

Payments relating to retirement, etc. CATA 1976 s56 80.—(1) In this section—

“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;

“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 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.