adjustment is made on the basis that the donee or successor had taken an interest in possession in the amount which is to be deducted for the liability, for a period certain which was equal to the actual duration of the postponement of the payment of the liability,

- (b) in respect of any liability, costs or expenses in so far as the donee or successor has a right of reimbursement from any source, unless such reimbursement can not be obtained,
- (c) in respect of any liability created by the donee or successor or any person claiming in right of the donee or successor or on that donee or successor's behalf,
- (d) in respect of tax, interest or penalties chargeable under this Act in respect of the gift or inheritance, or of the costs, expenses or interest incurred in raising or paying the same,
- (e) in respect of any liability in so far as such liability is an incumbrance on, or was created or incurred in acquiring, any property which is comprised in any gift or inheritance and which is exempt from tax under any provision of this Act or otherwise,
- (f) in the case of any gift or inheritance referred to in *section 6(1)(c), 6(2)(d), 11(1)(b) or 11(2)(c)* in respect of—
 - (i) any liability, costs or expenses due to a person resident outside the State (except in so far as such liability is required by contract to be paid in the State or is charged on the property which is situate in the State and which is comprised in the gift or inheritance), or
 - (ii) any liability, costs or expenses in so far as the same are charged on or secured by property which is comprised in the gift or inheritance and which is not situate in the State,

except to the extent that all the property situate outside the State and comprised in the gift or inheritance is insufficient for the payment of the liability, costs or expenses,

- (g) for any tax in respect of which a credit is allowed under *section 106 or 107*.

(6) In the case of a gift or inheritance referred to in *subsection (5)(f)*, any deduction to be made under *subsection (2) or (4)(b)* is restricted to the proportion of the consideration which bears the same proportion to the whole of the consideration as the taxable gift or taxable inheritance bears to the whole of the gift or the whole of the inheritance.

(7) A deduction shall not be made under this section—

- (a) more than once for the same liability, costs, expenses or consideration, in respect of all gifts and inheritances taken by the donee or successor from the donor, or

- (b) for any liability, costs, expenses or consideration, a proportion of which is to be allowed under *section 89(2)(ii)* or *(iii)* in respect of a gift or inheritance taken by the donee or successor from the donor.
- (8) Where a taxable gift or a taxable inheritance is subject to a liability within the meaning of *subsection (9)*, the deduction to be made in respect of that liability under this section shall be an amount equal to the market value of the whole or the appropriate part, as the case may be, of the property, within the meaning of *section 5(5)*.
- (9) For the purpose of *subsection (8)*, “liability”, in relation to a taxable gift or a taxable inheritance, means a liability which deprives the donee or successor, whether permanently or temporarily, of the use, enjoyment or income in whole or in part of the property, or of any part of the property, of which the taxable gift or taxable inheritance consists.
- (10) Where—
- (a) bona fide consideration in money or money’s worth has been paid by a person for the granting to that person, by a disposition, of an interest in expectancy in property, and
- (b) at the coming into possession of the interest in expectancy, that person takes a gift or an inheritance of that property under that disposition,
- the deduction to be made under *subsection (2)* or *(4)(b)* for consideration paid by that person is a sum equal to the same proportion of the taxable value of the taxable gift or taxable inheritance (as if no deduction had been made for such consideration) as the amount of the consideration so paid bore to the market value of the interest in expectancy at the date of the payment of the consideration.
- (11) Any deduction, under this section, in respect of a liability which is an incumbrance on any property, is, so far as possible, made against that property.

29.—(1) Where, under a disposition, a person becomes beneficially entitled in possession to any benefit and, under the terms of the disposition, the entitlement, or any part of the entitlement, may cease on the happening of a contingency (other than the revocation of the entitlement on the exercise by the donor of such a power as is referred to in *section 39*), the taxable value of any taxable gift or taxable inheritance taken by that person on becoming so entitled to that benefit is ascertained as if no part of the entitlement were so to cease; but, in the event and to the extent that the entitlement so ceases, the tax payable by that person is, to that extent, adjusted (if, by so doing, a lesser amount of tax would be payable by such person) on the basis that such person had taken an interest in possession for a period certain which was equal to the actual duration of such person’s beneficial entitlement in possession.

Contingencies affecting gifts or inheritances.
[CATA 1976 s20]

(2) Nothing in this section shall prejudice any charge for tax on the taking by such person of a substituted gift or inheritance on the happening of such a contingency.

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Valuation date for
tax purposes.
[CATA 1976 s21]

30.—(1) Subject to *subsection (7)*, the valuation date of a taxable gift is the date of the gift.

(2) The valuation date of a taxable inheritance is the date of death of the deceased person on whose death the inheritance is taken if the successor or any person in right of the successor or on that successor's behalf takes the inheritance—

(a) as a *donatio mortis causa*, or

(b) by reason of the failure to exercise a power of revocation.

(3) If a gift becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within 2 years prior to the death of the disponent, the valuation date of the inheritance is determined as if it were a gift.

(4) The valuation date of a taxable inheritance, other than a taxable inheritance referred to in *subsection (2)* or *(3)*, is the earliest date of the following:

(a) the earliest date on which a personal representative or trustee or the successor or any other person is entitled to retain the subject matter of the inheritance for the benefit of the successor or of any person in right of the successor or on that successor's behalf,

(b) the date on which the subject matter of the inheritance is so retained, or

(c) the date of delivery, payment or other satisfaction or discharge of the subject matter of the inheritance to the successor or for that successor's benefit or to or for the benefit of any person in right of the successor or on that successor's behalf.

(5) If any part of a taxable inheritance referred to in *subsection (4)* may be retained, or is retained, delivered, paid or otherwise satisfied, whether by means of part payment, advancement, payment on account or in any manner whatever, before any other part or parts of such inheritance, the appropriate valuation date for each part of the inheritance is determined in accordance with that subsection as if each such part respectively were a separate inheritance.

(6) The Commissioners may give to an accountable person a notice in writing of the date determined by them to be the valuation date in respect of the whole or any part of an inheritance, and, subject to any decision on appeal pursuant to *subsection (9)*, the date so determined is deemed to be the valuation date.

(7) If a taxable inheritance referred to in *subsection (4)* or *(5)* is disposed of, ceases or comes to an end before the valuation date referred to in those subsections in such circumstances as to give rise to a taxable gift, the valuation date in respect of such taxable gift is the same date as the valuation date of the taxable inheritance.

(8) Notwithstanding anything contained in this section, the Commissioners may, in case of doubt, with the agreement in writing of the accountable person or that person's agent, determine the valuation date of the whole or any part of any taxable inheritance and the valuation date so determined is substituted for the valuation date which would otherwise be applicable by virtue of this section.

(9) An appeal shall lie against any determination made by the Commissioners under *subsection (6)* and *section 67* shall apply, with any necessary modifications, in relation to an appeal under this subsection as it applies in relation to an appeal against an assessment of tax. Pt.4 S.30

PART 5

PROVISIONS RELATING TO GIFTS AND INHERITANCES

31.—Where a person becomes beneficially entitled in possession to any benefit— Distributions from discretionary trusts.

[CATA 1976 s22]

(a) under a discretionary trust, other than a discretionary trust referred to in *paragraph (b)*, otherwise than for full consideration in money or money's worth paid by the person, that person is deemed to have taken a gift,

(b) under a discretionary trust created—

(i) by will at any time,

(ii) by a disposition, where the date of the disposition is on or after 1 April 1975 and within 2 years prior to the death of the disponer, or

(iii) by a disposition *inter vivos* and limited to come into operation on a death occurring before, on or after the passing of this Act,

otherwise than for full consideration in money or money's worth paid by the person, that person is deemed to have taken an inheritance.

32.—(1) In subsection (2), “benefit” includes the benefit of the cesser of a liability referred to in *section 37*.

Dealings with future interests.

[CATA 1976 s23]

(2) Where a benefit, to which a person (in this section referred to as the remainderman) is entitled under a disposition, devolves, or is disposed of, either in whole or in part, before it has become an interest in possession so that, at the time when the benefit comes into possession, it is taken, either in whole or in part, by a person (in this section referred to as the transferee) other than the remainderman to whom it was limited by the disposition, then tax is payable, in respect of a gift or inheritance, as the case may be, of the remainderman in all respects as if, at that time, the remainderman had become beneficially entitled in possession to the full extent of the benefit limited to that remainderman under the disposition, and the transferee is the person primarily accountable for the payment of tax to the extent that the benefit is taken by that transferee.

(3) *Subsection (2)* shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under any other disposition.

33.—(1) In this section, “event” includes—

Release of limited interests, etc.

(a) a death, and

[CATA 1976 s24]

(b) the expiration of a specified period.

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(2) Where an interest in property, which is limited by the disposition creating it to cease on an event, has come to an end (whether by another disposition, the taking of successive interests into one ownership, or by any means whatever other than the happening of another event on which the interest was limited by the first-mentioned disposition to cease) before the happening of such event, tax is payable under the first-mentioned disposition in all respects as if the event on which the interest was limited to cease under that disposition had happened immediately before the coming to an end of the interest.

(3) *Subsection (2)* shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under any disposition other than that first mentioned in *subsection (2)*.

(4) Notwithstanding anything contained in *subsection (3)*, if—

(a) an interest in property which was limited to cease on an event was limited to the disponent by the disposition creating that interest, and

(b) on the coming to an end of that interest, *subsection (2)* has effect in relation to a gift or inheritance which was taken by a donee or successor under that disposition and which consists of the property in which that interest subsisted, then—

a further gift or inheritance taken by the same donee or successor under another disposition made by the same disponent (being the disposition by which that interest has come to an end) is not a taxable gift or a taxable inheritance in so far as it consists of the whole or any part of the same property.

Settlement of an interest not in possession.

[CATA 1976 s25]

34.—(1) In this section, “event” has the same meaning as it has in *section 33(1)*.

(2) Where any donee or successor takes a gift or an inheritance under a disposition made by such donee or successor then, if at the date of such disposition such donee or successor was entitled to the property comprised in the disposition, either expectantly on the happening of an event, or subject to a liability within the meaning of *section 28(9)*, and such event happens or such liability ceases during the continuance of the disposition, tax is charged on the taxable value of the taxable gift or taxable inheritance which such donee or successor would have taken on the happening of such event, or on the cesser of such liability, if no such disposition had been made.

(3) *Subsection (2)* shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under the disposition referred to in that subsection.

Enlargement of interests.

[CATA 1976 s26]

35.—(1) Where a person, having a limited interest in possession in property (in this section referred to as the first-mentioned interest), takes a further interest (in this section referred to as the second-mentioned interest) in the same property, as a taxable gift or a taxable inheritance, in consequence of which that person becomes the absolute owner of the property, the taxable value of the taxable gift or taxable inheritance of the second-mentioned interest at the valuation date is reduced by the value at that date of the first-mentioned interest, taking such value to be the value, ascertained in

accordance with the Rules contained in *Schedule 1*, of a limited interest which—

- (a) is a limited interest in a capital sum equal to the value of the property,
- (b) commences on that date, and
- (c) is to continue for the unexpired balance of the term of the first-mentioned interest.

(2) For the purposes of *subsection (1)(a)*, “value” means such amount as would be the incumbrance-free value, within the meaning of *section 28(1)*, if the limited interest were taken, at the date referred to in *subsection (1)*, as a taxable gift or taxable inheritance.

(3) This section shall not apply where the second-mentioned interest is taken under the disposition under which the first-mentioned interest was created.

36.—(1) Where, by virtue of or in consequence of the exercise of, or the failure to exercise, or the release of, a general power of appointment by any person having such a power, a person becomes beneficially entitled in possession to any benefit, then, for the purposes of this Act, the disposition is the exercise of, or the failure to exercise, or the release of, the power and not the disposition under which the power was created, and the person exercising, or failing to exercise, or releasing, the power is the disponer.

Dispositions involving powers of appointment.
[CATA 1976 s27]

(2) Where, by virtue of or in consequence of the exercise of, or the failure to exercise, or the release of, a special power of appointment by any person having such a power, a person becomes beneficially entitled in possession to any benefit, then, for the purposes of this Act, the disposition is the disposition under which the power was created and the person who created the power is the disponer.

37.—(1) In this section, “appropriate part” has the meaning assigned to it by *section 5(5)*.

Cesser of liabilities.
[CATA 1976 s28]

(2) The benefit of the cesser of—

- (a) a liability within the meaning of *section 28(9)*, or
- (b) any liability similar to that referred to in *paragraph (a)* to which the taking of a benefit which was a gift or inheritance was subject,

is deemed to be a gift or an inheritance, as the case may be, which is deemed—

- (i) to the extent that the liability is charged on or secured by any property at the time of its cesser, to consist of the whole or the appropriate part, as the case may be, of that property, and
- (ii) to the extent that the liability is not charged on or secured by any property at the time of its cesser, to consist of such sum as would, under *section 5(2)(b)*, be the sum the annual income of which would be equal to the annual value of the liability.

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(3) For the purposes of *sections 6(1)(c), 6(2)(d), 11(1)(b) and 11(2)(c)*, the sum referred to in *subparagraph (ii) of subsection (2)* is deemed not to be situate in the State at the date of the gift or at the date of the inheritance.

Disposition
enlarging value of
property.

[CATA 1976 s29]

38.—(1) In *subsection (4)*, “company” means a private company within the meaning of *section 27*.

(2) In this section, “property” does not include any property to which a donee or successor became beneficially entitled in possession prior to 28 February 1969.

(3) Where the taking by any person of a beneficial interest in any property (in this section referred to as additional property) under any disposition made by a disponent has the effect of increasing the value of any other property (in this section referred to as original property) to which that person is beneficially entitled in possession, and which had been derived from the same disponent, the following provisions shall apply—

(a) the increase in value so effected is deemed to be a gift or an inheritance, as the case may be, arising under that disposition and taken by that person, as donee or successor, from that disponent, at the time that donee or successor took the beneficial interest in the additional property,

(b) the original property is treated as having been increased in value if the market value of that property at the time referred to in *paragraph (a)* would be greater if it was sold as part of an aggregate of the original property and the additional property rather than as a single item of property, and the increase in value for the purposes of this section is the amount by which the market value of the original property if sold at that time as part of such aggregate would be greater than the amount of the market value of that property if sold at that time as a single item of property,

(c) the additional property is, for the purpose of determining its market value, deemed to be part of an aggregate of the original property and the additional property, and

(d) the market value of any property which is to be valued as part of an aggregate of property is ascertained as being so much of the market value of such aggregate as may reasonably be ascribed to that part.

(4) For the purpose of this section, the donee or successor is deemed to be beneficially entitled in possession to any property notwithstanding that within 5 years prior to such a disposition as is referred to in *subsection (3)* that donee or successor has divested such donee or successor of such property, or any part of such property, otherwise than for full consideration in money or money's worth or has disposed of it to a company of which such donee or successor is, at any time within that period of 5 years, deemed to have control within the meaning of *section 27(4)(b)*.

Gift subject to
power of
revocation.

[CATA 1976 s30]

39.—Where, under any disposition, a person becomes beneficially entitled in possession to any benefit and, under the terms of the disposition, the disponent has reserved to such disponent the power to revoke the benefit, such person is, for the purposes of this Act,

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deemed not to be beneficially entitled in possession to the benefit unless and until the power of revocation is released by the donor, or otherwise ceases to be exercisable. Pt.5 S.39

40.—(1) In *subsections (2) and (4)*, “relevant period”, in relation to any use, occupation or enjoyment of property, means the period of 12 months ending on 31 December in each year. Free use of property, free loans, etc.

[CATA 1976 s31]

(2) A person is deemed to take a gift in each relevant period during the whole or part of which that person is allowed to have the use, occupation or enjoyment of any property (to which property that person is not beneficially entitled in possession) otherwise than for full consideration in money or money’s worth.

(3) A gift referred to in *subsection (2)* is deemed to consist of a sum equal to the difference between the amount of any consideration in money or money’s worth, given by the person referred to in *subsection (2)* for such use, occupation or enjoyment, and the best price obtainable in the open market for such use, occupation or enjoyment.

(4) A gift referred to in *subsection (2)* is treated as being taken at the end of the relevant period or, if earlier, immediately prior to the time when the use, occupation or enjoyment referred to in *subsection (2)* comes to an end.

(5) In any case where the use, occupation or enjoyment of property is allowed to a person, not being beneficially entitled in possession to that property, under a disposition—

(a) made by will,

(b) where the date of the disposition is on or after 1 April 1975 and within 2 years prior to the death of the donor, or

(c) which is a disposition *inter vivos* and the use, occupation or enjoyment is had by that person after the cesser of another person’s life interest,

subsections (2), (3) and (4) shall apply in relation to that property as if a reference to an inheritance were substituted for the reference to a gift wherever it occurs in those subsections, and for the purpose of this subsection “relevant period” in *subsections (2) and (4)*, in relation to the use, occupation or enjoyment of property, means the period of 12 months ending on 31 December in any year.

(6) For the purposes of *sections 6(1)(c), 6(2)(d), 11(1)(b) and 11(2)(c)*, the sum referred to in *subsection (3)* is deemed not to be situate in the State at the date of the gift or at the date of the inheritance.

41.—(1) For the purposes of this Act, an interest in a policy of assurance on human life is deemed to become an interest in possession when either— When interest in assurance policy becomes interest in possession.

(a) the policy matures, or

[CATA 1976 s32]

(b) prior to the maturing of the policy, the policy is surrendered to the insurer for a consideration in money or money’s worth,

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but if during the currency of the policy the insurer makes a payment of money or money's worth, in full or partial discharge of the policy, the interest is deemed to have come into possession to the extent of such payment.

(2) This section has effect in relation to a contract for a deferred annuity, and for the purposes of this section such a contract is deemed to mature on the date when the first instalment of the annuity is due.

Provisions to apply where section 98 of Succession Act 1965 has effect.

[CATA 1976 s33]

42.—(1) If, on the death of a testator and by virtue of section 98 of the Succession Act 1965, or otherwise, a disposition takes effect as if a person, who had predeceased the testator, had survived the testator, the benefit taken by the estate of that person is not deemed to be an inheritance.

(2) Where a person survives a testator, and—

(a) such person becomes beneficially entitled, under a disposition made by a person who predeceased the testator, to any benefit in relation to any property devised or bequeathed by the testator, and

(b) section 33 of the Wills Act 1837, or section 98 of the Succession Act 1965, or any analogous provision of the law of another territory has effect in relation to the devise or bequest,

such person is deemed for the purposes of inheritance tax to derive the benefit from the testator, as disponer.

Disposition by or to a company.

[CATA 1976 s34]

43.—(1) In this section—

“company” means a private company within the meaning of *section 27*;

“market value” means—

(a) in the case of a person's beneficial interest in shares and entitlements, the market value of that interest on the date of the payment, disposition, gift or inheritance, as the case may be, ascertained by reference to the market value on that date of the shares and entitlements in which the interest subsists, and

(b) in the case of a share in which a beneficial interest subsists, the market value of that share ascertained in the manner described in *section 27* as if, on the date on which the market value is to be ascertained, it formed an apportioned part of the market value of a group of shares consisting of all the shares in the company issued and outstanding at that date;

“share” has the same meaning as it has in *section 27*;

“specified amount”, in relation to a person's beneficial interest in shares and entitlements, means—

(a) in the case of consideration paid, or a disposition made, by the company, a nil amount or, if greater, the amount by which the market value of the beneficial interest was

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decreased as a result of the payment of the consideration or the making of the disposition, and Pt.5 S.43

(b) in the case of consideration, or a gift, or an inheritance taken by the company, a nil amount or, if greater, the amount by which the market value of the beneficial interest was increased as a result of the taking of the consideration, gift or inheritance.

(2) For the purposes of this Act—

(a) consideration paid by, or a disposition made by, a company is deemed to be consideration, or a disposition, as the case may be, paid or made, and

(b) consideration, or a gift, or an inheritance taken by a company is deemed to be consideration, or a gift or an inheritance, as the case may be, taken,

by the beneficial owners of the shares in the company and the beneficial owners of the entitlements under any liability incurred by the company (otherwise than for the purposes of the business of the company, wholly and exclusively) in the same proportions as the specified amounts relating to their respective beneficial interests in the shares and entitlements bear to each other.

(3) For the purposes of *subsection (2)* all acts, omissions and receipts of the company are deemed to be those of the beneficial owners of the shares and entitlements, referred to in *subsection (2)*, in the company, in the proportions mentioned in that subsection.

(4) Where the beneficial owner of any shares in a company or of any entitlement of the kind referred to in *subsection (2)*, is itself a company, the beneficial owners of the shares and entitlements, referred to in *subsection (2)*, in the latter company, are deemed to be the beneficial owners of the latter company's shares and entitlements in the former company, in the proportions in which they are the beneficial owners of the shares and entitlements in the latter company.

(5) So far as the shares and entitlements referred to in *subsection (2)* are held in trust and have no ascertainable beneficial owners, consideration paid, or a disposition made, by the company are deemed to be paid or made by the disponent who made the disposition under which the shares and entitlements are so held in trust.

