

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 decreased as a result of the payment of the consideration or the making of the disposition, and

(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.