

Residence treatment of donors of gifts to the State. FA77 s53 825.—(1) In this section—

“the Acts” means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts, and
- (c) the Capital Acquisitions Tax Act, 1976 ;

“donor” means an individual who makes a gift to the State;

“gift” means a gift of property to the State which, on acceptance of the gift by the Government pursuant to the State Property Act, 1954 , becomes vested pursuant to that Act in a State authority within the meaning of that Act;

“Irish tax” means any tax imposed by the Acts;

“property” includes interests and rights of any description;

“relevant date”, in relation to an individual (being a donor or the spouse of a donor), means the date (not being earlier than the 1st day of September, 1974) on which the individual leaves the State for the purpose of residence (other than occasional residence) outside the State;

“tax in that country” means any tax imposed in that country which is identical with or substantially similar to Irish tax;

“visits” means—

(a) in relation to a donor, visits by the donor to the State after the relevant date for the purpose of advising on the management of the property which is the subject of the gift, being visits that are in the aggregate less than 182 days in any year of assessment in which they are made, and

(b) in relation to the spouse of a donor, visits by that spouse when accompanying the donor on visits of the kind referred to in paragraph (a).

(2) Where for any year of assessment a person (being a donor or the spouse of a donor) is resident in a country outside the State for the purposes of tax in that country and is chargeable to that tax without any limitation as to chargeability, then, notwithstanding anything to the contrary in the Tax Acts—

(a) as respects the year of assessment in which the relevant date occurs, that person shall not as from the relevant date be regarded as ordinarily resident in the State for the purposes of Irish tax, and

(b) as respects any subsequent year of assessment, in determining whether that person is resident or ordinarily resident in the State for the purposes of Irish tax, visits shall be disregarded.