44.—(1) In this section—

“arrangement” means an arrangement which is made on or after 25 January 1989, and includes—

Arrangements reducing value of company shares.

[FA 1989 s90(1) to (10) and (12)]

(a) any act or omission by a person or by the trustees of a disposition,

(b) any act or omission by any person having an interest in shares in a company,

(c) the passing by any company of a resolution, or

(d) any combination of acts, omissions or resolutions referred to in *paragraphs (a), (b) and (c)*;

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“company” means a private company within the meaning of *section 27*;

“event” includes—

- (a) a death, and
- (b) the expiration of a specified period;

“related shares” means the shares in a company, the market value of which shares is increased by any arrangement;

“related trust” has the meaning assigned to it by *subsections (3) and (5)*;

“specified amount” means an amount equal to the difference between—

- (a) the market value of shares in a company immediately before an arrangement is made, and ascertained under *section 27* as if each share were a share in a company controlled at that time by the disponent concerned and that share was the absolute property of that disponent at that time, and
- (b) the market value of those shares, or of property representing those shares, immediately after the arrangement is made, and ascertained under *section 26*,

and such specified amount is deemed to be situate where the company is incorporated.

(2) In this section, a reference to a company controlled by the disponent concerned is a reference to a company that is under the control of any one or more of the following, that is, that disponent, the relatives of that disponent, nominees of relatives of that disponent, and the trustees of a settlement whose objects include that disponent or relatives of that disponent, and for the purposes of this section, a company which is so controlled by that disponent is regarded as being itself a relative of that disponent.

(3) Where—

- (a) a person has an absolute interest in possession in shares in a company, and
- (b) any arrangement results in the market value of those shares, or of property representing those shares, immediately after that arrangement is made, being less than it would be but for that arrangement,

then, tax is payable in all respects as if a specified amount which relates to that arrangement were a benefit taken, immediately after that arrangement is made, from that person, as disponent, by—

- (i) the beneficial owners of the related shares in that company, and
- (ii) so far as the related shares in that company are held in trust (in this section referred to as the “related trust”) and have no ascertainable beneficial owners, by the disponent in relation to that related trust as if, immediately after

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that arrangement is made, that disponent was the absolute beneficial owner of those related shares, Pt.5 S.44

in the same proportions as the market value of the related shares, which are beneficially owned by them or are deemed to be so beneficially owned, is increased by that arrangement.

(4) Where—

- (a) an interest in property is limited by the disposition creating it to cease on an event,
- (b) immediately before the making of an arrangement to which *paragraph (c)* relates, the property includes shares in a company, and
- (c) the arrangement results in the market value of those shares, or of property representing those shares, immediately after that arrangement is made, being less than it would be but for that arrangement,

then, tax is payable under that disposition in all respects—

- (i) where the interest in property is an interest in possession, as if such property included a specified amount which relates to that arrangement,
- (ii) where the interest in property is not an interest in possession, as if it were an interest in possession and such property included a specified amount which relates to that arrangement, and
- (iii) as if the event on which the interest was limited to cease under that disposition had happened, to the extent of the specified amount, immediately before that arrangement is made.

(5) Where—

- (a) shares in a company are, immediately before the making of an arrangement to which *paragraph (b)* relates, subject to a discretionary trust under or in consequence of any disposition, and
- (b) the arrangement results in those shares, or property representing those shares, remaining subject to that discretionary trust but, immediately after that arrangement is made, the market value of those shares, or of property representing those shares, is less than it would be but for that arrangement,

then, tax shall be payable under that disposition in all respects as if a specified amount, which relates to that arrangement, were a benefit taken immediately after that arrangement is made—

- (i) by the beneficial owners of the related shares in that company, and
- (ii) so far as the related shares in that company are held in trust (in this section referred to as the “related trust”) and have no ascertainable beneficial owners, by the disponent

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in relation to that related trust as if, immediately after that arrangement is made, that disponer was the absolute beneficial owner of those related shares,

in the same proportions as the market value of the related shares, which are beneficially owned by them or are deemed to be so beneficially owned, is increased by that arrangement.

(6) *Subsections (3), (4) and (5)* shall not prejudice any charge for tax in respect of any gift or inheritance taken under any disposition on or after the making of an arrangement referred to in those subsections and comprising shares in a company, or property representing such shares.

(7) Where shares in a company, which are held in trust under a disposition made by any disponer, are related shares by reason of any arrangement referred to in this section, any gift or inheritance taken under the disposition on or after the arrangement is made and comprising those related shares, or property representing those related shares, are deemed to be taken from that disponer.

(8) In relation to the tax due and payable in respect of any gift or inheritance taken under *paragraph (ii) of subsection (3)* or *paragraph (ii) of subsection (5)*, and notwithstanding any other provision of this Act—

- (a) the disponer in relation to the related trust is not a person primarily accountable for the payment of such tax, and
- (b) a person who is a trustee of the related trust concerned for the time being at the date of the gift or at the date of the inheritance, or at any date subsequent to that date, is so primarily accountable.

(9) A person who is accountable for the payment of tax in respect of any specified amount, or part of a specified amount, taken as a gift or an inheritance under this section shall, for the purpose of paying the tax, or raising the amount of the tax when already paid, have power, whether the related shares are or are not vested in that person, to raise the amount of such tax and any interest and expenses properly paid or incurred by that person in respect of such tax, by the sale or mortgage of, or a terminable charge on, the related shares in the relevant company.

(10) Tax due and payable in respect of a taxable gift or a taxable inheritance taken under this section shall be and remain a charge on the related shares in the relevant company.

(11) Where related shares are subject to a discretionary trust immediately after an arrangement is made in accordance with the provisions of this section, the amount by which the market value of such shares is increased by such arrangement is property for the purposes of a charge for tax arising by reason of *section 15*.

(12) Where, immediately after and as a result of an arrangement, shares in a company have been redeemed, the redeemed shares are, for the purpose of the references to property representing shares in *subsection (1)* and *subsection (3), (4) or (5)*, except a reference in relation to which the redeemed shares are actually represented by property, deemed, immediately after the arrangement, being an

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arrangement made on or after 6 May 1993, to be represented by property, and the market value of the property so deemed to represent the redeemed shares is deemed to be nil. Pt.5 S.44

PART 6

RETURNS AND ASSESSMENTS

45.—(1) The person primarily accountable for the payment of tax shall be— Accountable persons.

[CATA 1976 s35]

(a) except where provided in *paragraph (b)*, the donee or successor, as the case may be, and

(b) in the case referred to in *section 32(2)*, the transferee referred to in that subsection, to the extent referred to in that subsection.

(2) Subject to *subsections (3) and (4)*, the following persons shall also be accountable for the payment of any amount of the tax for which the persons referred to in *subsection (1)* are made primarily accountable—

(a) in the case of a gift—

(i) the disponent (other than a disponent in relation to a disposition where the date of the disposition was prior to 28 February 1974), and

(ii) every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the gift or the income from such property is placed at the date of the gift or at any time after that date and every person in whom the property is vested after that date, other than a bona fide purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee,

(b) (i) in the case of an inheritance, taken on or before the death of the disponent, the disponent (other than a disponent in relation to a disposition, where the date of the disposition was prior to 1 May 1989), and

(ii) in the case of any other inheritance, every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the inheritance or the income from such property is placed at the date of the inheritance or at any time after that date and every person in whom the property is vested after that date, other than a bona fide purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee.

(3) No person referred to in *subsection (2)(a)(ii)* or *(b)(ii)* is (unless that person is a person who is also primarily accountable under *subsection (1)*) liable for tax chargeable on any gift or inheritance to an amount in excess of—

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- (a) the market value of so much of the property of which the gift or inheritance consists, and
- (b) so much of the income from such property,

which has been received by that person, or which, but for that person's own neglect or default, would have been received by that person or to which that person is beneficially entitled in possession.

(4) A person who acts solely in the capacity of an agent is not liable for tax chargeable on a gift or inheritance to an amount in excess of the market value of so much of the property of which the gift or inheritance consists and of the income from such property which that person held, or which came into that person's possession, at any time after the serving on that person of the notice referred to in *subsection (5)*.

(5) The Commissioners may serve on any person who acts solely in the capacity of agent in relation to any property comprised in a gift or an inheritance a notice in writing informing that person of that person's liability under this section.

(6) The tax shall be recoverable from any one or more of—

- (a) the accountable persons, and
- (b) the personal representatives of any accountable persons who are dead,

on whom the Commissioners have served notice in writing of the assessment of tax in exercise of the power conferred on them by *section 49*, but the liability of a personal representative under this subsection shall not exceed the amount for which the accountable person, of whom that person is the personal representative, was liable.

(7) Any person referred to in *subsection (2)(a)* or *(b)* or in *subsection (6)(b)* who is authorised or required to pay, and pays, any tax in respect of any property comprised in a gift or in an inheritance may recover the amount paid by that person in respect of tax from the person primarily accountable for that tax unless—

- (a) the latter person is the donee or successor referred to in *paragraph (a)* of *subsection (1)* and the interest taken by that latter person is a limited interest, or
- (b) in the case referred to in *paragraph (b)* of *subsection (1)*, the latter person is the transferee and the interest taken by the remainderman is a limited interest.

(8) A person—

- (a) who is primarily accountable for the payment of tax, or
- (b) referred to in *subsection (2)(a)* or *(b)* or in *subsection (6)(b)* who is authorised or required to pay tax,

in respect of any property shall, for the purpose of paying the tax, or raising the amount of the tax when already paid, have power, whether the property is or is not vested in that person, to raise the amount of such tax and any interest and expenses properly paid or incurred by that person in respect thereof, by the sale or mortgage of, or a terminable charge on, that property or any part of that property.

(9) If a person, who is primarily accountable for the payment of tax in respect of a gift or inheritance (in this subsection and in *subsection (11)* referred to as the first gift or inheritance) derived from a disponent, has not paid the tax on the first gift or inheritance, the Commissioners may serve a notice in writing in accordance with *subsection (11)* on any person who is, by virtue of *paragraph (a)(ii)* or *(b)(ii)* of *subsection (2)*, accountable for the payment of tax on any other gift or inheritance (referred to in *subsections (10)* and *(11)* as the second gift or inheritance) taken by the same donee or successor from the same disponent, and the person on whom the notice is served shall at that time become accountable for the payment of tax in respect of the first gift or inheritance. Pt.6 S.45

(10) *Subsections (3), (4), (5), (6), (7) and (8)* shall apply in relation to a person made accountable under *subsection (9)* as they apply in relation to a person referred to in *paragraph (a)(ii)* or *(b)* of *subsection (2)* and, for the purposes of this subsection—

- (a) references in *subsections (3)* and *(4)* to the property of which the gift or inheritance consists, and
- (b) the second and third references to property in *subsection (8)*,

shall be construed as references to the property of which the second gift or inheritance consists, in so far as the last-mentioned property had not been duly paid out at the date of the service of the notice under *subsection (9)*.

(11) A notice under *subsection (9)* shall refer expressly to the first and the second gift or inheritance, and shall inform the person on whom it is served of that person's accountability in respect of the first gift or inheritance.

(12) Every public officer having in such person's custody any rolls, books, records, papers, documents, or proceedings, the inspection of which may tend to secure the tax, or to prove or lead to the discovery of any fraud or omission in relation to the tax, shall at all reasonable times permit any person authorised by the Commissioners to inspect the rolls, books, records, papers, documents and proceedings, and to take notes and extracts as that person may deem necessary.

46.—(1) In this section—

Delivery of returns.
[CATA 1976 s36]

- (a) notwithstanding anything contained in *sections 6* and *11* a reference, other than in *subsection (13)* or *(14)*, to a gift or a taxable gift includes a reference to an inheritance or a taxable inheritance, as the case may be, and
- (b) a reference to a donee includes a reference to a successor.

(2) Subject to *paragraph (e)* of *section 21*, any person who is primarily accountable for the payment of tax by virtue of *section 45(1)*, or by virtue of *paragraph (c)* of *section 16* shall, within 4 months after the relevant date referred to in *subsection (5)*—

- (a) deliver to the Commissioners a full and true return of—
 - (i) every gift in respect of which that person is so primarily accountable,

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- (ii) all the property comprised in such gift on the valuation date,
 - (iii) an estimate of the market value of such property on the valuation date, and
 - (iv) such particulars as may be relevant to the assessment of tax in respect of such gift;
- (b) notwithstanding *section 49*, make on that return an assessment of such amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid on that valuation date, and
- (c) duly pay the amount of such tax.
- (3) *Subsection (2)(c)* shall be complied with—
- (a) where the tax due and payable in respect of any part of the gift is being paid by instalments under *section 54*, by the due payment of—
 - (i) an amount which includes any instalment of tax which has fallen due prior to or on the date of the assessment of the tax referred to in *subsection (2)(b)*, and
 - (ii) any further instalments of such tax on the due dates in accordance with that section;
 - (b) where the tax due and payable is inheritance tax which is being wholly or partly paid by the transfer of securities to the Minister for Finance under *section 58*, by—
 - (i) delivering to the Commissioners with the return an application to pay all or part of the tax by such transfer,
 - (ii) completing the transfer of the securities to the Minister for Finance within such time, not being less than 30 days, as may be specified by the Commissioners by notice in writing, and
 - (iii) duly paying the excess, if any, of the amount of the tax referred to in *subsection (2)(b)*, or in *paragraph (a)(i)*, over the nominal face value of the securities tendered in payment of the tax in accordance with *subparagraph (i)*.
- (4) *Subsection (2)* applies to a charge for tax arising by reason of *section 15* and to any other gift where—
- (a) the aggregate of the taxable values of all taxable gifts taken by the donee on or after 5 December 1991, which have the same group threshold (as defined in *Schedule 2*) as that other gift, exceeds an amount which is 80 per cent of the threshold amount (as defined in *Schedule 2*) which applies in the computation of tax on that aggregate, or
 - (b) the donee or, in a case to which *section 32(2)* applies, the transferee (within the meaning of, and to the extent provided for by, that section) is required by notice in writing by the Commissioners to deliver a return,

and for the purposes of this subsection, a reference to a gift includes a reference to a part of a gift or to a part of a taxable gift, as the case may be. Pt.6 S.46

(5) For the purposes of this section, the relevant date shall be—

- (a) the valuation date, or
- (b) where the donee or, in a case to which *section 32(2)* applies, the transferee (within the meaning of, and to the extent provided for by, that section) is required by notice in writing by the Commissioners to deliver a return, the date of the notice.

(6) Any person who is accountable for the payment of tax by virtue of *subsection (2) or (9) of section 45* shall, if that person is required by notice in writing by the Commissioners to do so, comply with *paragraphs (a), (b) and (c) of subsection (2)* (as if that person were a person primarily accountable for the payment of tax by virtue of *section 45(1)*) within such time, not being less than 30 days, as may be specified in the notice.

(7) (a) Any accountable person shall, if that person is so required by the Commissioners by notice in writing, deliver and verify to the Commissioners within such time, not being less than 30 days, as may be specified in the notice—

- (i) a statement (where appropriate, on a form provided, or approved of, by them) of such particulars relating to any property, and
- (ii) such evidence as they require,

as may, in their opinion, be relevant to the assessment of tax in respect of the gift.

(b) The Commissioners may authorise a person to inspect—

- (i) any property comprised in a gift, or
- (ii) any books, records, accounts or other documents, in whatever form they are stored, maintained or preserved, relating to any property as may in their opinion be relevant to the assessment of tax in respect of a gift,

and the person having the custody or possession of that property, or of those books, records, accounts or documents, shall permit the person so authorised to make that inspection at such reasonable times as the Commissioners consider necessary.

(8) The Commissioners may by notice in writing require any accountable person to—

- (a) deliver to them within such time, not being less than 30 days, as may be specified in the notice, an additional return, if it appears to the Commissioners that a return made by that accountable person is defective in a material respect by reason of anything contained in or omitted from it,
- (b) notwithstanding *section 49*, make on that additional return an assessment of such amended amount of tax as, to the

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best of that person's knowledge, information and belief, ought to be charged, levied and paid on the relevant gift, and

- (c) duly pay the outstanding tax, if any, for which that person is accountable in respect of that gift,

and

- (i) the requirements of *subparagraphs (ii), (iii) and (iv) of subsection (2)(a)* shall apply to such additional return required by virtue of *paragraph (a)*, and

- (ii) *subsection (3)* shall, with any necessary modifications, apply to any payment required by virtue of *paragraph (c)*.

(9) Where any accountable person who has delivered a return or an additional return is aware or becomes aware at any time that the return or additional return is defective in a material respect by reason of anything contained in or omitted from it, that person shall, without application from the Commissioners and within 3 months of so becoming aware—

- (a) deliver to them an additional return,

- (b) notwithstanding *section 49*, make on that additional return an assessment of such amended amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid on the relevant gift, and

- (c) duly pay the outstanding tax, if any, for which that person is accountable in respect of that gift,

and

- (i) the requirements of *subparagraphs (ii), (iii) and (iv) of subsection (2)(a)* shall apply to such additional return required by virtue of *paragraph (a)*, and

- (ii) *subsection (3)* shall, with any necessary modifications, apply to any payment required by virtue of *paragraph (c)*.

(10) Any amount of tax payable by an accountable person in respect of an assessment of tax made by that accountable person on a return delivered by that accountable person (other than an amount of that tax payable by the transfer of securities to the Minister for Finance under *section 56*) shall accompany the return and be paid to the Collector.

(11) Any assessment or payment of tax made under this section shall include interest on tax payable in accordance with *section 51*.

(12) The Commissioners may by notice in writing require any person to deliver to them within such time, not being less than 30 days, as may be specified in the notice, a full and true return showing details of every taxable gift (including the property comprised in such gift) taken by that person during the period specified in the notice or, as the case may be, indicating that that person has taken no taxable gift during that period.

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(13) As respects a taxable gift to which this subsection applies, any accountable person who is a disponer shall within 4 months of the valuation date deliver to the Commissioners a full and true return—

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- (a) of all the property comprised in such gift on the valuation date,
- (b) of an estimate of the market value of such property on the valuation date, and
- (c) of such particulars as may be relevant to the assessment of tax in respect of the gift.

(14) *Subsection (13)* applies to a taxable gift, in the case where—

- (a) the taxable value of the taxable gift exceeds an amount which is 80 per cent of the group threshold (as defined in *Schedule 2*) which applies in relation to that gift for the purposes of the computation of the tax on that gift,
- (b) the taxable value of the taxable gift taken by the donee from the disponer increases the total taxable value of all taxable gifts and taxable inheritances taken on or after 5 December 1991 by the donee from the disponer from an amount less than or equal to the amount specified in *paragraph (a)* to an amount which exceeds the amount so specified, or
- (c) the total taxable value of all taxable gifts and taxable inheritances taken on or after 5 December 1991 by the donee from the disponer exceeds the amount specified in *paragraph (a)* and the donee takes a further taxable gift from the disponer.

(15) Where, under or in consequence of any disposition made by a person who is living and domiciled in the State at the date of the disposition, property becomes subject to a discretionary trust, the disponer shall within 4 months of the date of the disposition deliver to the Commissioners a full and true return of—

- (a) the terms of the discretionary trust,
- (b) the names and addresses of the trustees and objects of the discretionary trust, and
- (c) an estimate of the market value at the date of the disposition of the property becoming subject to the discretionary trust.

47.—(1) A return or an additional return required to be delivered under this Act shall be signed by the accountable person who delivers the return or the additional return and shall include a declaration by the person signing it that the return or additional return is, to the best of that person's knowledge, information and belief, correct and complete.

Signing of returns,
etc.

[CATA 1976 s37]

(2) The Commissioners may require a return or an additional return to be made on oath.

(3) The Commissioners may, if they so think fit, accept a return or an additional return under this Act that has not been signed in

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accordance with this section and such return or additional return is deemed to be duly delivered to the Commissioners under this Act.

- (4) (a) A return or additional return delivered under this Act shall—
- (i) be made on a form provided, or approved of, by the Commissioners, or
 - (ii) except in a case to which *subsection (2)* relates but in a case where *subsection (3)* applies, be in a form approved of by the Commissioners and delivered by any electronic, photographic or other process approved of by them and in circumstances where the use of such process has been agreed by them and subject to such conditions as they may impose.
- (b) An affidavit, additional affidavit, account or additional account, delivered under this Act, shall be made on a form provided, or approved of, by the Commissioners.
- (5) Any oath or affidavit to be made for the purposes of this Act may be made—
- (a) before the Commissioners,
 - (b) before any officer or person authorised by the Commissioners in that behalf,
 - (c) before any Commissioner for Oaths or any Peace Commissioner or Notary Public in the State, or
 - (d) at any place outside the State, before any person duly authorised to administer oaths in that place.

Affidavits and
accounts.
[CATA 1976 s38]

48.—(1) In this section, “Inland Revenue affidavit” has the meaning assigned to it by section 22(1)(n) of the Finance Act 1894.

