

Irrevocable instruments. ITA67 s444 and s447; FA71 s16(2) and (3); FA95 s12(1)(b) 796.—(1) In this section, “property” does not include any annual or other periodical payment secured by the covenant of the settlor, or by a charge made by the settlor on the whole or any part of the settlor's property or the whole or any part of the settlor's future income, or by both such covenant and such charge.

(2) Where by virtue of an irrevocable instrument property is vested in or held by trustees on such trusts that in any year of assessment section 795 would but for this section apply to the income of such property, the following provisions shall apply:

(a) section 795 shall not apply—

(i) in respect of any part of such income which is in that year of assessment accumulated for the benefit of a person, or

(ii) in respect of income arising in that year of assessment from accumulations of income referred to in subparagraph (i);

(b) whenever in any year of assessment any sum whatever is paid under the trusts of such irrevocable instrument out of—

(i) such property,

(ii) the accumulations of the income of such property,

(iii) the income of such property, or

(iv) the income of those accumulations,

to or for the benefit of a person who at the time of payment is a minor, such sum shall, subject to the limitation in paragraph (c), be deemed for the purposes of this Chapter to be paid as income;

(c) paragraph (b) shall not apply to so much of such sum as is equal to the amount by which the aggregate of such sum and all other sums (if any) paid after the 5th day of April, 1937, under the trusts of such irrevocable instrument to or for the benefit of that person or any other person (being a person who at the time of payment was a minor) exceeds the aggregate amount of the income arising after the 5th day of April, 1937, from such property together with the income arising after that date from those accumulations;

(d) for the purposes of paragraph (c), the reference in that paragraph to another sum paid to or for the benefit of a person who at the time of payment was a minor shall be construed, in relation to a payment to which this paragraph applies of any such sum, as a reference to a sum so paid to or for the benefit of a person who at the beginning of the year of assessment in which such other sum was paid was a minor;

(e) paragraph (d) shall apply to any payment of any such sum—

(i) made before the 6th day of April, 1971, or

(ii) in the case of a payment to or for the benefit of a child born after the 6th day of April, 1971, and so made by virtue or in consequence of a settlement made before the 28th day of April, 1971, made in the year 1971-72;

(f) for the purposes of paragraphs (c) and (d), references in those paragraphs to a person being at a particular time a minor shall, where that time is before the 6th day of April, 1986, be construed as references to a person who at that time was under the age of 21 years and was not or had not been married.