

## SCHEDULE 2 Computation of tax

Sections 46, 50, 69 and 76.

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—

(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 disponent, 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 disponent 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 disposer and of which the disposer 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);

“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 ;

“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 disposer” means a private company that is under the control of any one or more of the following, that is—

(a) the disposer,

(b) nominees of the disposer,

(c) the trustees of a settlement made by the disposer;

“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 disposer 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 disposer,

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 disposer 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 disposer and either—

(a) the donee or successor has worked substantially on a fulltime basis for the disposer for the relevant period in carrying on, or in assisting in carrying on, the trade, business or profession of the disposer, 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 disposer 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 disposer, the donee or successor works—

(i) more than 24 hours a week for the disposer, at a place where that business, trade or profession is carried on, or

(ii) more than 15 hours a week for the disposer, at a place where that business, trade or profession is carried on, and such business, trade or profession is carried on exclusively by the disposer, any spouse of the disposer, 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 disposer, any spouse of the disposer, 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 consideration.

(b) Where, on the cesser of a limited interest to which a parent 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.

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 ), or the Child Care (Placement of Children with Relatives) Regulations 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
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