(2) The Inland Revenue affidavit required for an application for probate or letters of administration shall extend to the verification of a statement of the following particulars:

- (a) details of all property in respect of which the grant of probate or administration is required and, in the case of a deceased person who died domiciled in the State, details of all property, wherever situate, the beneficial ownership of which, on that person’s death, is affected—
 - (i) by that person’s will,
 - (ii) by the rules for distribution on intestacy, or
 - (iii) by Part IX or section 56 of the Succession Act 1965;
- (b) details of any property which was the subject matter of a disposition *inter vivos* made by the deceased person where the date of the disposition was within 2 years prior to that person’s death or of a *donatio mortis causa*;
- (c) details of the inheritances arising under the will or intestacy of the deceased person or under Part IX or section 56 of

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the Succession Act 1965, or under the analogous law of another territory, together with a copy of any such will; Pt.6 S.48

- (d) particulars of the inheritances (including the property comprised in such inheritances) other than those referred to in *paragraphs (b) and (c)*, arising on the death of the deceased person;
 - (e) the name and address of each person who takes an inheritance on the death of the deceased person and that person's relationship to the disponent; and
 - (f) such other particulars as the Commissioners may require for the purposes of this Act.
- (3) Where the interest of the deceased person was a limited interest and that person died on or after the date of the passing of this Act, the trustee of the property in which the limited interest subsisted shall deliver an account which shall contain the following particulars—
- (a) details of each inheritance arising on the death of the deceased person under the disposition under which the limited interest of the deceased person arose, including the name and address of each person taking such inheritance and that person's relationship to the disponent, and
 - (b) such other particulars as the Commissioners may require for the purposes of this Act.
- (4) If at any time it shall appear that any material error or omission was made in an affidavit or account referred to in this section, the persons liable to deliver an affidavit or account shall be liable to deliver an additional affidavit or an additional account, correcting the error or omission.

49.—(1) Subject to *section 46*, assessments of tax under this Act shall be made by the Commissioners.

Assessment of tax.
[CATA 1976 s39;
FA 1989 s75]

(2) If at any time it appears that for any reason an assessment was incorrect, the Commissioners may make a correcting assessment, which shall be substituted for the first-mentioned assessment.

(3) If at any time it appears that for any reason too little tax was assessed, the Commissioners may make an additional assessment.

(4) The Commissioners may serve notice in writing of the assessment of tax on any accountable person or, at the request of an accountable person, on that accountable person's agent, or on the personal representative of an accountable person if that person is dead.

(5) Where the place of residence of the accountable person or of that accountable person's personal representative is not known to the Commissioners they may publish in *Iris Oifigiúil* a notice of the making of the assessment with such particulars of that assessment as they shall think proper and on the publication of the notice in *Iris Oifigiúil* the accountable person or that accountable person's personal representative, as the case may be, is deemed to have been served with the notice of the assessment on the date of such publication.

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(6) Any assessment, correcting assessment or additional assessment under this section may be made by the Commissioners from any return or additional return delivered under *section 46* or from any other information in the possession of the Commissioners or from any one or more of these sources.

(7) The Commissioners, in making any assessment, correcting assessment or additional assessment, otherwise than from a return or an additional return which is satisfactory to them, shall make an assessment of such amount of tax as, to the best of their knowledge, information (including information received from a member of the Garda Síochána) and belief, ought to be charged, levied and paid.

(8) Nothing in *section 46* shall preclude the Commissioners from making an assessment of tax, a correcting assessment of tax, or an additional assessment of tax, under the provisions of this section.

Computation of tax.
[CATA 1976 s40
(part)]

50.—Subject to *sections 18* and *23*, the amount of tax payable shall be computed in accordance with *Schedule 2*.

PART 7

PAYMENT AND RECOVERY OF TAX, INTEREST AND PENALTIES

Payment of tax and
interest on tax.

[CATA 1976 s41(1),
(2), (2A) and (3) to
(6) and (8);
FA 1989 s76(2)]

51.—(1) Tax shall be due and payable on the valuation date.

(2) Simple interest at the rate of 0.0322 per cent per day or part of a day, without deduction of income tax, is payable on the tax from the valuation date to the date of payment of the tax and is chargeable and recoverable in the same manner as if it were part of the tax.

(3) Notwithstanding *subsection (2)*, interest is not payable on the tax—

- (a) to the extent to which *section 89(4)(a)* applies, for the duration of the period from the valuation date to the date the agricultural value ceases to be applicable,
- (b) to the extent to which *section 77(3)* and (4) applies, for the duration of the period from the valuation date to the date the exemption ceases to apply,
- (c) to the extent to which *section 101(2)* applies, for the duration of the period from the valuation date to the date the reduction which would otherwise fall to be made under *section 92* ceases to be applicable,
- (d) to the extent to which *section 78(6)* applies, for the duration of the period from the valuation date to the date the exemption ceases to apply,
- (e) to the extent to which *section 86(6)* or (7) applies, for the duration of the period from the valuation date to the date the exemption ceases to apply.

(4) Notwithstanding *subsection (2)*, interest is not payable on tax which is paid within 3 months of the valuation date, and where tax and interest, if any, on that tax is paid within 30 days of the date of assessment of that tax, interest shall not run on that tax for the period of 30 days from the date of the assessment or any part of that period, but, in relation to an assessment of tax made by an accountable person on a return delivered by that accountable person, interest is not payable on tax which is paid within 4 months of the valuation date.

(5) A payment on account of tax shall be applied—

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- (a) if there is interest due on tax at the date of the payment, to the discharge, so far as may be, of the interest so due, and
- (b) if there is any balance of that payment remaining, to the discharge of so much tax as is equal to that balance,

and a payment by an accountable person of tax is treated as a payment on account of tax for the purposes of this section, notwithstanding that the payment may be conditional or that the assessment of tax is incorrect.

(6) Subject to *subsections (2), (4) and (5)*, payments on account may be made at any time, and when a payment on account is made, interest is not chargeable in respect of any period subsequent to the date of such payment on so much of the payment on account as is to be applied in discharge of the tax.

(7) In the case of a gift which becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within 2 years prior to the death of the disponent, this section has effect as if the references to the valuation date in *subsections (1), (2), (3) and (4)* were references to the date of death of the disponent.

(8) Where the value of a limited interest is to be ascertained in accordance with *rule 8 of Schedule 1* as if it were a series of absolute interests, this section has effect, in relation to each of those absolute interests, as if the references to the valuation date in *subsections (1), (2), (3) and (4)* were references to the date of the taking of that absolute interest.

52.—Where an amount has been paid in respect of gift tax (or interest on such gift tax) on a gift which, by reason of the death of the disponent within 2 years after the date of the disposition under which the gift was taken, becomes an inheritance in respect of which inheritance tax is payable, the amount so paid is treated as a payment on account of the inheritance tax.

Set-off of gift tax paid in respect of an inheritance.
[CATA 1976 s42]

53.—(1) In this section “ascertained value” means the market value subject to the right of appeal under *section 66* or *section 67*.

Surcharge for undervaluation of property.
[FA 1989 s79]

(2) Where—

- (a) an accountable person delivers a return, and
- (b) the estimate of the market value of any asset comprised in a gift or inheritance and included in that return, when expressed as a percentage of the ascertained value of that asset, is within any of the percentages specified in *column (1)* of the Table to this section,

then the amount of tax attributable to the property which is that asset is increased by a sum (in this section referred to as the “surcharge”) equal to the corresponding percentage, set out in *column (2)* of that Table opposite the relevant percentage in *column (1)*, of that amount of tax.

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(3) Interest is payable under *section 51* on any surcharge as if the surcharge were tax, and the surcharge and any interest on that surcharge is chargeable and recoverable as if the surcharge and that interest were part of the tax.

(4) Any person aggrieved by the imposition on that person of a surcharge under this section in respect of any asset may, within 30 days of the notification to that person of the amount of such surcharge, appeal to the Appeal Commissioners against the imposition of such surcharge on the grounds that, having regard to all the circumstances, there were sufficient grounds on which that person might reasonably have based that person's estimate of the market value of the asset.

(5) The Appeal Commissioners shall hear and determine an appeal to them under *subsection (4)* as if it were an appeal to them against an assessment to tax, and the provisions of *section 67* relating to an appeal or to the rehearing of an appeal or to the statement of a case for the opinion of the High Court on a point of law shall, with any necessary modifications, apply accordingly.

TABLE

Estimate of the market value of the asset in the return, expressed as a percentage of the ascertained value of that asset (1)	Surcharge (2)
Equal to or greater than 0 per cent but less than 40 per cent	30 per cent
Equal to or greater than 40 per cent but less than 50 per cent	20 per cent
Equal to or greater than 50 per cent but less than 67 per cent	10 per cent

Payment of tax by instalments.
 [CATA 1976 s43]

54.—(1) Subject to the payment of interest in accordance with *section 51* and to the provisions of this section, the tax due and payable in respect of a taxable gift or a taxable inheritance may, at the option of the person delivering the return or additional return, be paid by 5 equal yearly instalments, the first of which is due at the expiration of 12 months from the date on which the tax became due and payable and the interest on the unpaid tax shall be added to each instalment and shall be paid at the same time as such instalment.

(2) An instalment not due may be paid at any time before it is due.

(3) In any case where and to the extent that the property of which the taxable gift or taxable inheritance consists is sold or compulsorily acquired, all unpaid instalments shall, unless the interest of the donee or successor is a limited interest, be paid on completion of the sale or compulsory acquisition and, if not so paid, shall be tax in arrear.

(4) This section shall not apply in any case where and to the extent to which a taxable gift or a taxable inheritance consists of personal property in which the donee, or the successor, or the transferee referred to in *section 32(2)*, as the case may be, takes an absolute interest.

(5) In any case where the interest taken by a donee or a successor is an interest limited to cease on that person's death, and that person's death occurs before all the instalments of the tax in respect of the taxable gift or taxable inheritance would have fallen due if such tax were being paid by instalments, any instalment of such tax which would not have fallen due prior to the date of the death of that donee or successor shall cease to be payable, and the payment, if made, of any such last-mentioned instalment is treated as an overpayment of tax for the purposes of *section 57*. Pt.7 S.54

55.—(1) In this section—

“agricultural property” has the meaning assigned to it by *section 89*;

“relevant business property” has the same meaning as it has in *section 93*, other than shares in or securities of a company (being shares or securities quoted on a recognised stock exchange) and without regard to *sections 94* and *100(4)*.

(2) Where the whole or part of the tax which is due and payable in respect of a taxable gift or taxable inheritance is attributable to either or both agricultural property and relevant business property—

(a) *section 54* shall apply to that whole or part of the tax notwithstanding *subsection (3)* or *(4)* of that section but where all or any part of that agricultural property or relevant business property, or any property which directly or indirectly replaces such property, is sold or compulsorily acquired and, by virtue of *subsection (4)* of *section 89* or *section 101*, that sale or compulsory acquisition causes the taxable value of such a taxable gift or taxable inheritance to be increased, or would cause such increase if *subsection (2)* of *section 89* or *section 92* applied, all unpaid instalments referable to the property sold or compulsorily acquired shall, unless the interest of the donee or successor is a limited interest, be paid on completion of that sale or compulsory acquisition and, if not so paid, shall be tax in arrear, and

(b) notwithstanding *subsection (2)* of *section 51* the rate at which interest is payable on that whole or part of the tax is 0.75 per cent or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each month or part of a month instead of at the rate specified in that section and that section shall apply as regards that whole or part of the tax as if the rate so payable were substituted for the rate specified in that section, but the rate at which interest is payable on any overdue instalment of that whole or part of the tax, or on such part of the tax as would represent any such overdue instalment if that whole or part of the tax were being paid by instalments, shall continue to be at the rate specified in *section 51*.

(3) For the purposes of this section reference to an overdue instalment in *paragraph (b)* of *subsection (2)* is a reference to an instalment which is overdue for the purposes of *section 54* (as it applies to this section) or for the purposes of *paragraph (a)* of *subsection (2)*.

(4) For the purposes of this section the value of a business or of an interest in a business shall be taken to be its net value ascertained in accordance with *section 98*.

Payment of tax on
certain assets by
instalments.
[FA 1995 s164]

[No. 1.] *Capital Acquisitions Tax* [2003.]
Consolidation Act 2003.

Pr.7 S.55 (5) This section shall not apply in relation to an inheritance taken by a discretionary trust by virtue of *section 15(1)* or *section 20(1)*.

(6) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under that regulation.

Payment of inheritance tax by transfer of securities.
[CATA 1976 s45]

56.—Section 22 of the Finance Act 1954 (which relates to the payment of death duties by the transfer of securities to the Minister for Finance) and the regulations made under that Act shall apply, with any necessary modifications, to the payment of inheritance tax by the transfer of securities to the Minister for Finance, as they apply to the payment of death duties by the transfer of securities to the Minister for Finance.

Overpayment of tax.
[CATA 1976 s46]

57.—(1) Where, on application to the Commissioners for relief under this section, it is proved to their satisfaction that an amount has been paid in excess of the liability for tax or for interest on tax, they shall give relief by means of repayment of the excess or otherwise as is reasonable and just; and any such repayment shall carry simple interest (not exceeding the amount of such excess), at the rate of 0.0161 per cent or such other rate (if any) as stands prescribed by the Minister for Finance by regulations, for each day or part of a day from the date on which the payment was made, and income tax is not to be deductible on payment of interest under this section and such interest is not to be reckoned in computing income for the purposes of the Tax Acts.

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under that regulation.

Penalties.
[CATA 1976 s63]

58.—(1) (a) Any person who contravenes or fails to comply with any requirement or provision under *section 46* shall be liable to a penalty of €2,535.

(b) Where the contravention or failure referred to in *paragraph (a)* continues after judgment has been given by the court before which proceedings for the penalty have been commenced, the person concerned shall be liable to a further penalty of €30 for each day on which the contravention or failure so continues.

(2) Where, under, or for the purposes of, any of the provisions of this Act, a person is authorised to inspect any property for the purpose of reporting to the Commissioners the market value of that property and the person having custody or possession of that property prevents such inspection or obstructs the person so authorised in the performance of that person's functions in relation to the inspection, the person so having custody or possession is liable to a penalty of €1,265.

(3) Where an accountable person fraudulently or negligently—

- (a) delivers any incorrect return or additional return,
- (b) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any property comprised in any disposition,
- (c) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any claim for any allowance, deduction, exemption or relief, or
- (d) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any other matter,

on the basis of which the amount of tax assessable in respect of a taxable gift or taxable inheritance would be less than it would have been if the correct return, additional return, statement, declaration, evidence or valuation had been delivered, made or furnished, that person is liable to a penalty of—

- (i) €6,345, and
- (ii) the amount, or in the case of fraud, twice the amount, of the difference specified in *subsection (5)*.

(4) Where any such return, additional return, statement, declaration, evidence or valuation as is mentioned in *subsection (3)* was delivered, made or furnished neither fraudulently nor negligently by a person and it comes to that person's notice that it was incorrect, then, unless the error is remedied without unreasonable delay, such matter is treated, for the purposes of this section, as having been negligently done by that person.

(5) The difference referred to in *subsection (3)* is the difference between—

- (a) the amount of tax payable in respect of the taxable gift or taxable inheritance to which the return, additional return, statement, declaration, evidence or valuation relates, and
- (b) the amount which would have been the amount so payable if the return, additional return, statement, declaration, evidence or valuation as made or submitted had been correct.

(6) For the purpose of *subsection (3)*, where anything referred to in that subsection is delivered, made or furnished on behalf of a person, it is deemed to have been delivered, made or furnished by that person unless that person proves that it was done without that person's knowledge or consent.

(7) Any person who assists in or induces the delivery, making or furnishing for any purposes of the tax of any return, additional return, statement, declaration, evidence or valuation which that person knows to be incorrect shall be liable to a penalty of €1,265.

(8) This section shall not affect any criminal proceedings.

(9) Subject to this section, sections 987(4), 1061, 1062, 1063, 1064, 1065, 1066 and 1068 of the Taxes Consolidation Act 1997, shall, with any necessary modifications, apply to a penalty under this Act as if the penalty were a penalty under the Income Tax Acts.

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Postponement,
remission and
compounding of
tax.

[CATA 1976 s44]

59.—(1) Where the Commissioners are satisfied that tax leviable in respect of any gift or inheritance can not without excessive hardship be raised at once, they may allow payment to be postponed for such period, to such extent and on such terms (including the waiver of interest) as they think fit.

(2) If, after the expiration of the relevant period immediately following the date on which any tax became due and payable, the tax or any part of that tax remains unpaid, the Commissioners may, if they think fit, remit the payment of any interest accruing after such expiration on the unpaid tax; and in this subsection, “relevant period” means the period at the end of which the interest on an amount payable in respect of tax would, at the rate from time to time chargeable during that period in respect of interest on tax, equal the amount of such tax.

(3) If, after the expiration of 20 years from the date on which any tax became due and payable, the tax or any part of that tax remains unpaid, the Commissioners may, if they think fit, remit the payment of such tax or any part of that tax and all or any interest on that tax.

(4) Where, in the opinion of the Commissioners, the complication of circumstances affecting a gift or inheritance or the value of that gift or inheritance or the assessment or recovery of tax on that gift or inheritance are such as to justify them in doing so, they may compound the tax payable on the gift or inheritance on such terms as they shall think fit, and may give a discharge to the person or persons accountable for the tax on payment of the tax according to such composition.

Tax to be a charge.

[CATA 1976 s47]

60.—(1) Tax due and payable in respect of a taxable gift or a taxable inheritance shall, subject to this section, be and remain a charge on the property (other than money or negotiable instruments) of which the taxable gift or taxable inheritance consists at the valuation date and the tax shall have priority over all charges and interests created by the donee or successor or any person claiming in right of the donee or successor or on that donee or successor’s behalf, but where any settled property comprised in any taxable gift or taxable inheritance shall be subject to any power of sale, exchange, or partition, exercisable with the consent of the donee or successor, or by the donee or successor with the consent of another person, the donee or successor shall not be precluded by the charge of tax on that donee or successor’s taxable gift or taxable inheritance from consenting to the exercise of such power, or exercising any power with proper consent, as the case may be; and where any such power is exercised, the tax shall be charged on the property acquired, in substitution for charging it on the property previously comprised in the gift or inheritance, and on all moneys arising from the exercise of any such power, and on all investments of such moneys.

(2) Property comprised in a taxable gift or taxable inheritance shall not, as against a bona fide purchaser or mortgagee for full consideration in money or money’s worth, or a person deriving title from or under such a purchaser or mortgagee, remain charged with or liable to the payment of tax after the expiration of 12 years from the date of the gift or the date of the inheritance.

(3) Tax shall not be a charge on property under *subsection (1)* as against a bona fide purchaser or mortgagee of such property for full consideration in money or money’s worth without notice, or a person deriving title from or under such a purchaser or mortgagee.

[2003.]

*Capital Acquisitions Tax
Consolidation Act 2003.*

[No. 1.]

61.—(1) When any amount in respect of tax is paid, the Commissioners shall give a receipt for the payment.

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Receipts and
certificates.

(2) The Commissioners shall, on application to them by a person who has paid the tax in respect of any property comprised in any taxable gift or taxable inheritance, give to the person a certificate, in such form as they think fit, of the amount of the tax paid by that person in respect of that property.

[CATA 1976 s48]

(3) The Commissioners shall, on application to them by a person who is an accountable person in respect of any of the property of which a taxable gift or taxable inheritance consists, if they are satisfied that the tax charged on the property in respect of the taxable gift or taxable inheritance has been or will be paid, or that there is no tax so charged, give a certificate to the person, in such form as they think fit, to that effect.

(4) Where a person who is an accountable person in respect of the property of which a taxable gift or taxable inheritance consists has—

- (a) delivered to the Commissioners, a full and true return of all the property comprised in the gift or inheritance on the valuation date and such particulars as may be relevant to the assessment of tax in respect of the gift or inheritance,
- (b) made on that return an assessment of such amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid, and
- (c) duly paid the amount of such tax (if any),

the Commissioners may give a certificate to the person, in such form as they think fit, to the effect that the tax charged on the property in respect of the taxable gift or taxable inheritance has been paid or that there is no tax so charged.

(5) A certificate referred to in *subsection (3)* or *(4)* shall discharge the property from liability for tax (if any) in respect of the gift or inheritance, to the extent specified in the certificate, but shall not discharge the property from tax in case of fraud or failure to disclose material facts and, in any case, shall not affect the tax payable in respect of any other property or the extent to which tax is recoverable from any accountable person or from the personal representatives of any accountable person, but a certificate purporting to be a discharge of the whole tax payable in respect of any property included in the certificate in respect of a gift or inheritance shall exonerate from liability for such tax a bona fide purchaser or mortgagee for full consideration in money or money's worth without notice of such fraud or failure and a person deriving title from or under such a purchaser or mortgagee.

