

Death. CGTA75 s14; CGT(A)A78 s6(1) 573.—(1) In this section, references to assets of which a deceased person was competent to dispose are references to assets of the deceased which the deceased could if of full age and capacity have disposed of by will, assuming that all the assets were situated in the State and that the deceased was domiciled in the State, and include references to the deceased's severable share in any assets to which immediately before his or her death he or she was beneficially entitled as a joint tenant.

(2) For the purposes of the Capital Gains Tax Acts, the assets of which a deceased person was competent to dispose—

(a) shall be deemed to be acquired on his or her death by the personal representatives or other person on whom they devolve for a consideration equal to their market value at the date of the death; but

(b) shall not be deemed to be disposed of by him or her on his or her death (whether or not they were the subject of a testamentary disposition).

(3) Allowable losses sustained by an individual in the year of assessment in which he or she dies may, in so far as they cannot be deducted from chargeable gains accruing in that year, be deducted from chargeable gains accruing to the deceased in the 3 years of assessment preceding the year of assessment in which the death occurs, taking chargeable gains accruing in a later year before those accruing in an earlier year, and there shall be made all such amendments of assessments or repayments of tax as may be necessary to give effect to this subsection.

(4) In relation to property forming part of the estate of a deceased person, the personal representatives shall for the purposes of the Capital Gains Tax Acts be treated as being a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives), and that body shall be treated as having the deceased's residence, ordinary residence and domicile at the date of death.

(5) Where any asset is acquired by a person as legatee no chargeable gain shall accrue to the personal representatives, but the legatee shall be treated as if the personal representatives' acquisition of the asset had been the legatee's acquisition of the asset.

(6) Where not more than 2 years, or such longer period as the Revenue Commissioners may by notice in writing allow, after a death any of the dispositions of the property of which the deceased was competent to dispose, whether effected by will or under the law relating to intestacies or otherwise, are varied by a deed of family arrangement or similar instrument, this section shall apply as if the variations made by the deed or other instrument were effected by the deceased, and no disposition made by the deed or other instrument shall constitute a disposal for the purposes of the Capital Gains Tax Acts.