

PART 31 Taxation of Settlers, Etc., in Respect of Settled or Transferred Income

CHAPTER 1 Revocable dispositions for short periods and certain dispositions in favour of children

Income under revocable dispositions. ITA67 s438 and s442 791.—(1) In this Chapter and in paragraph 27 of Schedule 32, except where the context otherwise requires, “disposition” includes any trust, covenant, agreement or arrangement.

(2) Any income of which any person (in this subsection referred to as “the first-mentioned person”) is able or has been able, without the consent of any other person by means of the exercise of any power of appointment, power of revocation or otherwise however by virtue or in consequence of a disposition made directly or indirectly by the first-mentioned person, to obtain for the first-mentioned person the beneficial enjoyment shall be deemed for the purposes of the Income Tax Acts to be the income of the person who is or was able to obtain such beneficial enjoyment, and not to be the income of any other person.

(3) Where any power referred to in subsection (2) may be exercised by a person with the consent of the wife or husband of the person, the power shall for the purposes of subsection (2) be deemed to be exercisable without the consent of another person, except where the husband and wife are living apart either by agreement or under an order of a court of competent jurisdiction.

(4) Where any power referred to in subsection (2) is exercisable by the wife or husband of the person who made the disposition, the power shall for the purposes of subsection (2) be deemed to be exercisable by the person who made the disposition.