(6) Subject to *subsection (7)*, where tax is chargeable on the taxable value of a taxable gift or taxable inheritance and—

- (a) application is made to the Commissioners by any person (in this section referred to as “the applicant”)—
 - (i) who is a person accountable, but not primarily accountable, for the payment of the whole or part of the tax, or
 - (ii) who is the personal representative of any person referred to in *subparagraph (i)*,
- and

- (b) the applicant—

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- (i) delivers to the Commissioners a full and true return of all the property comprised in the gift or inheritance and such particulars as may be relevant to the assessment of tax in respect of the gift or inheritance, and
- (ii) makes on that return an assessment of such amount of tax as, to the best of that person's knowledge, information and belief, ought to be charged, levied and paid,

the Commissioners may, on payment of the tax assessed by the applicant, give a certificate to the applicant which shall discharge the applicant from any other claim for tax in respect of the gift or inheritance.

(7) A certificate by the Commissioners under *subsection (6)* shall not discharge the applicant in the case of fraud or failure to disclose material facts within that applicant's own knowledge and shall not affect any further tax that may be payable by the applicant if any further property is afterwards shown to have been comprised in the taxable gift or taxable inheritance to which the certificate relates and in respect of which further property the applicant is liable for the tax.

Certificate relating to registration of title based on possession.
[FA 1994 s146]

62.—(1) In this section—

“the Act of 1964” means the Registration of Title Act 1964;

“the Registrar” means the Registrar of Titles;

“relevant period”, in relation to a person's application to be registered as owner of property, means the period commencing on 28 February 1974 and ending on the date as of which the registration was made, but—

- (a) where the certificate referred to in *subsection (2)* is a certificate for a period ending prior to the date of the registration, the period covered by the certificate shall be deemed to be the relevant period if, at the time of the registration, the Registrar had no reason to believe that a death relevant to the application for registration occurred after the expiration of the period covered by the certificate, and
- (b) where the registration of the person (if any) who, at the date of that application, was the registered owner of the property had been made as of a date after 28 February 1974, the relevant period shall commence on the date as of which that registration was made;

“the Rules of 1972” means the Land Registration Rules 1972 (S.I. No. 230 of 1972).

(2) A person shall not be registered as owner of property in a register of ownership maintained under the Act of 1964 on foot of an application made to the Registrar on or after the date of the passing of this Act which is—

- (a) based on possession, and

- (b) made under the Rules of 1972, or any other rule made for carrying into effect the objects of the Act of 1964, Pt.7 S.62

unless the applicant produces to the Registrar a certificate issued by the Commissioners to the effect that the Commissioners are satisfied—

- (i) that the property did not become charged with gift tax or inheritance tax during the relevant period, or
- (ii) that any charge for gift tax or inheritance tax to which the property became subject during that period has been discharged, or will (to the extent that it has not been discharged) be discharged within a time considered by the Commissioners to be reasonable.

(3) In the case of an application for registration in relation to which a solicitor's certificate is produced for the purpose of rule 19(3), 19(4) or 35 of the Rules of 1972, the Registrar may accept that the application is not based on possession if the solicitor makes to the Registrar a declaration in writing to that effect.

(4) Where, on application to them by the applicant for registration, the Commissioners are satisfied that they may issue a certificate for the purpose of *subsection (2)*, they shall issue a certificate for that purpose, and the certificate and the application for that certificate shall be on a form provided by the Commissioners.

(5) A certificate issued by the Commissioners for the purpose of *subsection (2)* shall be in such terms and subject to such qualifications as the Commissioners think fit, and shall not be a certificate for any other purpose.

(6) In *subsection (2)*, the reference to a certificate issued by the Commissioners shall be construed as including a reference to a certificate to which *subsection (7)* relates, and *subsection (2)* shall be construed accordingly.

(7) (a) In this subsection—

“the relevant particulars” means the particulars of title to the relevant property which are required to be produced to the Registrar for the purposes of paragraph 2 of Form 5 of the Schedule of Forms referred to in the definition of “Forms” contained in rule 2(1) of the Rules of 1972;

“the relevant property” means the property in respect of which the application for registration is being made.

(b) A certificate to which this subsection relates is a certificate by the solicitor for the applicant for registration in which it is certified, on a form provided by the Commissioners, that the solicitor—

(i) is satisfied—

- (I) in a case where the applicant is a statutory authority within the definition of “statutory authority” contained in section 3(1) of the Act of 1964, that the market value of the relevant property at the time of the application does not exceed €127,000, or

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(II) in any other case, that—

- (A) the area of the relevant property does not exceed 5 hectares, and
- (B) the market value of the relevant property at the time of the application does not exceed €19,050,

and

- (ii) having investigated the title to the relevant property, has no reason to believe that the relevant particulars, in so far as relating to the relevant property at any time during the relevant period, are particulars which related at that time to significant other real property, that is, real property which, if combined with the relevant property for the purposes of *subparagraph (i)*, would cause a limit which applies to the relevant property by virtue of that subparagraph to be exceeded.

(8) Notwithstanding *subsection (7)*, a certificate by the solicitor for the applicant for registration shall be a certificate to which *subsection (7)* relates if it certifies, on a form provided by the Commissioners, that the solicitor is satisfied that—

- (a) the area of the property in respect of which the application for registration is being made does not exceed 500 square metres,
- (b) the market value of that property at the time of the application does not exceed €2,540, and
- (c) the application is not part of a series of related applications covering a single piece of property the total area of which exceeds 500 square metres or the market value of which at the time of the application exceeds €2,540.

Recovery of tax and penalties.

[CATA 1976 s49]

63.—(1) Any sum due and payable in respect of tax or interest on such tax and any penalty incurred in connection with tax or interest on such tax is deemed to be a debt due by the accountable person or, if that person is dead, by that person's personal representative, to the Minister for Finance for the benefit of the Central Fund and is payable to the Commissioners and may (without prejudice to any other mode of recovery of such tax and interest) be sued for and recovered by action, or other appropriate proceeding, at the suit of the Attorney General or the Minister for Finance or the Commissioners in any court of competent jurisdiction, notwithstanding anything to the contrary contained in the Inland Revenue Regulation Act 1890.

(2) Any person who, having received any sum of money as or for any tax, interest, or penalty under this Act, does not apply the money to the due payment of the tax, interest or penalty, and improperly withholds or detains the same, is accountable for the payment of the tax, interest or penalty to the extent of the amount so received by that person and the same is a debt due by that person to the Minister for Finance for the benefit of the Central Fund and is recoverable in like manner as a debt under *subsection (1)*.

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(3) If any accountable person is liable under *section 46* to deliver to the Commissioners a return or an additional return and makes default in so doing, the Attorney General or the Minister for Finance or the Commissioners may sue by action or other appropriate proceeding in the Circuit Court for an order directing the person so making default to deliver such return or additional return or to show cause to the contrary; and the Circuit Court may by order direct such accountable person to deliver such return or additional return within such time as may be specified in the order. Pt.7 S.63

(4) Whenever property is subject to a charge by virtue of *section 60*, the Attorney General or the Minister for Finance or the Commissioners may sue by action or other appropriate proceeding in any court of competent jurisdiction for, and the court may make, an order directing the owner of the property to pay the tax with which the property is charged.

64.—(1) In this section “functions” includes powers and duties.

(2) All sums due under this Act shall be paid to the Collector or to such person as may be nominated under this section.

(3) Section 928(1) and 964(2) of the Taxes Consolidation Act 1997, shall, with any necessary modifications, apply in relation to an assessment of tax, a correcting assessment of tax, or an additional assessment of tax as it applies in relation to assessments to income tax.

(4) The Collector shall collect and levy the tax from time to time charged in all assessments, correcting assessments and additional assessments of which particulars have been transmitted to the Collector under *subsection (3)*.

(5) All the provisions of the Income Tax Acts relating to the collection and recovery of income tax shall, subject to any necessary modifications, apply in relation to tax as they apply in relation to income tax chargeable under Schedule D.

(6) (a) The Commissioners may nominate persons to exercise on behalf of the Collector any or all of the functions conferred on the Collector by this section and, accordingly, those functions, as well as being exercisable by the Collector, shall also be exercisable on the Collector’s behalf by persons so nominated.

(b) A person shall not be nominated under this subsection unless that person is an officer or employee of the Commissioners.

65.—Section 39 of the Finance Act 1926, shall apply in any proceedings in the Circuit Court or the District Court for or in relation to the recovery of the tax.

Application of certain income tax provisions in relation to the collection and recovery of capital acquisitions tax, etc. [FA 1991 s129(1) to (6)]

Evidence in proceedings for recovery of tax. [CATA 1976 s50]

PART 8

APPEALS

66.—(1) If a person is aggrieved by the decision of the Commissioners as to the market value of any real property, that person may appeal against the decision in the manner prescribed by section 33 of the Finance (1909-10) Act 1910, and the provisions as to

Appeals regarding value of real property. [CATA 1976 s51]

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Pr.8 S.66 appeals under that section of that Act shall apply accordingly with any necessary modifications.

(2) The particulars of any transfer or lease which are presented to or obtained by the Commissioners under section 12(2) of the Stamp Duties Consolidation Act 1999 shall, in any appeal under this section, be received as *prima facie* evidence of all matters and things stated in such particulars.

Appeals in other cases.

[CATA 1976 s52]

67.—(1) In this section—

“Appeal Commissioners” has the meaning assigned to it by section 850 of the Taxes Consolidation Act 1997;

“appellant” means a person who appeals to the Appeal Commissioners under *subsection (2)*.

(2) Subject to the other provisions of this Act, a person who is called on by the Commissioners to pay an assessment of tax in respect of any property and who is aggrieved by the assessment may, in accordance with this section, appeal to the Appeal Commissioners against the assessment and the appeal shall be heard and determined by the Appeal Commissioners whose determination shall be final and conclusive unless the appeal is required to be reheard by a judge of the Circuit Court or a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

(3) An appeal shall not lie under this section in relation to the market value of real property.

(4) A person who intends to appeal under this section against an assessment shall, within 30 days after the date of the assessment, give notice in writing to the Commissioners of that person’s intention to appeal against the assessment.

(5) (a) Subject to this section, the provisions of the Income Tax Acts relating to—

- (i) the appointment of times and places for the hearing of appeals,
- (ii) the giving of notice to each person who has given notice of appeal of the time and place appointed for the hearing of that person’s appeal,
- (iii) the determination of an appeal by agreement between the appellant and an officer appointed by the Commissioners in that behalf,
- (iv) the determination of an appeal by the appellant giving notice of that appellant’s intention not to proceed with the appeal,
- (v) the hearing and determination of an appeal by the Appeal Commissioners, including the hearing and determination of an appeal by one Appeal Commissioner,
- (vi) the publication of reports of determinations of the Appeal Commissioners,
- (vii) the determination of an appeal through the neglect or

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refusal of a person who has given notice of appeal to attend before the Appeal Commissioners at the time and place appointed, Pt.8 S.67

- (viii) the extension of the time for giving notice of appeal and the readmission of appeals by the Appeal Commissioners and the provisions which apply where action by means of court proceedings has been taken,
- (ix) the rehearing of an appeal by a judge of the Circuit Court and the statement of a case for the opinion of the High Court on a point of law,
- (x) the payment of tax in accordance with the determination of the Appeal Commissioners notwithstanding that an appeal is required to be reheard by a judge of the Circuit Court or that a case for the opinion of the High Court on a point of law has been required to be stated or is pending,
- (xi) the procedures for appeal,
- (xii) the refusal of an application for an appeal hearing,

shall, with any necessary modifications, apply to an appeal under this section as if the appeal were an appeal against an assessment to income tax.

- (b) The Commissioners shall, subject to their giving notice in writing in that behalf to the appellant within 10 days after the determination of an appeal by the Appeal Commissioners, have the same right as the appellant to have the appeal reheard by a judge of the Circuit Court.
- (c) The rehearing of an appeal under this section by a judge of the Circuit Court shall be by a judge of the Circuit Court in whose circuit the appellant or one of the appellants resides or (in the case of a body corporate) has its principal place of business, but—
 - (i) in any case where no appellant is resident in or (in the case of a body corporate) has a place of business in the State, or
 - (ii) in any case where there is a doubt or a dispute as to the circuit,

the appeal shall be reheard by a judge of the Circuit Court assigned to the Dublin Circuit.

- (6) (a) Where a notice or other document which is required or authorised to be served by this section is to be served on a body corporate, such notice shall be served on the secretary or other officer of the body corporate.
- (b) Any notice or other document which is required or authorised by this section to be served by the Commissioners or by an appellant may be served by post and in the case of a notice or other document addressed to the Commissioners, shall be sent to the Secretaries, Revenue Commissioners, Dublin Castle, Dublin 2.

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- (c) Any notice or other document which is required or authorised to be served by the Commissioners on an appellant under this section may be sent to the solicitor, accountant or other agent of the appellant and a notice thus served shall be deemed to have been served on the appellant unless the appellant proves to the satisfaction of the Appeal Commissioners, or the Circuit Court, as the case may be, that that appellant had, before the notice or other document was served, withdrawn the authority of such solicitor, accountant or other agent to act on that appellant's behalf.

(7) Prima facie evidence of any notice given under this section by the Commissioners or by an officer of the Commissioners may be given in any proceedings by the production of a document purporting—

- (a) to be a copy of the notice, or
(b) if the details specified in the notice are contained in an electronic, photographic or other record maintained by the Commissioners, to reproduce those details in so far as they relate to that notice,

and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised to do so.

- (8) (a) The Commissioners may serve notice in writing, referring expressly to this subsection, on any person whom they have reason to believe to be accountable for the payment of tax, of any decision they have made which is relevant to such tax.
(b) Any person who is informed of a decision in accordance with *paragraph (a)* may appeal to the Appeal Commissioners against the decision.
(c) The Appeal Commissioners shall hear and determine an appeal to them under this subsection as if it were an appeal to them against an assessment to tax, and the provisions of this section relating to an appeal or to the rehearing of an appeal or to the statement of a case for the opinion of the High Court on a point of law shall, with any necessary modifications, apply accordingly.

Conditions before appeal may be made.

[CATA 1976 s52A]

68.—No appeal shall lie under *section 66* or *67* until such time as the person aggrieved by the decision or assessment (as the case may be) complies with *section 46(2)* in respect of the gift or inheritance in relation to which the decision or assessment is made, as if there were no time-limit for complying with *section 46(2)* and that person were a person primarily accountable for the payment of tax by virtue of *section 45(1)* and required by notice in writing by the Commissioners to deliver a return.

PART 9

EXEMPTIONS

Exemption of small gifts.

[CATA 1976 s53(1), (2) and (4)]

69.—(1) In this section, “relevant period” means the period of 12 months ending on 31 December in each year.

(2) The first €1,270 of the total taxable value of all taxable gifts taken by a donee from any one disponer in any relevant period is exempt from tax and is not taken into account in computing tax.

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(3) In the case of a gift which becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within 2 years prior to the death of the disponent, the same relief is granted in respect of that inheritance under *subsection (2)* as if it were a gift. PT.9 S.69

70.—Notwithstanding any other provisions of this Act, a gift taken by a donee, who is at the date of the gift the spouse of the disponent, is exempt from tax and is not taken into account in computing tax. Exemption for spouses (gifts).
[FA 1990 s127(1)]

71.—Notwithstanding any other provisions of this Act, an inheritance taken by a successor, who is at the date of the inheritance the spouse of the disponent, is exempt from tax and is not taken into account in computing tax. Exemption for spouses (inheritances).
[FA 1985 s59(1)]

72.—(1) In this section—
“insured” means an individual or, in relation to a qualifying insurance policy where—
(a) the insured is an individual and the spouse of that individual at the date the policy is effected,

Relief in respect of certain policies of insurance.
[FA 1985 s60(1), (1A) and (2);
FA 1990 s130;
FA 1991 s118;
FA 1996 s124]

(b) annual premiums are paid by either or both of them during their joint lives, and by the survivor of them during the life of such survivor, and

(c) the proceeds of the policy are payable on the death of such survivor, or on the simultaneous deaths of both such spouses,

means—

(i) where the proceeds of the policy are so payable on the death of such survivor, that survivor, and the proceeds of the policy is deemed to have been provided by such survivor, as disponent, or

(ii) where the proceeds of the policy are so payable on the simultaneous deaths of both such spouses, each of the spouses, and each such spouse is deemed to have provided the proceeds of the policy—

(I) to the extent that such proceeds are applied in paying the relevant tax of the insured who is that spouse, and

(II) where the proceeds of the policy are not applied in paying relevant tax, to the extent that the proceeds not so applied are comprised in an inheritance taken under a disposition made by that spouse;

“qualifying insurance policy” means a policy of insurance—

(a) which is in a form approved by the Commissioners for the purposes of this section,

(b) in respect of which annual premiums are paid by the insured during the insured’s life, and

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- (c) which is expressly effected under this section for the purpose of paying relevant tax;

“relevant tax” means inheritance tax payable in respect of an inheritance (excluding, in the computation of such tax, an interest in a qualifying insurance policy) taken—

- (a) on the death of the insured,
 (b) under a disposition made by the insured, where the inheritance is taken on or after the date of death of the insured and not later than one year after that death, and
 (c) under a disposition made by the spouse of the insured where the inheritance is taken only in the event of the insured not surviving the spouse by a period of up to 31 days,

and the relevant qualifying insurance policy is—

- (i) a policy of insurance within the meaning of *paragraphs (a), (b) and (c)* of the definition of “insured” in this subsection, or
 (ii) a policy of insurance where the insured is an individual and the proceeds of the policy are payable only on the contingency of the insured surviving that spouse.
- (2) (a) An interest in a qualifying insurance policy which is comprised in an inheritance taken under a disposition made by the insured is, to the extent that the proceeds of the policy are applied in paying relevant tax, exempt from tax in relation to that inheritance and is not taken into account in computing tax.
- (b) An interest in a qualifying insurance policy which is comprised in an inheritance taken under a disposition made by the insured is, to the extent that the proceeds of the policy are not applied in paying relevant tax, and notwithstanding the provisions of this Act, deemed to be taken on a day immediately after—
- (i) the date of the death of the insured, or
 (ii) the latest date (if any) on which an inheritance is taken in respect of which that relevant tax is payable, whichever is the later.

Relief in respect of certain policies of insurance relating to tax payable on gifts.
 [FA 1991 s119(1) to (5)]

73.—(1) In this section—

“appointed date” means—

- (a) a date occurring not earlier than 8 years after the date on which a relevant insurance policy is effected, or
 (b) a date on which the proceeds of a relevant insurance policy become payable either on the critical illness or the death of the insured, or one of the insured in a case to which *paragraph (b)* of the definition of “insured” relates, being a date prior to the date to which *paragraph (a)* of this definition relates;

“insured” means—

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(a) where the insured is an individual, that individual, or Pt.9 S.73

(b) where the insured is an individual and the spouse of that individual at the date the policy is effected, that individual and the spouse of that individual, jointly or separately, or the survivor of them, as the case may be;

“relevant insurance policy” means a policy of insurance—

(a) which is in a form approved by the Commissioners for the purposes of this section,

(b) in respect of which annual premiums are paid by the insured,

(c) the proceeds of which are payable on the appointed date, and

(d) which is expressly effected under this section for the purpose of paying relevant tax;

“relevant tax” means gift tax or inheritance tax, payable in connection with an *inter vivos* disposition made by the insured within one year after the appointed date, excluding gift tax or inheritance tax payable on an appointment out of an *inter vivos* discretionary trust set up by the insured.

(2) The proceeds of a relevant insurance policy are, to the extent that such proceeds are used to pay relevant tax, exempt from tax and are not taken into account in computing such tax.

(3) Subject to *sections 70* and *76*, where the insured makes an *inter vivos* disposition of the proceeds, or any part of the proceeds, of a relevant insurance policy other than in paying relevant tax, such proceeds are not exempt from tax.

(4) A relevant insurance policy is a qualifying insurance policy for the purposes of *section 72* where the proceeds of such relevant insurance policy become payable on the death of the insured or one of the insured in a case to which *paragraph (b)* of the definition of “insured” relates, if such relevant insurance policy would have been a qualifying insurance policy if it had been expressly effected under that section.

(5) A qualifying insurance policy for the purposes of *section 72* is a relevant insurance policy where the proceeds of such qualifying insurance policy are used to pay relevant tax arising under an *inter vivos* disposition made by the insured within one year after the appointed date.

74.—(1) In this section—

“assurance company” has the meaning assigned to it by *section 706* of the *Taxes Consolidation Act 1997*;

Exemption of
certain policies of
assurance.
[FA 1993 s133]

“new policy” means a contract entered into by an assurance company which is a policy of assurance on the life of any person issued on or after 1 January 2001;

“old policy” means a contract entered into by an assurance company in the course of carrying on a foreign life assurance business within

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the meaning of section 451 of the Taxes Consolidation Act 1997 and issued on or after 1 December 1992 and before 1 January 2001.

