

Taxable inheritance. CATA 1976 s12 (part) 11.—(1) In relation to an inheritance taken under a disposition, where the date of the disposition is before 1 December 1999, “taxable inheritance” in this Act means—

(a) in the case where the disponer is domiciled in the State at the date of the disposition under which the successor takes the inheritance, the whole of the inheritance, and

(b) in any case, other than the case referred to in paragraph (a), where, at the date of the inheritance—

(i) the whole of the property—

(I) which was to be appropriated to the inheritance, or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, the whole of the inheritance;

(ii) a part or proportion of the property—

(I) which was to be appropriated to the inheritance, or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, that part or proportion of the inheritance.

(2) In relation to an inheritance taken under a disposition, where the date of the disposition is on or after 1 December 1999, “taxable inheritance” in the Act means—

(a) in the case where the disponer is resident or ordinarily resident in the State at the date of the disposition under which the successor takes the inheritance, the whole of the inheritance,

(b) in the case where the successor (not being a successor in relation to a charge for tax arising by virtue of sections 15(1) and 20(1)) is resident or ordinarily resident in the State at the date of the inheritance, the whole of the inheritance, and

(c) in any case, other than a case referred to in paragraph (a) or (b), where at the date of the inheritance—

(i) the whole of the property—

(I) which was to be appropriated to the inheritance, or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, the whole of the inheritance;

(ii) a part or proportion of the property—

(I) which was to be appropriated to the inheritance, or

(II) out of which property was to be appropriated to the inheritance,

was situate in the State, that part or proportion of the inheritance.

(3) For the purposes of subsections (1)(b) and (2)(c)—

(a) “property which was to be appropriated to the inheritance” and “property out of which property was to be appropriated to the inheritance” shall not include any property which was not applicable to satisfy the inheritance, and

(b) a right to the proceeds of sale of property is deemed to be situate in the State to the extent that such property is unsold and situate in the State.

(4) For the purposes of subsection (2), a person who is not domiciled in the State on a particular date is treated as not resident and not ordinarily resident in the State on that date unless—

(a) that date occurs on or after 1 December 2004,

(b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and

(c) that person is either resident or ordinarily resident in the State on that date.

(5) (a) In this subsection—

“company” and “share” have the same meaning as they have in section 27;

“company controlled by the donee” has the same meaning as is assigned to “company controlled by the donee or successor” by section 27.

(b) For the purposes of subsection (2)(c), a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the inheritance) is a company controlled by the successor is deemed to be a sum situate in the State and is the amount determined by the following formula—

$$A \times B \div C$$

where

A is the market value of that share at the date of the inheritance ascertained under section 27,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the inheritance, and

C is the total market value of all property in the beneficial ownership of that company at the date of the inheritance.

(c) Paragraph (b) shall not apply in a case where the disponent was not domiciled in the State at the date of the disposition under which the successor takes the inheritance or where the share in question is actually situate in the State at the date of the inheritance.