

Income under dispositions for short periods. ITA67 s439; FA95 s13(1)(a) and (2) 792.—(1) (a) In this subsection, “relevant individual” means an individual who is—

(i) permanently incapacitated by reason of mental or physical infirmity, or

(ii) aged 65 years or over.

(b) Any income which, by virtue of or in consequence of any disposition made directly or indirectly by any person (other than a disposition made for valuable and sufficient consideration), is payable to or applicable for the benefit of any other person, but excluding any income which—

(i) arises from capital of which the disponent by the disposition has divested absolutely himself or herself in favour of or for the benefit of the other person,

(ii) being payable to any university or college, being a university or college in the State, for the purpose of enabling that university or college to carry on research, is so payable for a period which is or may be 3 years or longer,

(iii) being payable to any body of persons to which section 209 applies, is so payable for a period which is or may be 3 years or longer,

(iv) being payable to a relevant individual for the individual's own use, is so payable for a period which exceeds or may exceed 6 years, or

(v) being applicable for the benefit of a named relevant individual, is so applicable for a period which exceeds or may exceed 6 years,

shall be deemed for the purposes of the Income Tax Acts to be the income of the person, if living, by whom the disposition was made and not to be the income of any other person.

(2) (a) This subsection shall apply to a disposition or dispositions of a kind or kinds referred to in subparagraphs (ii) to (v) of subsection (1)(b) made directly or indirectly by a person being an individual (in this subsection referred to as “the disponent”) except in so far as, by virtue or in consequence of such disposition or dispositions, income is payable or applicable in a year of assessment, in the manner referred to in subparagraph (iv) or (v) of that subsection, to or for the benefit of an individual referred to in subsection (1)(a)(i).

(b) Notwithstanding subsection (1), in relation to the disponent, any income which—

(i) is payable or applicable in a year of assessment by virtue or in consequence of a disposition or dispositions to which this subsection applies, and

(ii) is in excess of 5 per cent of the total income of the disponent for the year of assessment,

shall be deemed for the purposes of the Income Tax Acts to be the income of the disposer, if living, and not to be the income of any other person.

(c) Where paragraph (b) applies in relation to the disposer, for the purpose of determining for income tax purposes the amount of income which remains the income of persons other than the disposer for a year of assessment by virtue or in consequence of a disposition or dispositions to which this subsection applies, the aggregate of the income so remaining shall be apportioned amongst those other persons in proportion to their entitlements under such disposition or dispositions for that year.

(3) (a) In this subsection, “fund” means a fund—

(i) held on irrevocable trusts under the law of the State,

(ii) administered in the State, and

(iii) having for its sole purpose the granting of financial or other aid to universities, colleges or schools in the State in order to assist such universities, colleges or schools to teach any one or more of the natural sciences.

(b) The reference in subsection (1)(b) to any university or college, being a university or college in the State, for the purpose of enabling that university or college to carry on research shall include references to income payable—

(i) to any university, college or school, being a university, college or school in the State, for the purpose of assisting such university, college or school to teach any one or more of the natural sciences, or

(ii) to a fund within the meaning of this subsection.

(4) As respects the year of assessment 1997-98, this section shall apply subject to paragraph 27 of Schedule 32 in respect of a disposition to which that paragraph applies by a person in so far as, by virtue or in consequence of such a disposition, income is payable in that year of assessment to or for the benefit of an individual to whom that paragraph applies.