(2) Where any interest in a new policy or in an old policy is comprised in a gift or an inheritance, then any such interest—

- (a) is exempt from tax, and
- (b) is not taken into account in computing tax on any gift or inheritance taken by a donee or successor,

if it is shown to the satisfaction of the Commissioners that—

- (i) such interest is comprised in the gift or inheritance at the date of the gift or at the date of the inheritance,
- (ii) at the date of the disposition, the donor is neither domiciled nor ordinarily resident in the State, and
- (iii) at the date of the gift or at the date of the inheritance, the donee or successor is neither domiciled nor ordinarily resident in the State.

(3) Where—

- (a) an interest in a new policy or in an old policy, as the case may be, which is comprised in a gift or inheritance came into the beneficial ownership of the donor or became subject to the disposition prior to 15 February 2001, and
- (b) the conditions at *subparagraphs (i) and (iii) of subsection (2)* are complied with,

then that subsection shall apply to that interest in a new policy or in an old policy, as the case may be, if, at the date of the disposition, the proper law of the disposition was not the law of the State.

Exemption of specified collective investment undertakings.

[FA 1989 s85(1) and (2); FA 2001 s224(2) and (4) (part)]

75.—In this section—

“investment undertaking” has the meaning assigned to it by section 739B of the Taxes Consolidation Act 1997;

“specified collective investment undertaking” has the meaning assigned to it by section 734 of the Taxes Consolidation Act 1997;

“unit”, in relation to an investment undertaking, has the meaning assigned to it by section 739B of the Taxes Consolidation Act 1997;

“unit”, in relation to a specified collective investment undertaking, has the meaning assigned to it by section 734 of the Taxes Consolidation Act 1997.

(2) Where any unit of an investment undertaking or of a specified collective investment undertaking is comprised in a gift or an inheritance, then such unit—

- (a) is exempt from tax, and
- (b) is not taken into account in computing tax on any gift or inheritance taken by the donee or successor,

if it is shown to the satisfaction of the Commissioners that—

- (i) the unit is comprised in the gift or inheritance— Pt.9 S.75
- (I) at the date of the gift or at the date of the inheritance,
and
- (II) at the valuation date,
- (ii) at the date of the disposition, the disponent is neither domiciled nor ordinarily resident in the State, and
- (iii) at the date of the gift or at the date of the inheritance, the donee or successor is neither domiciled nor ordinarily resident in the State.
- (3) Where—
- (a) any unit of an investment undertaking or of a specified collective investment undertaking which is comprised in a gift or inheritance came into the beneficial ownership of the disponent or became subject to the disposition prior to 15 February 2001, and
- (b) the conditions at *subparagraphs (i) and (iii) of subsection (2)* are complied with,

then that subsection shall apply to that unit of an investment undertaking or to that unit of a specified collective investment undertaking, as the case may be, comprised in a gift or inheritance, if at the date of the disposition, the proper law of the disposition was not the law of the State.

76.—(1) Where any person takes a benefit for public or charitable purposes that person is deemed—

Provisions relating
to charities, etc.
[CATA 1976 s54(1),
(2) and (4)]

- (a) for the purposes of *sections 5(1) and 10(1)*, to have taken that benefit beneficially, and
- (b) for the purposes of *Schedule 2*, to have taken a gift or an inheritance accordingly to which the group threshold of €19,050 applies.

(2) A gift or an inheritance which is taken for public or charitable purposes is exempt from tax and is not taken into account in computing tax, to the extent that the Commissioners are satisfied that it has been, or will be, applied to purposes which, in accordance with the law of the State, are public or charitable.

(3) Except where provided in *section 80(5)*, a gift or inheritance which a person takes on becoming entitled to any benefit on the application to public or charitable purposes of property (including moneys provided by the Oireachtas or a local authority) held for such purposes is exempt from tax and is not taken into account in computing tax.

77.—(1) This section applies to the following objects, that is, any pictures, prints, books, manuscripts, works of art, jewellery, scientific collections or other things not held for the purposes of trading—

Exemption of
heritage property.
[CATA 1976 s55;
FA 1978 s39(1) and
(1A)]

- (a) which, on a claim being made to the Commissioners, appear to them to be of national, scientific, historic or artistic interest,

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(b) which are kept permanently in the State except for such temporary absences outside the State as are approved by the Commissioners, and

(c) in respect of which reasonable facilities for viewing are allowed to members of the public or to recognised bodies or to associations of persons.

(2) (a) Any object to which this section applies and which, at the date of the gift or at the date of inheritance, and at the valuation date, is comprised in a gift or an inheritance taken by a person is exempt from tax in relation to that gift or inheritance, and the value of that gift or inheritance is not taken into account in computing tax on any gift or inheritance taken by that person unless the exemption ceases to apply under *subsection (3) or (4)*.

(b) *Section 89(5)* shall apply, for the purposes of this subsection, as it applies in relation to agricultural property.

(3) If an object exempted from tax by virtue of *subsection (2)* is sold within 6 years after the valuation date, and before the death of the donee or successor, the exemption referred to in *subsection (2)* shall cease to apply to such object, but if the sale of such object is a sale by private treaty to the National Gallery of Ireland, the National Museum of Science and Art or any other similar national institution, any university in the State or any constituent college of such university, a local authority or the Friends of the National Collections of Ireland, the exemption referred to in *subsection (2)* shall continue to apply.

(4) The exemption referred to in *subsection (2)* shall cease to apply to an object, if at any time after the valuation date and—

(a) before the sale of the object,

(b) before the death of the donee or successor, and

(c) before such object again forms part of the property comprised in a gift or an inheritance (other than an inheritance arising by virtue of *section 20*) in respect of which gift or inheritance an absolute interest is taken by a person other than the spouse of that donee or successor,

there has been a breach of any condition specified in *paragraph (b) or (c) of subsection (1)*.

(5) Any work of art normally kept outside the State which is comprised in an inheritance which is charged to tax by virtue of *section 11(1)(b) or 11(2)(c)* is exempt from tax and is not taken into account in computing tax, to the extent that the Commissioners are satisfied that it was brought into the State solely for public exhibition, cleaning or restoration.

(6) *Subsections (2) to (4)* shall apply, as they apply to the objects specified in *subsection (1)*, to a house or garden that is situated in the State and is not held for the purpose of trading and—

(a) which, on a claim being made to the Commissioners, appears to them to be of national, scientific, historic or artistic interest,

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(b) in respect of which reasonable facilities for viewing were allowed to members of the public during the 3 years immediately before the date of the gift or the date of the inheritance, and

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(c) in respect of which reasonable facilities for viewing are allowed to members of the public,

with the modification that the reference in *subsection (4)* to *subsection (1)(b)* or *(c)* shall be construed as a reference to *paragraph (c)* of this subsection and with any other necessary modifications.

(7) Without prejudice to the generality of *subsection (6)*, the provision of facilities for the viewing by members of the public of a house or garden is not regarded as reasonable in relation to any year which is taken into account for the purposes of *paragraphs (b)* and *(c)* of *subsection (1)*, unless—

(a) Bord Fáilte Éireann (in this section referred to as “the Board”) has, on or before 1 January in that year, been provided with particulars of—

(i) the name, if any, and address of the house or garden, and

(ii) the days and times during the year when access to the house or garden is afforded to the public and the price, if any, payable for such access,

and

(b) in the opinion of the Commissioners—

(i) subject to such temporary closure necessary for the purpose of the repair, maintenance or restoration of the house or garden as is reasonable, access to the house or garden is afforded for not less than 60 days (including not less than 40 days during the period commencing on 1 May and ending on 30 September of which not less than 10 of the days during that period shall fall on a Saturday or a Sunday or both) in that year,

(ii) on each day on which access to the house or garden is afforded, the access is afforded in a reasonable manner and at reasonable times for a period, or periods in the aggregate, of not less than 4 hours,

(iii) access to the whole or to a substantial part of the house or garden is afforded at the same time, and

(iv) the price, if any, paid by members of the public in return for that access is reasonable in amount and does not operate to preclude members of the public from seeking access to the house or garden.

78.—(1) In this section—

“relevant heritage property” means any one or more of the following—

Heritage property of companies.

[FA 1995 s166(1) to (7)]

(a) objects to which *section 77(1)* applies,

(b) a house or garden referred to in *section 77(6)*;

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“private company” has the meaning assigned to it by *section 27*;

“subsidiary” has the meaning assigned to it by *section 155* of the *Companies Act 1963*.

(2) Where a gift or inheritance consists in whole or in part—

(a) at the date of the gift or at the date of the inheritance, and

(b) at the valuation date,

of one or more shares in a private company which (after the taking of the gift or inheritance) is, on the date of the gift or on the date of the inheritance, a company controlled by the donee or successor within the meaning of *section 27*, then each such share is, to the extent that its market value for tax purposes is, at the valuation date, attributable to relevant heritage property, exempt from tax and the value of such relevant heritage property is, to that extent, not to be taken into account in computing tax on any gift or inheritance taken by that person unless the exemption ceases to apply under *subsection (5)* or *(6)*, subject to the condition that the relevant heritage property was in the beneficial ownership of the company on 12 April 1995, or in the beneficial ownership on that date of another company which was on that date a subsidiary of the first-mentioned company.

(3) *Section 89(5)* shall apply, for the purposes of *subsection (2)*, as it applies in relation to agricultural property.

(4) Where in relation to a gift or inheritance—

(a) a part of a share in a private company is exempt from tax by virtue of *subsection (2)*, and

(b) such share is relevant business property within the meaning of *Chapter 2 of Part 10*,

then the relevant heritage property to which the market value of such share is partly attributable is disregarded in determining for the purposes of that Chapter what part of the taxable value of that gift or inheritance is attributable to such share; but the amount of the reduction (if any) which would but for *subsection (2)* fall to be made under that Chapter in respect of such share shall not otherwise be restricted notwithstanding *subsection (2)*.

(5) If a share in a private company which is exempted in whole or in part from tax by virtue of *subsection (2)* is sold within 6 years after the valuation date, and before the death of the donee or successor, the exemption referred to in *subsection (2)* shall, subject to *subsection (7)*, cease to apply to such share.

(6) Where the whole or part of the market value of a share in a private company which is comprised in a gift or inheritance is on the valuation date attributable to an item of relevant heritage property and—

(a) that item of relevant heritage property is sold within 6 years after the valuation date, and before the death of the donee or successor, or

(b) at any time after the valuation date and—

(i) before the sale of such share or such item of relevant heritage property,

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(ii) before the death of the donee or successor, and Pt.9 S.78

(iii) before such share or such item of relevant heritage property forms part of the property comprised in a subsequent gift or inheritance in respect of which gift or inheritance an absolute interest is taken by a person other than the spouse of that donee or successor,

there has been a breach of any condition specified in *section 77(1)(b)* or *(c)* or *section 77(6)(c)*,

then the exemption referred to in *subsection (2)* shall, subject to *subsection (7)*, cease to apply to such share to the extent that that market value is attributable to such item of relevant heritage property.

(7) Notwithstanding *subsections (5)* and *(6)*, the exemption referred to in *subsection (2)* shall continue to apply if the sale of the share referred to in *subsection (5)*, or the sale of the item of relevant heritage property referred to in *subsection (6)*, is a sale by private treaty to the National Gallery of Ireland, the National Museum of Science and Art or any other similar national institution, any university in the State or any constituent college of such university, a local authority or the Friends of the National Collections of Ireland.

79.—Notwithstanding any other provision of this Act, an inheritance taken by a person from a disponent is, where—

Exemption of certain inheritances taken by parents.

(a) that person is a parent of that disponent, and

[FA 1995 s165]

(b) the date of the inheritance is the date of death of that disponent,

exempt from tax and is not taken into account in computing tax if that disponent took a non-exempt gift or inheritance from either or both of that disponent's parents within the period of 5 years immediately prior to the date of death of that disponent.

80.—(1) In this section—

Payments relating to retirement, etc.

“superannuation scheme” includes any arrangement in connection with employment for the provision of a benefit on or in connection with the retirement or death of an employee;

[CATA 1976 s56]

“employment” includes employment as a director of a body corporate and cognate words shall be construed accordingly.

(2) Subject to *subsection (3)*, any payment to an employee or former employee by, or out of funds provided by, that employee's or former employee's employer or any other person, bona fide by means of retirement benefit, redundancy payment or pension is not a gift or an inheritance.

(3) *Subsection (2)* shall not apply in relation to a payment referred to in that subsection, and any such payment is deemed to be a gift or an inheritance where—

(a) (i) the employee is a relative of the employer or other disponent, or

(ii) the employer is a private company within the meaning of *section 27*, and of which private company the

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employee is deemed to have control within the meaning of that section;

(b) the payment is not made under a scheme (relating to superannuation, retirement or redundancy) approved by the Commissioners under the Income Tax Acts; and

(c) the Commissioners decide that in the circumstances of the case the payment is excessive.

(4) The Commissioners shall serve on an accountable person a notice in writing of their decision referred to in *subsection (3)* and the accountable person concerned may appeal against such decision and *section 67* shall apply with any necessary modifications in relation to such appeal as it applies in relation to an appeal against an assessment of tax.

(5) Any benefit taken by a person other than the person in respect of whose service the benefit arises, under the provisions of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants, is (whether or not any person had a right enforceable at law to the benefit) deemed to be a gift or an inheritance, as the case may be, derived under a disposition made by the person in respect of whose service the benefit arises and not by any other person.

Exemption of certain securities.

[CATA 1976 s57(1) and (2); FA 1997 s135(2) (part); FA 2001 s219 (part)]

81.—(1) In this section—

“security” means any security, stock, share, debenture, debenture stock, certificate of charge or other form of security issued, whether before, on or after the passing of this Act, and which by virtue of any enactment or by virtue of the exercise of any power conferred by any enactment is exempt from taxation when in the beneficial ownership of a person neither domiciled nor ordinarily resident in the State;

“unit trust scheme” means an authorised unit trust scheme within the meaning of the Unit Trusts Act 1990, whose deed expressing the trusts of the scheme restricts the property subject to those trusts to securities.

(2) Securities, or units (within the meaning of the Unit Trusts Act 1990) of a unit trust scheme, comprised in a gift or an inheritance are exempt from tax (and are not taken into account in computing tax on any gift or inheritance taken by the donee or successor) if it is shown to the satisfaction of the Commissioners that—

(a) the securities or units were comprised in the disposition continuously for a period of 6 years immediately before the date of the gift or the date of the inheritance, and any period immediately before the date of the disposition during which the securities or units were continuously in the beneficial ownership of the donor is deemed, for the purpose of this paragraph, to be a period or part of a period immediately before the date of the gift or the date of the inheritance during which they were continuously comprised in the disposition;

(b) the securities or units were comprised in the gift or inheritance—

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(i) at the date of the gift or the date of the inheritance, Pt.9 S.81
and

(ii) at the valuation date;

and

(c) the donee or successor is at the date of the gift or the date
of the inheritance neither domiciled nor ordinarily resi-
dent in the State,

and *section 89(5)* shall apply, for the purposes of this subsection, as
it applies in relation to agricultural property.

(3) *Subsection (2)(a)* shall not apply where—

(a) the disponer was neither domiciled nor ordinarily resident
in the State at the date of the disposition, or

(b) the securities or units concerned came into the beneficial
ownership of the disponer before 26 March 1997, or
became subject to the disposition before that date, and
the disponer was neither domiciled nor ordinarily resi-
dent in the State at the date of the gift or the date of the
inheritance.

(4) Where the securities or units concerned came into the ben-
eficial ownership of the disponer, or became subject to the dispo-
sition prior to 15 February 2001, then *subsection (2)* shall apply as if
the reference to the period of 6 years in that subsection were con-
strued as a reference to a period of 3 years.

82.—(1) The following are not gifts or inheritances:

Exemption of
certain receipts.

(a) the receipt by a person of any sum bona fide by means of [CATA 1976 s58]
compensation or damages for any wrong or injury suf-
fered by that person in that person's person, property,
reputation or means of livelihood;

(b) the receipt by a person of any sum bona fide by means of
compensation or damages for any wrong or injury
resulting in the death of any other person;

(c) the receipt by a person of any sum bona fide by means of
winnings from betting (including pool betting) or from
any lottery, sweepstake or game with prizes;

(d) any benefit arising out of—

(i) the payment to the Official Assignee in Bankruptcy
of money which has been provided by, or which rep-
resents property provided by, friends of a bankrupt,
or

(ii) a remission or abatement of debts by the creditors of
a bankrupt,

to enable the bankrupt to fulfil an offer of composition
after bankruptcy in accordance with section 39 of the
Bankruptcy Act 1988; and

(e) any benefit arising out of—

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(i) the payment to the Official Assignee in Bankruptcy of money which has been provided by, or which represents property provided by, friends of an arranging debtor, or

(ii) a remission or abatement of debts by the creditors of an arranging debtor,

to enable the debtor to carry out the terms of a proposal made by that debtor under section 87 of the Bankruptcy Act 1988, which has been accepted by that debtor's creditors and approved and confirmed by the High Court.

(2) Notwithstanding anything contained in this Act, the receipt in the lifetime of the disponer of money or money's worth—

(a) by—

(i) the spouse or child of the disponer, or

(ii) a person in relation to whom the disponer stands *in loco parentis*,

for support, maintenance or education, or

(b) by a person who is in relation to the disponer a dependent relative under section 466 of the Taxes Consolidation Act 1997, for support or maintenance,

is not a gift or an inheritance, where the provision of such support, maintenance or education, or such support or maintenance—

(i) is such as would be part of the normal expenditure of a person in the circumstances of the disponer, and

(ii) is reasonable having regard to the financial circumstances of the disponer.

(3) (a) In this subsection “incapacitated individual”, “trust funds” and “qualifying trust” have the meanings assigned to them, respectively, by section 189A (inserted by the Finance Act 1999) of the Taxes Consolidation Act 1997.

(b) The receipt by an incapacitated individual of the whole or any part of trust funds which are held on a qualifying trust, or of the income from such a qualifying trust, is not a gift or an inheritance.

(4) The receipt by a minor child of the disponer of money or money's worth for support, maintenance or education, at a time when the disponer and the other parent of that minor child are dead, is not a gift or an inheritance where the provision of such support, maintenance or education—

(a) is such as would be part of the normal expenditure of a person in the circumstances of the disponer immediately prior to the death of the disponer, and

(b) is reasonable having regard to the financial circumstances of the disponer immediately prior to the death of the disponer.

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83.—(1) In this section, “company” means a body corporate (wherever incorporated), other than a private company within the meaning of *section 27*.

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Exemption where disposition was made by the donee or successor.

(2) Tax is not chargeable on a gift or an inheritance taken by the donee or successor under a disposition made by that donee or successor.

[CATA 1976 s59]

(3) Where, at the date of the gift, 2 companies are associated in the manner described in *subsection (4)*, a gift taken by one of them under a disposition made by the other is deemed to be a gift to which *subsection (2)* applies.

(4) For the purposes of *subsection (3)*, 2 companies shall be regarded as associated if—

(a) one company would be beneficially entitled to not less than 90 per cent of any assets of the other company available for distribution to the owners of its shares and entitlements of the kind referred to in *section 43(1)* on a winding up, or

(b) a third company would be beneficially entitled to not less than 90 per cent of any assets of each of them available as in *paragraph (a)*.

84.—(1) In this section, “qualifying expenses” means expenses relating to medical care including the cost of maintenance in connection with such medical care.

Exemption relating to qualifying expenses of incapacitated persons.

(2) A gift or inheritance which is taken exclusively for the purpose of discharging qualifying expenses of an individual who is permanently incapacitated by reason of physical or mental infirmity is, to the extent that the Commissioners are satisfied that it has been or will be applied to such purpose, exempt from tax and is not taken into account in computing tax.

[CATA 1976 s59A]

85.—(1) In this section, “retirement fund”, in relation to an inheritance taken on the death of a disponent, means an approved retirement fund or an approved minimum retirement fund, within the meaning of *section 784A* or *784C* of the Taxes Consolidation Act 1997, being a fund which is wholly comprised of all or any of the following, that is—

Exemption relating to retirement benefits.

[CATA 1976 s59B]

(a) property which represents in whole or in part the accrued rights of the disponent, or of a predeceased spouse of the disponent, under an annuity contract or retirement benefits scheme approved by the Commissioners for the purposes of *Chapter 1* or *Chapter 2* of *Part 30* of that Act,

(b) any accumulations of income of such property, or

(c) property which represents in whole or in part those accumulations.

(2) The whole or any part of a retirement fund which is comprised in an inheritance which is taken on the death of a disponent is exempt from tax in relation to that inheritance and the value of that inheritance is not taken into account in computing tax, where—

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- (a) the disposition under which the inheritance is taken is the will or intestacy of the disponer, and
 - (b) the successor is a child of the disponer and had attained 21 years of age at the date of that disposition.

Exemption relating to certain dwellings.
[CATA 1976 s59C] **86.**—(1) In this section—
“dwelling-house” means—

- (a) a building or part (including an appropriate part within the meaning of *section 5(5)*) of a building which was used or was suitable for use as a dwelling, and
- (b) the curtilage of the dwelling-house up to an area (exclusive of the site of the dwelling-house) of one acre but if the area of the curtilage (exclusive of the site of the dwelling-house) exceeds one acre then the part which comes within this definition is the part which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the dwelling-house;

“relevant period”, in relation to a dwelling-house comprised in a gift or inheritance, means the period of 6 years commencing on the date of the gift or the date of the inheritance.

(2) In this section any reference to a donee or successor is construed as including a reference to the transferee referred to in *section 32(2)*.

(3) Subject to *subsections (4), (5), (6) and (7)*, a dwelling-house comprised in a gift or inheritance which is taken by a donee or successor who—

- (a) has continuously occupied as that donee or successor’s only or main residence—
 - (i) that dwelling-house throughout the period of 3 years immediately preceding the date of the gift or the date of the inheritance, or
 - (ii) where that dwelling-house has directly or indirectly replaced other property, that dwelling-house and that other property for periods which together comprised at least 3 years falling within the period of 4 years immediately preceding the date of the gift or the date of the inheritance,
- (b) is not, at the date of the gift or at the date of the inheritance, beneficially entitled to any other dwelling-house or to any interest in any other dwelling-house, and
- (c) continues to occupy that dwelling-house as that donee or successor’s only or main residence throughout the relevant period,

is exempt from tax in relation to that gift or inheritance, and the value of that dwelling-house is not to be taken into account in computing tax on any gift or inheritance taken by that person unless the exemption ceases to apply under *subsection (6) or (7)*.

(4) The condition in *paragraph (c)* of *subsection (3)* shall not apply where the donee or successor has attained the age of 55 years at the date of the gift or at the date of the inheritance. Pt.9 S.86

(5) For the purpose of *paragraph (c)* of *subsection (3)*, the donee or successor is deemed to occupy the dwelling-house concerned as that donee or successor's only or main residence throughout any period of absence during which that donee or successor worked in an employment or office all the duties of which were performed outside the State.

(6) If a dwelling-house exempted from tax by virtue of *subsection (3)* is sold or disposed of, either in whole or in part, within the relevant period, and before the death of the donee or successor (not being a donee or successor who had attained the age of 55 years at the date of the gift or inheritance), the exemption referred to in that subsection shall cease to apply to such dwelling-house unless the sale or disposal occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home.

(7) The exemption referred to in *subsection (3)* shall cease to apply to a dwelling-house, if at any time during the relevant period and—

- (a) before the dwelling-house is sold or disposed of, and
- (b) before the death of the donee or successor,

the condition specified in *paragraph (c)* of *subsection (3)* has not been complied with unless that non-compliance occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home, or in consequence of any condition imposed by the employer of the donee or successor requiring the donee or successor to reside elsewhere.

(8) Where a dwelling-house exempted from tax by virtue of *subsection (3)* (in this section referred to as the "first-mentioned dwelling-house") is replaced within the relevant period by another dwelling-house, the condition specified in *paragraph (c)* of *subsection (3)* is treated as satisfied if the donee or successor has occupied as that donee or successor's only or main residence the first-mentioned dwelling-house, that other dwelling-house and any dwelling-house which has within the relevant period directly or indirectly replaced that other dwelling-house for periods which together comprised at least 6 years falling within the period of 7 years commencing on the date of the gift or the date of the inheritance.

(9) Any period of absence which would satisfy the condition specified in *paragraph (c)* of *subsection (3)* in relation to the first-mentioned dwelling-house shall, if it occurs in relation to any dwelling-house which has directly or indirectly replaced that dwelling-house, likewise satisfy that condition as it has effect by virtue of *subsection (8)*.

(10) *Subsection (6)* shall not apply to a case falling within *subsection (8)*, but the extent of the exemption under this section in such a case shall, where the donee or successor had not attained the age of 55 years at the date of the gift or at the date of the inheritance, not exceed what it would have been had the replacement of one dwelling-house by another referred to in *subsection (8)*, or any one or more of such replacements, taken place immediately prior to that date.

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 Exemption of
 certain benefits.
 [FA 1982 s98]

87.—Where a gift or an inheritance is taken, by direction of the donor, free of tax, the benefit taken is deemed to include the amount of tax chargeable on such gift or inheritance but not the amount of tax chargeable on such tax.

Exemption of
 certain transfers
 from capital
 acquisitions tax
 following the
 dissolution of a
 marriage.
 [FA 1997 s142(1)
 and (2)]

88.—(1) Notwithstanding any other provision of this Act, a gift or inheritance taken by virtue or in consequence of an order to which this subsection applies by a spouse who was a party to the marriage concerned is exempt from tax and is not taken into account in computing tax.

(2) *Subsection (1)* applies—

- (a) to a relief order or an order under section 25 of the Family Law Act 1995, made, following the dissolution of a marriage, or
- (b) to a maintenance pending relief order made, following the granting of leave under section 23(3) of the Family Law Act 1995, to a spouse whose marriage has been dissolved,
- (c) to an order referred to in section 41(a) of the Family Law Act 1995, or an order under section 42(1) of that Act made in addition to or instead of an order under section 41(a) of that Act, in favour of a spouse whose marriage has been dissolved,
- (d) to an order under Part III of the Family Law (Divorce) Act 1996, and
- (e) to an order or other determination to like effect, made on or after 10 February 2000, which is analogous to an order referred to in *paragraph (a), (b), (c) or (d)*, of a court under the law of another territory made under or in consequence of the dissolution of a marriage, being a dissolution that is entitled to be recognised as valid in the State.

PART 10

RELIEFS

CHAPTER 1

Agricultural relief

Provisions relating
 to agricultural
 property.
 [CATA 1976 s19]

89.—(1) In this section—

“agricultural property” means agricultural land, pasture and woodland situate in the State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with the lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the property, and farm machinery, livestock and bloodstock on such property;

“agricultural value” means the market value of agricultural property reduced by 90 per cent of that value;

“farmer” in relation to a donee or successor, means an individual who is domiciled in the State and in respect of whom not less than 80 per cent of the market value of the property to which the individual is beneficially entitled in possession is represented by the market

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value of property in the State which consists of agricultural property, Pt.10 S.89
and, for the purposes of this definition—

- (a) no deduction is made from the market value of property for any debts or encumbrances, and
- (b) an individual is deemed to be beneficially entitled in possession to—
 - (i) an interest in expectancy, notwithstanding the definition of “entitled in possession” in *section 2*, and
 - (ii) property which is subject to a discretionary trust under or in consequence of a disposition made by the individual where the individual is an object of the trust.

(2) Except where provided in *subsection (6)*, in so far as any gift or inheritance consists of agricultural property—

- (a) at the date of the gift or at the date of the inheritance, and
- (b) at the valuation date,

and is taken by a donee or successor who is, on the valuation date and after taking the gift or inheritance, a farmer, *section 28* (other than *subsection (7)(b)* of that section) shall apply in relation to agricultural property as it applies in relation to other property subject to the following modifications—

- (i) in *subsection (1)* of that section, the reference to market value shall be construed as a reference to agricultural value,
- (ii) where a deduction is to be made for any liability, costs or expenses in accordance with *subsection (1)* of that section only a proportion of such liability, costs or expenses is deducted and that proportion is the proportion that the agricultural value of the agricultural property bears to the market value of that property, and
- (iii) where a deduction is to be made for any consideration under *subsection (2)* or *(4)(b)* of that section, only a proportion of such consideration is deducted and that proportion is the proportion that the agricultural value of the agricultural property bears to the market value of that property.

(3) Where a taxable gift or a taxable inheritance is taken by a donee or successor subject to the condition that the whole or part of that taxable gift or taxable inheritance will be invested in agricultural property and such condition is complied with within 2 years after the date of the gift or the date of the inheritance, then the gift or inheritance is deemed, for the purposes of this section, to have consisted—

- (a) at the date of the gift or at the date of the inheritance, and
- (b) at the valuation date,

of agricultural property to the extent to which the gift or inheritance is subject to such condition and has been so invested.

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(4) (a) The agricultural value shall cease to be applicable to agricultural property, other than crops, trees or underwood, if and to the extent that such property, or any agricultural property which directly or indirectly replaces such property—

(i) is sold or compulsorily acquired within the period of 6 years after the date of the gift or the date of the inheritance, and

(ii) is not replaced, within a year of the sale or within 6 years of the compulsory acquisition, by other agricultural property,

and tax is chargeable in respect of the gift or inheritance as if the property were not agricultural property, but this paragraph shall not apply where the donee or successor dies before the property is sold or compulsorily acquired.

(b) If an arrangement is made, in the administration of property subject to a disposition, for the appropriation of property in or towards the satisfaction of a benefit under the disposition, such arrangement is deemed not to be a sale or a compulsory acquisition for the purposes of *paragraph (a)*.

(c) The agricultural value in relation to a gift or inheritance referred to in *subsection (2)* shall cease to be applicable to agricultural property, other than crops, trees or underwood, if the donee or successor is not resident in the State for any of the 3 years of assessment immediately following the year of assessment in which the valuation date falls.

(5) For the purposes of *subsection (2)*, if, in the administration of property subject to a disposition, property is appropriated in or towards the satisfaction of a benefit in respect of which a person is deemed to take a gift or an inheritance under the disposition, the property so appropriated, if it was subject to the disposition at the date of the gift or at the date of the inheritance, is deemed to have been comprised in that gift or inheritance at the date of the gift or at the date of the inheritance.

(6) *Subsection (2)* shall apply in relation to agricultural property which consists of trees or underwood as if the words “and is taken by a donee or successor who is, on the valuation date and after taking the gift or inheritance, a farmer,” were omitted from that subsection.

(7) In this section, any reference to a donee or successor includes a reference to the transferee referred to in *section 32(2)*.

CHAPTER 2

Business relief

90.—(1) In this Chapter—

“agricultural property” has the meaning assigned to it by *section 89*;

“associated company” has the meaning assigned to it by *section 16(1)(b)* of the Companies (Amendment) Act 1986;

Interpretation
(*Chapter 2*).

[FA 1994 s124]

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“business” includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain; Pt.10 S.90

“excepted asset” shall be construed in accordance with *section 100*;

“full-time working officer or employee”, in relation to one or more companies, means any officer or employee who devotes substantially the whole of such officer’s or employee’s time to the service of that company, or those companies taken together, in a managerial or technical capacity;

“holding company” and “subsidiary” have the meanings assigned to them, respectively, by section 155 of the Companies Act 1963;

“quoted”, in relation to any shares or securities, means quoted on a recognised stock exchange and “unquoted”, in relation to any shares or securities, means not so quoted;

“relevant business property” shall be construed in accordance with *section 93*.

(2) In this Chapter a reference to a gift shall be construed as a reference to a taxable gift and a reference to an inheritance shall be construed as a reference to a taxable inheritance.

(3) For the purposes of this Chapter a company and all its subsidiaries and any associated company of that company or of any of those subsidiaries and any subsidiary of such an associated company are members of a group.

(4) In this Chapter any reference to a donee or successor is construed as including a reference to the transferee referred to in *section 32(2)*.

91.—This Chapter shall apply in relation to gifts and inheritances, but shall not apply in relation to an inheritance taken by a discretionary trust by virtue of *sections 15(1) or 20(1)*. Application
(Chapter 2)
[FA 1994 s125]

92.—Where the whole or part of the taxable value of any taxable gift or taxable inheritance is attributable to the value of any relevant business property, the whole or that part of the taxable value is, subject to the other provisions of this Chapter, treated as being reduced by 90 per cent. Business relief.
[FA 1994 s126]

93.—(1) In this Chapter and subject to the following provisions of this section and to *sections 94, 96 and 100(4)* “relevant business property” means, in relation to a gift or inheritance, any one or more of the following, that is: Relevant business
property.
[FA 1994 s127(1),
(2) and (4) to (8)]

- (a) property consisting of a business or interest in a business,
- (b) unquoted shares in or securities of a company whether incorporated in the State or otherwise to which *paragraph (c)* does not relate, and which on the valuation date (either by themselves alone or together with other shares or securities in that company in the absolute beneficial ownership of the donee or successor on that date) give control of powers of voting on all questions affecting the company as a whole which if exercised would yield more

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than 25 per cent of the votes capable of being exercised on those shares,

- (c) unquoted shares in or securities of a company whether incorporated in the State or otherwise which is, on the valuation date (after the taking of the gift or inheritance), a company controlled by the donee or successor within the meaning of *section 27*,
- (d) unquoted shares in or securities of a company whether incorporated in the State or otherwise which do not fall within paragraph (b) or (c) and which on the valuation date (either by themselves alone or together with other shares or securities in that company in the absolute beneficial ownership of the donee or successor on that date) have an aggregate nominal value which represents 10 per cent or more of the aggregate nominal value of the entire share capital and securities of the company on condition that the donee or successor has been a full-time working officer or employee of the company, or if that company is a member of a group, of one or more companies which are members of the group, throughout the period of 5 years ending on the date of the gift or inheritance,
- (e) any land or building, machinery or plant which, immediately before the gift or inheritance, was used wholly or mainly for the purposes of a business carried on by a company of which the disponer then had control or by a partnership of which the disponer then was a partner and for the purposes of this paragraph a person is deemed to have control of a company at any time if that person then had control of powers of voting on all questions affecting the company as a whole which if exercised would have yielded a majority of the votes capable of being exercised on all such questions,
- (f) quoted shares in or securities of a company which, but for the fact that they are quoted, would be shares or securities to which *paragraph (b), (c) or (d)* would relate on condition that such shares or securities, or other shares in or securities of the same company which are represented by those shares or securities, were in the beneficial ownership of the disponer immediately prior to the disposition and were unquoted at the date of the commencement of that beneficial ownership or at 23 May 1994, whichever is the later date.

(2) Where a company has shares or securities of any class giving powers of voting limited to either or both—

- (a) the question of winding-up the company, and
- (b) any question primarily affecting shares or securities of that class,

the reference in *subsection (1)* to all questions affecting the company as a whole has effect as a reference to all such questions except any in relation to which those powers are capable of being exercised.

(3) A business or interest in a business, or shares in or securities of a company, is not relevant business property if the business or, as the case may be, the business carried on by the company consists wholly or mainly of one or more of the following, that is, dealing in

currencies, securities, stocks or shares, land or buildings, or making Pt.10 S.93
or holding investments.

(4) *Subsection (3)* shall not apply to shares in or securities of a company if the business of the company consists wholly or mainly in being a holding company of one or more companies whose business does not fall within that subsection.

(5) Any land, building, machinery or plant used wholly or mainly for the purposes of a business carried on as mentioned in *subsection (1)(e)* is not relevant business property in relation to a gift or inheritance, unless the donor's interest in the business is, or shares in or securities of the company carrying on the business immediately before the gift or inheritance are, relevant business property in relation to the gift or inheritance or in relation to a simultaneous gift or inheritance taken by the same donee or successor.

(6) The references to a donor in *subsections (1)(e)* and (5) include a reference to a person in whom the land, building, machinery or plant concerned is vested for a beneficial interest in possession immediately before the gift or inheritance.

(7) Where shares or securities are vested in the trustees of a settlement, any powers of voting which they give to the trustees of the settlement are, for the purposes of *subsection (1)(e)*, deemed to be given to the person beneficially entitled in possession to the shares or securities except in a case where no individual is so entitled.

94.—In relation to a gift or an inheritance, property shall not be relevant business property unless it was comprised in the disposition continuously— Minimum period of ownership.
[FA 1994 s128]

(a) in the case of an inheritance, which is taken on the date of death of the donor, for a period of 2 years immediately prior to the date of the inheritance, or

(b) in any other case, for a period of 5 years immediately prior to the date of the gift or inheritance,

and any period immediately before the date of the disposition during which the property was continuously in the beneficial ownership of the donor, or of the spouse of the donor, is deemed, for the purposes of this Chapter, to be a period or part of a period immediately before the date of the gift or inheritance during which it was continuously comprised in the disposition.

95.—(1) Property shall be treated as complying with *section 94* if— Replacements.

(a) the property replaced other property and that property, that other property and any property directly or indirectly replaced by that other property were comprised in the disposition for periods which together comprised— [FA 1994 s129]

(i) in a case referred to at *paragraph (a)* of *section 94*, at least 2 years falling within the 3 years immediately preceding the date of the inheritance, or

(ii) in a case referred to at *paragraph (b)* of *section 94*, at least 5 years falling within the 6 years immediately preceding the date of the gift or inheritance,

and

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(b) any other property concerned was such that, had the gift or inheritance been taken immediately before it was replaced, it would, apart from *section 94*, have been relevant business property in relation to the gift or inheritance.

(2) In a case to which *subsection (1)* relates, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.

(3) For the purposes of *subsection (2)* changes resulting from the formation, alteration or dissolution of a partnership, or from the acquisition of a business by a company controlled (within the meaning of *section 27*) by the former owner of the business, are disregarded.

Succession.
[FA 1994 s130]

96.—For the purposes of *sections 94* and *95*, where a disponent became beneficially entitled to any property on the death of another person the disponent is deemed to have been beneficially entitled to it from the date of that death.

Successive benefits.
[FA 1994 s131]

97.—(1) Where—

(a) a gift or inheritance (in this section referred to as “the earlier benefit”) was eligible for relief under this Chapter or would have been so eligible if such relief had been capable of being given in respect of gifts and inheritances taken at that time, and

(b) the whole or part of the property which, in relation to the earlier benefit was relevant business property became, through the earlier benefit, the property of the person or of the spouse of the person who is the disponent in relation to a subsequent gift or inheritance (in this section referred to as “the subsequent benefit”), and

(c) that property, or part, or any property directly or indirectly replacing it, would, apart from *section 94*, have been relevant business property in relation to the subsequent benefit, and

(d) the subsequent benefit is an inheritance taken on the death of the disponent,

then the property which would have been relevant business property but for *section 94* is relevant business property notwithstanding that section.

(2) Where the property which, by virtue of *subsection (1)*, is relevant business property replaced the property or part referred to in *subsection (1)(c)*, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, and *section 95(3)* shall apply with the necessary modifications for the purposes of this subsection.

(3) Where, in relation to the earlier benefit, the amount of the taxable value of the gift or inheritance which was attributable to the property or part referred to in *subsection (1)(c)* was part only of its value, a like part only of the value which, apart from this subsection, would fall to be reduced under this Chapter by virtue of this section is so reduced.

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98.—For the purposes of this Chapter—

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Value of business.

[FA 1994 s132]

- (a) the value of a business or of an interest in a business is taken to be its net value,
- (b) subject to *paragraph (c)*, the net value of a business shall be taken to be the market value of the assets used in the business (including goodwill) reduced by the aggregate market value of any liabilities incurred for the purposes of the business,
- (c) in ascertaining the net value of an interest in a business, no regard is had to assets or liabilities other than those by reference to which the net value of the entire business would fall to be ascertained.

99.—(1) Where a company is a member of a group and the business of any other company which is a member of the group falls within *section 93(3)*, then, unless that business consists wholly or mainly in the holding of land or buildings wholly or mainly occupied by members of the group whose business does not fall within *section 93(3)*, the value of shares in or securities of the company is taken for the purposes of this Chapter to be what it would be if that other company were not a member of the group.

Value of certain
shares and
securities.

[FA 1994 s133]

(2) (a) In this subsection “shares” include securities and “shares in a company” include other shares in the same company which are represented by those shares.

(b) Where unquoted shares in a company which is a member of a group are comprised in a gift or inheritance and shares in another company which is also a member of the group are quoted on the valuation date, the value of the first-mentioned shares is taken, for the purpose of this Chapter, to be what it would be if that other company were not a member of the group, unless those unquoted shares were in the beneficial ownership of the disponent immediately prior to the disposition and those quoted shares were unquoted—

(i) at some time prior to the gift or inheritance when they were in the beneficial ownership of the disponent or a member of that group, while being a member of such group, or

(ii) at 23 May 1994,

whichever is the later date.

100.—(1) In determining for the purposes of this Chapter what part of the taxable value of a gift or inheritance is attributable to the value of relevant business property, so much of the last-mentioned value as is attributable to—

Exclusion of value
of excepted assets.

[FA 1994 s134]

(a) any excepted assets within the meaning of *subsection (2)*, or

(b) any excluded property within the meaning of *subsection (7)*,

is disregarded.

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(2) An asset is an excepted asset in relation to any relevant business property if it was not used wholly or mainly for the purposes of the business concerned throughout the whole or the last 2 years of the relevant period; but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately prior to the gift or inheritance was also a member of that group is treated as use for the purposes of the business concerned, unless that other company's membership of the group is to be disregarded under *section 99*.

(3) The use of an asset for the purposes of a business to which *section 93(3)* relates is not treated as use for the purposes of the business concerned.

(4) *Subsection (2)* shall not apply in relation to an asset which is relevant business property by virtue only of *section 93(1)(e)*, and an asset is not relevant business property by virtue only of that provision unless either—

(a) it was used in the manner referred to in that provision—

(i) in the case where the disponent's interest in the business or the shares in or securities of the company carrying on the business are comprised in an inheritance taken on the date of death of the disponent, throughout the 2 years immediately preceding the date of the inheritance, or

(ii) in any other case, throughout the 5 years immediately preceding the date of the gift or inheritance,

or

(b) it replaced another asset so used and it and the other asset and any asset directly or indirectly replaced by that other asset were so used for periods which together comprised—

(i) in the case referred to at *paragraph (a)(i)*, at least 2 years falling within the 3 years immediately preceding the date of the inheritance, or

(ii) in any other case, at least 5 years falling within the 6 years immediately preceding the date of the gift or inheritance,

but where *section 97* applies *paragraphs (a) and (b)* are deemed to be complied with if the asset, or that asset and the asset or assets replaced by it, was or were so used throughout the period between the earlier and the subsequent benefit mentioned in that section, or throughout the part of that period during which it or they were in the beneficial ownership of the disponent or the disponent's spouse.

(5) Where part but not the whole of any land or building is used exclusively for the purposes of any business and the land or building would, but for this subsection, be an excepted asset, or, as the case may be, prevented by *subsection (4)* from being relevant business property, the part so used and the remainder are for the purposes of this section treated as separate assets, and the value of the part so

used shall (if it would otherwise be less) be taken to be such proportion of the value of the whole as may be just. Pt.10 S.100

(6) For the purposes of this section the relevant period, in relation to any asset, is the period immediately preceding the gift or inheritance during which the asset or, if the relevant business property is an interest in a business, a corresponding interest in the asset, was comprised in the disposition (within the meaning of *section 94*) or, if the business concerned is that of a company, was beneficially owned by that company or any other company which immediately before the gift or inheritance was a member of the same group.

(7) For the purposes of this section an asset is deemed not to have been used wholly or mainly for the purposes of the business concerned at any time when it was used wholly or mainly for the personal benefit of the donor or of a relative of the donor.

(8) Where, in relation to a gift or an inheritance—

- (a) relevant business property consisting of shares in or securities of a company are comprised in the gift or inheritance on the valuation date, and
- (b) property consisting of a business, or interest in a business, not falling within *section 93(3)* (in this section referred to as “company business property”) is on that date beneficially owned by that company or, where that company is a holding company of one or more companies within the same group, by any company within that group,

that company business property shall, for the purposes of *subsection (1)*, be excluded property in relation to those shares or securities unless it would have been relevant business property if—

- (i) it had been the subject matter of that gift or inheritance, and
- (ii) it had been comprised in the disposition for the periods during which it was in the beneficial ownership of that first-mentioned company or of any member of that group, while being such a member, or actually comprised in the disposition.

(9) In ascertaining whether or not company business property complies with *paragraphs (i) and (ii) of subsection (7), section 95* shall, with any necessary modifications, apply to that company business property as to a case to which *subsection (1) of section 95* relates.

101.—(1) In this section “relevant period”, in relation to relevant business property comprised in a gift or inheritance, means the period of 6 years commencing on the date of the gift or inheritance. Withdrawal of relief.
[FA 1994 s135]

(2) The reduction which would fall to be made under *section 92* in respect of relevant business property comprised in a gift or inheritance shall cease to be applicable if and to the extent that the property, or any property which directly or indirectly replaces it—

- (a) would not be relevant business property (apart from *section 94* and the conditions attached to *paragraphs (d) and (f) of subsection (1) of section 93* and other than by reason of bankruptcy or a bona fide winding-up on grounds of insolvency) in relation to a notional gift of such property

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taken by the same donee or successor from the same disponent at any time within the relevant period, unless it would be relevant business property (apart from *section 94* and the conditions attached to *paragraphs (d)* and *(f)* of *subsection (1)* of *section 93*) in relation to another such notional gift taken within a year after the first-mentioned notional gift,

- (b) is sold, redeemed or compulsorily acquired within the relevant period and is not replaced, within a year of the sale, redemption or compulsory acquisition, by other property (other than quoted shares or securities or unquoted shares or securities to which *section 99(2)(b)* relates) which would be relevant business property (apart from *section 94* and the condition attached to *section 93(1)(d)*) in relation to a notional gift of that other property taken by the same donee or successor from the same disponent on the date of the replacement,

and tax is chargeable in respect of the gift or inheritance as if the property were not relevant business property, but—

- (i) any land, building, machinery or plant which are comprised in the gift or inheritance and which qualify as relevant business property by virtue of *section 93(1)(e)* shall, together with any similar property which has replaced such property, continue to be relevant business property for the purposes of this section for so long as they are used for the purposes of the business concerned,
- (ii) this section shall not have effect where the donee or successor dies before the event which would otherwise cause the reduction to cease to be applicable.

Avoidance of double relief.
[FA 1994 s135A]

102.—Where the whole or part of the taxable value of any taxable gift or taxable inheritance is attributable to agricultural property to which *section 89(2)* applies, such whole or part of the taxable value is not reduced under this Chapter.

CHAPTER 3

Miscellaneous reliefs

Relief from double aggregation.
[FA 1985 s61(1) and (2)]

103.—(1) Property in respect of which tax is chargeable more than once on the same event is not included more than once in relation to that event in any aggregate referred to in *Schedule 2*.

(2) *Paragraph 5* of *Part 1* of *Schedule 2* shall not have effect in ascertaining the tax payable in respect of property which is chargeable to tax as being taken more than once on the same day.

Allowance for capital gains tax on the same event.
[FA 1985 s63]

104.—(1) Where gift tax or inheritance tax is charged in respect of property on an event happening on or after the date of the passing of this Act, and the same event constitutes for capital gains tax purposes a disposal of an asset (being the same property or any part of the same property), the capital gains tax, if any, chargeable on the disposal is not deducted in ascertaining the taxable value for the purposes of the gift tax or inheritance tax but, in so far as it has been paid, is deducted from the net gift tax or inheritance tax as a credit

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against the same; but, in relation to each asset, or to a part of each asset, so disposed of, the amount deducted is the lesser of—

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- (a) an amount equal to the amount of the capital gains tax attributable to such asset, or to the part of such asset, or
- (b) an amount equal to the amount of the gift tax or inheritance tax attributable to the property which is that asset, or that part of that asset.

(2) For the purposes of any computation of the amount of capital gains tax to be deducted under this section, any necessary apportionments are made of any reliefs or expenditure and the method of apportionment adopted is such method as appears to the Commissioners, or on appeal to the Appeal Commissioners, to be just and reasonable.

105.—Where tax is charged more than once in respect of the same property on the same event, the net tax payable which is earlier in priority is not deducted in ascertaining the taxable value for the purposes of the tax which is later in priority, but is deducted from the tax which is later in priority as a credit against the same, up to the net amount of the same.

Allowance for prior tax on the same event.

[CATA 1976 s34A]

106.—(1) If the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of gift tax or inheritance tax payable under the laws of the State and any tax imposed under the laws of that territory which is of a similar character or is chargeable by reference to death or to gifts *inter vivos* and that it is expedient that those arrangements should have the force of law, the arrangements shall, notwithstanding anything in any enactment, have the force of law.

Arrangements for relief from double taxation.

[CATA 1976 s66]

(2) Any arrangements to which the force of law is given under this section may include provision for relief from tax charged before the making of the arrangements and provisions as to property which is not itself subject to double tax, and the provisions of this section shall apply accordingly.

(3) For the purposes of *subsection (1)*, arrangements made with the head of a foreign state are regarded as made with the government of that foreign state.

(4) Where any arrangements have the force of law by virtue of this section, the obligation as to secrecy imposed by any enactment shall not prevent the Commissioners from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.

(5) (a) Any order made under this section may be revoked by a subsequent order and any such revoking order may contain such transitional provisions as appear to the Government to be necessary or expedient.

(b) Where an order is proposed to be made under this section, a draft of such order shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

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Other relief from
double taxation.[CATA 1976 s67(1)
to (3) and (5)]**107.**—(1) (a) In this section—

“foreign tax” means any tax which is chargeable under the laws of any territory outside the State and is of a character similar to estate duty, gift tax or inheritance tax;

“event” means—

(i) a death, or

(ii) any other event,

by reference to which the date of the gift or the date of the inheritance is determined.

(b) For the purposes of this section, a reference to property situate in a territory outside the State is a reference to property situate in that territory at the date of the gift or the date of the inheritance, as the case may be, or to property representing such property.

(2) Where the Commissioners are satisfied that a taxable gift or taxable inheritance, taken under a disposition by a donee or successor on the happening of any event, is reduced by the payment of foreign tax which is chargeable in connection with the same event under the same disposition in respect of property which is situate in the territory outside the State in which that foreign tax is chargeable, they shall allow a credit in respect of that foreign tax against the gift tax or inheritance tax payable by that donee or successor on that taxable gift or taxable inheritance; but such credit shall not exceed—

(a) the amount of the gift tax or inheritance tax payable in respect of the same property by reason of such property being comprised in any taxable gift or taxable inheritance taken under that disposition on the happening of that event, or

(b) the amount of that foreign tax,

whichever is the lesser.

(3) This section is subject to any arrangement to which the force of law is given under *section 106* and, if any such arrangement provides for the allowance of the amount of a tax payable in a territory outside the State as a credit against gift tax or inheritance tax, the provisions of the arrangement shall apply in relation to the tax payable in that territory in lieu of the provisions of *subsection (2)*.

(4) Where the foreign tax in respect of property comprised in a taxable gift or a taxable inheritance taken under a disposition on the happening of an event is, under the terms of the disposition, directed to be paid out of a taxable gift or a taxable inheritance (taken under that disposition on the happening of the same event) other than the taxable gift or taxable inheritance out of which it would be payable in the absence of such a direction, then, for the purposes of *subsection (2)*, the taxable gift or taxable inheritance out of which the foreign tax would be payable in the absence of such a direction, and no other taxable gift or taxable inheritance, is treated as reduced by the payment of the foreign tax.

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PART 11

MISCELLANEOUS

108.—(1) In this section “Inland Revenue affidavit” has the meaning referred to in *section 48(1)*.

Certificates for probate.

(2) Where an Inland Revenue affidavit has been delivered to the Commissioners and they are satisfied—

[CATA 1976 s60(1) to (5)]

(a) that an adequate payment on account of inheritance tax in respect of the property passing under the deceased person’s will or intestacy or Part IX or section 56 of the Succession Act 1965 has been made, or

(b) that the payment of inheritance tax in respect of such property may be deferred for the time being,

they shall certify in writing—

(i) that the Inland Revenue affidavit was delivered to them, and

(ii) (I) that a payment referred to in *paragraph (a)* has been made, or

(II) that the payment referred to in *paragraph (b)* has been deferred for the time being,

as the case may be.

(3) If, in the opinion of the Commissioners, the payment of inheritance tax in respect of the property passing under the deceased person’s will or intestacy or Part IX or section 56 of the Succession Act 1965 can not be deferred for the time being without serious risk of such tax not being recovered, they may refuse to issue the certificate referred to in *subsection (2)* until the tax has been paid, or until such payment as is referred to in *paragraph (a)* of that subsection has been made.

(4) The certificate required by section 30 of the Customs and Inland Revenue Act 1881, to be made by the proper officer of the court, shall not be made until a certificate of the Commissioners issued under *subsection (2)* has been produced to such officer and shall (instead of showing that the affidavit, if liable to stamp duty, has been duly stamped) show that the Commissioners have issued a certificate under *subsection (2)* and shall state the substance of the certificate so issued by the Commissioners.

(5) The form of certificate required to be given by the proper officer of the court under section 30 of the Customs and Inland Revenue Act 1881 may be prescribed by rule of court in such manner as may be necessary for giving effect to this Act.

109.—(1) In this section—

“banker” means a person who carries on banking business in the State and includes a friendly society, an industrial and provident society, a building society, the Post Office Savings Bank, a trustee savings bank and any person with whom money is lodged or deposited;

Payment of money standing in names of 2 or more persons.

[CATA 1976 s61(1) to (5) and (7) and (8)]

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“pay” includes transfer in the books of a banker and any dealings with any moneys which were lodged or deposited in the name of a person who died after the time of the lodgment or deposit and any other person or persons;

“current account” means an account which is customarily operated on by means of a cheque or banker’s order;

“banking business” has the meaning assigned to it by section 2 of the Central Bank Act 1971;

references to moneys lodged or deposited include references to shares of a building society, friendly society or industrial and provident society.

(2) Where, either before or after the passing of this Act, a sum of money exceeding €31,750 is lodged or deposited (otherwise than on a current account) in the State with a banker, in the joint names of 2 or more persons, and one of such persons (in this section referred to as the deceased) dies on or after the date of the passing of this Act, the banker shall not pay such money or any part of such money to the survivor or all or any of the survivors of such persons, or to any other person, unless or until there is furnished to such banker a certificate by the Commissioners certifying that there is no outstanding claim for inheritance tax in connection with the death of the deceased in respect of such money or any part of such money or a consent in writing by the Commissioners to such payment pending the ascertainment and payment of such tax.

(3) Notwithstanding anything contained in this Act, tax chargeable on the death of the deceased is deemed for the purposes of this section to become due on the day of the death of the deceased.

(4) A banker who, after the passing of this Act, pays money in contravention of this section is liable to a penalty of €1,265.

(5) Where a penalty is demanded of a banker under this section, the onus of proving that such certificate or such consent as is mentioned in this section was furnished to such banker before that banker paid such money shall lie on such banker.

(6) Where a penalty is demanded of a banker under this section, it shall be a good defence to prove that, at the time when such banker paid such money, that banker had reasonable ground for believing that none of the persons in whose joint names such money was lodged or deposited with that banker was dead.

(7) This section shall not apply where the sum of money referred to in *subsection (2)* is lodged or deposited in the joint names of 2 persons, one of whom dies on or after the date of the passing of this Act and is at the time of that person’s death the spouse of that other person.

Court to provide
for payment of tax.
[CATA 1976 s62]

110.—Where any suit is pending in any court for the administration of any property chargeable with tax under this Act, such court shall provide, out of any such property which may be in the possession or control of the court, for the payment to the Commissioners of any of the tax or the interest on that tax which remains unpaid.

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111.—(1) In this section—

“death duties” has the meaning assigned to it by section 30 of the Finance Act 1971; and

“purchaser or mortgagee” includes a person deriving title from or under a purchaser or mortgagee in the case of such a sale or mortgage as is referred to in this section.

(2) Where an interest in expectancy has, prior to 1 April 1975, been bona fide sold or mortgaged for full consideration in money or money’s worth, and that interest comes into possession on a death occurring on or after the date of the passing of this Act, the following provisions shall apply, that is—

- (a) the purchaser or mortgagee shall not be liable in respect of inheritance tax on the inheritance referred to in *paragraph (b)* for an amount greater than that referred to in *paragraph (c)*;
- (b) the inheritance referred to in *paragraph (a)* is the inheritance of property in which the interest so sold or mortgaged subsists and which arises in respect of the interest of the remainderman referred to in *section 32* so coming into possession;
- (c) the amount referred to in *paragraph (a)* shall be the amount that would then have been payable by the purchaser or mortgagee in respect of death duties on the property in which the interest subsists as property passing under the same disposition as that under which the inheritance is taken, if the property, on so coming into possession, had been chargeable to death duties—
 - (i) under the law in force, and
 - (ii) at the rate or rates having effect,
at the date of the sale or mortgage;
- (d) where such an interest is so mortgaged, any amount of inheritance tax payable in respect of the inheritance referred to in *paragraph (b)*, and from the payment of which the mortgagee is relieved under this section, shall, notwithstanding the priority referred to in *section 60(1)*, rank, in relation to property charged with such tax under that section, as a charge subsequent to the mortgage;
- (e) any person, other than the purchaser or mortgagee, who is accountable for the payment of so much of the inheritance tax as is not the liability of the purchaser or mortgagee by virtue of the relief given by this section, shall not be liable for the payment of any amount in respect of such inheritance tax in excess of the amount which is available to that person for such payment by reason of there being, at the time when the interest comes into possession, other property, or an equity of redemption, or both, subject to the same trusts, under the disposition referred to in *paragraph (c)*, as the property in which the interest in expectancy subsists; and

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Liability to tax in respect of certain sales and mortgages.

[CATA 1976 s64]

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Pr.11 S.111 (f) nothing in *section 45(7)* or *(8)* or *section 60(1)* shall be construed as derogating from the relief given by this section to a purchaser or mortgagee.

References in deeds and wills, etc. to death duties.
[CATA 1976 s65] **112.**—In so far as a provision in a document refers (in whatever terms) to any death duty to arise on any death occurring on or after the date of the passing of this Act, it shall apply, as far as may be, as if the reference included a reference to inheritance tax—

- (a) if that document was executed prior to 31 March 1976, and the reference is to legacy duty and succession duty or either of them,
- (b) if that document was so executed, and the reference is to estate duty, and it may reasonably be inferred from all the circumstances (including any similarity of the incidence of inheritance tax to that of estate duty) that the inclusion of the reference to inheritance tax would be just, and
- (c) whether the document was executed prior to, on or after 31 March 1976, if the reference is to death duties, without referring to any particular death duty.

Tax, in relation to certain legislation.
[CATA 1976 s68] **113.**—(1) Inheritance tax shall not be a duty or a death duty for the purposes of *section 9* of the *Succession Act 1965*, but it shall be a death duty for the purposes of—

- (a) *section 34(3)* of that Act,
- (b) the definition of pecuniary legacy in *section 3(1)* of that Act, and
- (c) *paragraph 8* of *Part II* of the *First Schedule* to that Act.

(2) *Section 72* of the *Registration of Title Act 1964* shall apply as if gift tax and inheritance tax were mentioned in that Act as well as estate duty and succession duty.

Delivery, service and evidence of notices and forms, etc.
[CATA 1976 s70] **114.**—(1) Any notice which under this Act is authorised or required to be given by the Commissioners may be served by post.

(2) A notice or form which is to be served on a person may be either delivered to that person or left at that person's usual or last known place of abode.

(3) Prima facie evidence of any notice given under this Act by the Commissioners or by an officer of the Commissioners may be given in any proceedings by production of a document purporting—

- (a) to be a copy of that notice, or
- (b) if the details specified in that notice are contained in an electronic, photographic or other record maintained by the Commissioners, to reproduce those details in so far as they relate to that notice,

and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed,

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the signature, or that the person signing and giving it was authorised so to do. Pt.11 S.114

(4) In any case where a time limit is specified by or under this Act, other than *Part 8* of this Act, for the doing of any act required by or under this Act, other than *Part 8* of this Act, to be done by any person other than the Commissioners, the Commissioners may, in their discretion, extend such time limit.

115.—(1) Section 1 of the Provisional Collection of Taxes Act 1927 is hereby amended by the insertion of “and gift tax and inheritance tax” before “but no other tax or duty”. Extension of certain Acts. [CATA 1976 s69]

(2) Section 39 of the Inland Revenue Regulation Act 1890, is hereby amended by the insertion of “gift tax and inheritance tax,” before “stamp duties”.

116.—(1) The Commissioners shall make such regulations as seem to them to be necessary for the purpose of giving effect to this Act and of enabling them to discharge their functions under the Act. Regulations. [CATA 1976 s71]

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under that regulation.

117.—(1) Tax is hereby placed under the care and management of the Commissioners. Care and management. [CATA 1976 s72]

(2) Subject to the direction and control of the Commissioners, any power, function or duty conferred or imposed on the Commissioners by this Act may be exercised or performed on their behalf by an officer of the Commissioners.

PART 12

REPEALS, ETC.

118.—(1) Subject to *subsection (2)*, the Capital Acquisitions Tax Act 1976 is hereby repealed. Repeals.

(2) This Act shall not apply in relation to gifts and inheritances taken before the date of the passing of this Act, and the repealed enactments shall continue to apply in relation to such gifts and inheritances to the same extent that they would have applied if this Act had not been enacted.

(3) Notwithstanding *subsection (1)*, any provision of the repealed enactments which imposes a fine, forfeiture, penalty or punishment for any act or omission shall, in relation to any act or omission which took place or began before the date of the passing of this Act, continue to apply in substitution for the provision of this Act to which it corresponds.

(4) Anything done under or in connection with the provisions of the repealed enactments which correspond to the provisions of this Act shall be deemed to have been done under or in connection with

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Consequential amendments to other enactments. **119.**—*Schedule 3*, which provides for amendments to other enactments consequential on the passing of this Act, shall apply for the purposes of this Act.

Transitional provisions. **120.**—(1) The Commissioners shall have all the jurisdictions, powers and duties in relation to capital acquisitions tax under this Act which they had before the passing of this Act.

(2) The continuity of the operation of the law relating to capital acquisitions tax shall not be affected by the substitution of this Act for the repealed enactments.

(3) Any reference, whether express or implied, in any enactment or document (including this Act and any Act amended by this Act)—

(a) to any provision of this Act, or

(b) to things done or to be done under or for the purposes of any provisions of this Act,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision in the repealed enactments applied or had applied, a reference to, or, as the case may be, to things done or to be done under or for the purposes of, that corresponding provision.

(4) Any reference, whether express or implied, in any enactment (including the repealed enactments and enactments passed after the passing of this Act)—

(a) to any provision of the repealed enactments, or

(b) to things done or to be done under or for the purposes of any provisions of the repealed enactments,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act applies, a reference to, or as the case may be, to things done or to be done under, or for the purposes of, that corresponding provision.

[2003.]

*Capital Acquisitions Tax
Consolidation Act 2003.*

[No. 1.]

SCHEDULE 1

Sections 28, 35
and 51.

VALUATION OF LIMITED INTERESTS

[CATA 1976
First Sch.]

PART 1

*Rules relating to the valuation of limited interests utilising Tables A
and B in Parts 2 and 3 of this Schedule*

1. The value of an interest for a single life in a capital sum shall be that sum multiplied by the factor, contained in *column (3) or (4)* respectively of *Table A*, which is appropriate to the age and sex of the person in respect of the duration of whose life the interest is to be valued.

2. The value of an interest in a capital sum for the joint continuance of 2 lives shall be the value of an interest in that sum for the older life, ascertained in accordance with *rule 1*, multiplied by the joint factor in *column (2)* of *Table A* which is appropriate to the younger life.

3. The value of an interest in a capital sum for the joint continuance of 3 or more lives shall be the value of an interest in that sum for the joint continuance of the 2 oldest of those lives, ascertained in accordance with *rule 2*, multiplied by the joint factor of the youngest of those lives.

4. The value of an interest in a capital sum for the longer of 2 lives shall be ascertained by deducting from the total of the values of an interest in that sum for each of those lives, ascertained in accordance with *rule 1*, the value of an interest in the capital sum for the joint continuance of the same 2 lives, ascertained in accordance with *rule 2*.

5. Where an interest is given for the longest of more than 2 lives, it shall be valued, in accordance with *rule 4*, as if it were for the longer of the 2 youngest of those lives.

6. The value of an interest in a capital sum for a period certain shall be the aggregate of—

(a) the value of the capital sum, multiplied by the factor in *Table B* which is appropriate to the number of whole years in that period (or zero if that period is less than a whole year); and

(b) where the period is not an integral number of years, a fraction (of which the numerator is the number of days in excess of the number of whole years, if any, in that period and the denominator is 365) of the difference between—

(i) the value of an interest in the capital sum for one year longer than the number of whole years, if any, in the period; and

(ii) the value ascertained under the provisions of *paragraph (a)* (or zero, where so provided in that paragraph).

7. In the case of a limited interest where the interest is for a life or lives, but is guaranteed for a period certain, the value shall be the higher of—

SCH.1

(a) the value of an interest for such life or lives, ascertained in accordance with the appropriate rule in this Part of this Schedule; and

(b) the value of an interest for the period certain, ascertained in accordance with *rule 6*.

8. The value of a limited interest for which the other rules in this Part of this Schedule provide no method of valuing shall be ascertained as if the interest taken were a series of absolute interests in the property applied in satisfaction of the interest from time to time, taken as separate gifts or inheritances as the case may be.

PART 2

TABLE A

Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)
0	.99	.9519	.9624
1	.99	.9767	.9817
2	.99	.9767	.9819
3	.99	.9762	.9817
4	.99	.9753	.9811
5	.99	.9742	.9805
6	.99	.9730	.9797
7	.99	.9717	.9787
8	.99	.9703	.9777
9	.99	.9688	.9765
10	.99	.9671	.9753
11	.98	.9653	.9740
12	.98	.9634	.9726
13	.98	.9614	.9710
14	.98	.9592	.9693
15	.98	.9569	.9676
16	.98	.9546	.9657
17	.98	.9522	.9638
18	.98	.9497	.9617
19	.98	.9471	.9596
20	.97	.9444	.9572
21	.97	.9416	.9547
22	.97	.9387	.9521
23	.97	.9356	.9493
24	.97	.9323	.9464
25	.97	.9288	.9432
26	.97	.9250	.9399
27	.97	.9209	.9364
28	.97	.9165	.9328
29	.97	.9119	.9289
30	.96	.9068	.9248
31	.96	.9015	.9205
32	.96	.8958	.9159
33	.96	.8899	.9111
34	.96	.8836	.9059
35	.96	.8770	.9005
36	.96	.8699	.8947
37	.96	.8626	.8886
38	.95	.8549	.8821
39	.95	.8469	.8753
40	.95	.8384	.8683
41	.95	.8296	.8610
42	.95	.8204	.8534
43	.95	.8107	.8454
44	.94	.8005	.8370
45	.94	.7897	.8283
46	.94	.7783	.8192

[2003.]

*Capital Acquisitions Tax
Consolidation Act 2003.*

[No. 1.]

TABLE A—*contd.*

SCH.1

Years of age (1)	Joint Factor (2)	Value of an interest in a capital of €1 for a male life aged as in column 1 (3)	Value of an interest in a capital of €1 for a female life aged as in column 1 (4)
47	.94	.7663	.8096
48	.93	.7541	.7997
49	.93	.7415	.7896
50	.92	.7287	.7791
51	.91	.7156	.7683
52	.90	.7024	.7572
53	.89	.6887	.7456
54	.89	.6745	.7335
55	.88	.6598	.7206
56	.88	.6445	.7069
57	.88	.6288	.6926
58	.87	.6129	.6778
59	.86	.5969	.6628
60	.86	.5809	.6475
61	.86	.5650	.6320
62	.86	.5492	.6162
63	.85	.5332	.6000
64	.85	.5171	.5830
65	.85	.5007	.5650
66	.85	.4841	.5462
67	.84	.4673	.5266
68	.84	.4506	.5070
69	.84	.4339	.4873
70	.83	.4173	.4679
71	.83	.4009	.4488
72	.82	.3846	.4301
73	.82	.3683	.4114
74	.81	.3519	.3928
75	.80	.3352	.3743
76	.79	.3181	.3559
77	.78	.3009	.3377
78	.76	.2838	.3198
79	.74	.2671	.3023
80	.72	.2509	.2855
81	.71	.2353	.2693
82	.70	.2203	.2538
83	.69	.2057	.2387
84	.68	.1916	.2242
85	.67	.1783	.2104
86	.66	.1657	.1973
87	.65	.1537	.1849
88	.64	.1423	.1730
89	.62	.1315	.1616
90	.60	.1212	.1509
91	.58	.1116	.1407
92	.56	.1025	.1310
93	.54	.0939	.1218
94	.52	.0858	.1132
95	.50	.0781	.1050
96	.49	.0710	.0972
97	.48	.0642	.0898
98	.47	.0578	.0828
99	.45	.0517	.0762
100 or over	.43	.0458	.0698

[No. 1.]

*Capital Acquisitions Tax
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[2003.]

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PART 3

TABLE B

(Column (2) shows the value of an interest in a capital of €1 for
the number of years shown in column (1))

Number of years (1)	Value (2)	Number of years (1)	Value (2)
1	.0654	26	.8263
2	.1265	27	.8375
3	.1836	28	.8480
4	.2370	29	.8578
5	.2869	30	.8669
6	.3335	31	.8754
7	.3770	32	.8834
8	.4177	33	.8908
9	.4557	34	.8978
10	.4913	35	.9043
11	.5245	36	.9100
12	.5555	37	.9165
13	.5845	38	.9230
14	.6116	39	.9295
15	.6369	40	.9360
16	.6605	41	.9425
17	.6826	42	.9490
18	.7032	43	.9555
19	.7225	44	.9620
20	.7405	45	.9685
21	.7574	46	.9750
22	.7731	47	.9815
23	.7878	48	.9880
24	.8015	49	.9945
25	.8144	50 and over	1.0000

[2003.]

*Capital Acquisitions Tax
Consolidation Act 2003.*

[No. 1.]

SCHEDULE 2

*Sections 46, 50, 69
and 76.*

COMPUTATION OF TAX

[CATA 1976
Second Sch.,
Pt.I, paras. 1 to 5
and 8 to 11 and
Pt.II; FA 2001 ss.
221 and 222]

PART 1

Preliminary

1. In this Schedule—

“group threshold”, in relation to a taxable gift or a taxable inheritance taken on a particular day, means—

(a) €381,000, where—

(i) the donee or successor is on that day the child, or minor child of a deceased child, of the disponer, or

(ii) the successor is on that day a parent of the disponer and—

(I) the interest taken is not a limited interest, and

(II) the inheritance is taken on the death of the disponer;

(b) €38,100, where the donee or successor is on that day, a lineal ancestor, a lineal descendant (other than a child, or a minor child of a deceased child), a brother, a sister, or a child of a brother or of a sister of the disponer;

(c) €19,050, where the donee or successor (who is not a spouse of the disponer) does not, on that day, stand to the disponer in a relationship referred to in *subparagraph (a)* or *(b)*;

“the consumer price index number”, in relation to a year, means the All Items Consumer Price Index Number for that year as compiled by the Central Statistics Office and expressed on the basis that the consumer price index number at mid-November 1996 is 100;

“Table” means the Table contained in *Part 2* of this Schedule;

“threshold amount” in relation to the computation of tax on any aggregate of taxable values under *paragraph 3*, means the group threshold that applies in relation to all of the taxable gifts and taxable inheritances included in that aggregate but, in computing under this Schedule the tax chargeable on a taxable gift or taxable inheritance, that group threshold shall, for the purposes of this definition, be multiplied by the figure, rounded to the nearest third decimal place, determined by dividing by 104.8 the consumer price index number for the year immediately preceding the year in which that taxable gift or taxable inheritance is taken.

2. In the Table “Value” means the appropriate aggregate referred to in *paragraph 3*.

3. The tax chargeable on the taxable value of a taxable gift or a taxable inheritance (in this Schedule referred to as the first-mentioned gift or inheritance) taken by a donee or successor shall be of an amount equal to the amount by which the tax computed on aggregate A exceeds the tax computed on aggregate B, where—

SCH.2

- (a) aggregate A is the aggregate of the following:
- (i) the taxable value of the first-mentioned gift or inheritance, and
 - (ii) the taxable value of each taxable gift and taxable inheritance taken previously by that donee or successor on or after 5 December 1991, which has the same group threshold as the first-mentioned gift or inheritance,
- (b) aggregate B is the aggregate of the taxable values of all such taxable gifts and taxable inheritances so previously taken which have the same group threshold as the first-mentioned gift or inheritance, and
- (c) the tax on an aggregate is computed at the rate or rates of tax applicable under the Table to that aggregate, but where—
- (i) in a case where no such taxable gift or taxable inheritance was so previously taken, the amount of the tax computed on aggregate B shall be deemed to be nil, and
 - (ii) the amount of an aggregate that comprises only a single taxable value shall be equal to that value.

4. In the Table any rate of tax shown in the second column is that applicable to such portion of the value (within the meaning of *paragraph 2*) as is shown in the first column.

5. For the purposes of this Schedule, all gifts and inheritances which have the same group threshold and which are taken by a donee or successor on the same day shall count as one, and to ascertain the amount of tax payable on one such gift or inheritance of several so taken on the same day, the amount of tax computed under this Schedule as being payable on the total of such gifts and inheritances so taken on that day shall be apportioned rateably, according to the taxable values of the several taxable gifts and taxable inheritances so taken on that day.

6. Where any donee or successor is, at the date of the gift or at the date of the inheritance, the surviving spouse of a deceased person who, at the time of that deceased spouse's death, was of nearer relationship than such donee or successor to the disponer, then such donee or successor is, in the computation of the tax payable on such taxable gift or taxable inheritance, deemed to bear to the disponer the relationship of that deceased person.

7. (1) In this paragraph—

“company” means a private company which, for the relevant period—

- (a) is a private company controlled by the disponer and of which the disponer is a director, and
- (b) is not a private non-trading company;

“control”, in relation to a company, is construed in accordance with *section 27(4)(b)*;

[2003.]

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[No. 1.]

“investment income”, in relation to a private company, means income which, if the company were an individual, would not be earned income within the meaning of section 3 of the Taxes Consolidation Act 1997; SCH.2

“nominee” has the same meaning as it has in *section 27*;

“private company” has the meaning assigned to it by *section 27*;

“private company controlled by the disponer” means a private company that is under the control of any one or more of the following, that is—

- (a) the disponer,
- (b) nominees of the disponer,
- (c) the trustees of a settlement made by the disponer;

“private non-trading company” means a private company—

- (a) whose income (if any) in the 12 months preceding the date at which a share in that company is to be valued consisted wholly or mainly of investment income; and
- (b) whose property, on the date referred to in *paragraph (a)*, consisted wholly or mainly of property from which investment income is derived;

“relevant period” means—

- (a) the period of 5 years ending on the date of the disposition;
or
- (b) where, at the date of the disposition,
 - (i) an interest in possession in—
 - (I) the property referred to in *subparagraph (2)(a)*,
or
 - (II) the shares referred to in *subparagraph (2)(b)*,as the case may be, is limited to the disponer under the disposition, and
 - (ii) such property is not, or such shares are not, property consisting of the appropriate part of property, within the meaning of *section 5(5)*, on which is charged or secured an annuity or other annual right limited to cease on the death of the disponer,

the period of 5 years ending on the coming to an end of that interest,

subject, in relation to work, to the exclusion of reasonable periods of annual or sick leave from that period of 5 years.

(2) For the purpose of computing the tax payable on a gift or inheritance, the donee or successor is deemed to bear to the disponer the relationship of a child in any case where the donee or successor is a child of a brother, or a child of a sister, of the disponer and either—

SCH.2

- (a) the donee or successor has worked substantially on a full-time basis for the disponent for the relevant period in carrying on, or in assisting in carrying on, the trade, business or profession of the disponent, and the gift or inheritance consists of property which was used in connection with that business, trade or profession; or
- (b) the donee or successor has worked substantially on a full-time basis for a company for the relevant period in carrying on, or in assisting in carrying on, the trade, business or profession of the company, and the gift or inheritance consists of shares in that company.
- (3) Without prejudice to the generality of *subparagraph (2)*, a donee or successor is not deemed to be working substantially on a full-time basis for a disponent or a company unless—

- (a) where the gift or inheritance consists of property which was used in connection with the business, trade or profession of the disponent, the donee or successor works—
- (i) more than 24 hours a week for the disponent, at a place where that business, trade or profession, is carried on, or
- (ii) more than 15 hours a week for the disponent, at a place where that business, trade or profession is carried on, and such business, trade or profession is carried on exclusively by the disponent, any spouse of the disponent, and the donee or successor,

or

- (b) where the gift or inheritance consists of shares in the company, the donee or successor works—
- (i) more than 24 hours a week for the company, at a place where the business, trade or profession of the company is carried on, or
- (ii) more than 15 hours a week for the company, at a place where the business, trade or profession of the company is carried on, and such business, trade or profession is carried on exclusively by the disponent, any spouse of the disponent, and the donee or successor.

(4) This paragraph shall not apply to a gift or inheritance taken by a donee or successor under a discretionary trust.

8. (a) In this paragraph “specified disposition” means a disposition—
- (i) the date of which is a date prior to 1 April 1975,
- (ii) in relation to which the disponent is a grandparent of the donee or successor, and
- (iii) in which the marriage of the parents of the donee or successor was, at the date of the disposition, expressed to be the consideration.

(b) Where, on the cesser of a limited interest to which a parent

[2003.]

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of the donee or successor was entitled in possession, the donee or successor takes a gift or an inheritance under a specified disposition, then, for the purpose of computing the tax payable on the gift or inheritance, the donee or successor is deemed to bear to the disponent the relationship of a child. SCH.2

9. (1) In this paragraph—

“the appropriate period” means periods which together comprised at least 5 years falling within the 18 years immediately following the birth of the donee or successor.

(2) Where, on a claim being made to them in that behalf, the Commissioners are, subject to *subparagraph (3)*, satisfied—

(a) where the inheritance is taken by a successor on the date of death of the disponent, that the successor had, prior to the date of the inheritance, been placed in the foster care of the disponent under the Child Care (Placement of Children in Foster Care) Regulations 1995 (S.I. No. 260 of 1995), or the Child Care (Placement of Children with Relatives) Regulations 1995 (S.I. No. 261 of 1995), or

(b) that throughout the appropriate period the donee or successor—

(i) has resided with the disponent, and

(ii) was under the care of and maintained by the disponent at the disponent’s own expense,

then, subject to *subparagraph (3)*, for the purposes of computing the tax payable on that gift or inheritance, that donee or successor is deemed to bear to that disponent the relationship of a child.

(3) Relief under *subparagraph (2)* shall not apply where the claim for such relief is based on the uncorroborated testimony of one witness.

10. Where, on a claim being made to them in that behalf, the Commissioners are satisfied that—

(a) the donee or successor had at the date of the gift or the date of the inheritance been adopted in the manner referred to in *paragraph (b)* of the definition of “child” contained in *section 2(1)*, and

(b) the disponent is the natural mother or the natural father of the donee or successor,

then, notwithstanding *section 2(5)*, for the purpose of computing the tax payable on that gift or inheritance, that donee or successor is deemed to bear to that disponent the relationship of a child.

11. For the purposes of this Schedule, a reference to a gift or an inheritance, or to a taxable gift or a taxable inheritance, includes a reference to a part of a gift or an inheritance, or to a part of a taxable gift or a taxable inheritance, as the case may be.

PART 2

TABLE

Portion of Value	Rate of tax Per cent
The threshold amount	Nil
The balance	20

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

In the enactments specified in *column (1)* of the following Table for the words set out or referred to in *column (2)*, there shall be substituted the words set out in the corresponding entry in *column (3)*.

Enactment Amended (1)	Words to be replaced (2)	Words to be substituted (3)
<i>Value-Added Tax Act 1972:</i> section 30(5)(b)(i)	section 38 of the Capital Acquisitions Tax Act 1976	<i>section 48 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 30(5)(b)(ii)	section 38	<i>section 48</i>
<i>The Rules of the Superior Courts (S.I. No. 15 of 1986):</i> Order 79, rule 84	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
Order 80, rule 85	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
<i>Ethics in Public Office Act 1995:</i> section 2(4)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
<i>Taxes Consolidation Act 1997:</i> section 8(1)(c)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 176(1)(b)(i)(I)	section 21 of the Capital Acquisitions Tax Act 1976	<i>section 30 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 577(5)(a)(ii)(I)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 577(5)(a)(ii)(II)	section 55 section 39 of the Finance Act 1978	<i>section 77</i> <i>section 77(6) and (7) of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 730GB	section 63 of the Finance Act 1985	<i>section 104 of the Capital Acquisitions Tax Act 2003</i>
section 739G(5)	section 63 of the Finance Act 1985	<i>section 104 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 747E(5)(a)	section 63 of the Finance Act 1985	<i>section 104 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 811(1)(a), in paragraph (iv) of the definition of "the Acts"	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>

Enactment Amended (1)	Words to be replaced (2)	Words to be substituted (3)
section 818(c)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 825(1)(c)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 858(1)(a), in paragraph (vi) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 859(1), in paragraph (f) of the definition of “the Revenue Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 887(1), in paragraph (d) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 912(1), in paragraph (f) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 917D(1), in paragraph (e) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1002(1)(a), in paragraph (vi) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1003(1)(a), in paragraph (iii) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1006(1), in paragraph (d) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1006A(1), in paragraph (e) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1078(1), in paragraph (f) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1079(1), in paragraph (f) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1086(1), in paragraph (d) of the definition of “the Acts”	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 1089(2)	section 41 of the Capital Acquisitions Tax Act 1976	<i>section 51 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 1104(5)	Capital Acquisitions Tax Act 1976	<i>Capital Acquisitions Tax Consolidation Act 2003</i>
<i>Stamp Duties Consolidation Act 1999:</i> section 19	section 15 of the Capital Acquisitions Tax Act 1976	<i>section 26 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 91(2)(b)(ii)	section 16 of the Capital Acquisitions Tax Act 1976	<i>section 27 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 92(1)(b)(ii)	section 16 of the Capital Acquisitions Tax Act 1976	<i>section 27 of the Capital Acquisitions Tax Consolidation Act 2003</i>
section 92B(3)(b)(ii)	section 16 of the Capital Acquisitions Tax Act 1976	<i>section 27 of the Capital Acquisitions Tax Consolidation Act 2003</i>

SCH.3

Enactment Amended (1)	Words to be replaced (2)	Words to be substituted (3)
<i>Finance (No. 2) Act 2000:</i> section 5(1), definition of “Act of 1976”	“Act of 1976” means the Capital Acquisitions Tax Act 1976	“Act of 2003” means the <i>Capital Acquisitions Tax Consolidation Act 2003</i>
section 5(1), in the definition of “date of the disposition”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “discretionary trust”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “disponer”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “disposition”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “donee”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “entitled in possession”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “gift”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “interest in expectancy”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “limited interest”	section 2 of the Act of 1976	<i>section 2 of the Act of 2003</i>
section 5(1), in the definition of “on a death”	section 3 of the Act of 1976	<i>section 3 of the Act of 2003</i>