

PART 6 Returns and Assessments

Accountable persons. CATA 1976 s35 45.—(1) The person primarily accountable for the payment of tax shall be—

(a) except where provided in paragraph (b), the donee or successor, as the case may be, and

(b) in the case referred to in section 32 (2), the transferee referred to in that subsection, to the extent referred to in that subsection.

(2) Subject to subsections (3) and (4), the following persons shall also be accountable for the payment of any amount of the tax for which the persons referred to in subsection (1) are made primarily accountable—

(a) in the case of a gift—

(i) the disponent (other than a disponent in relation to a disposition where the date of the disposition was prior to 28 February 1974), and

(ii) every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the gift or the income from such property is placed at the date of the gift or at any time after that date and every person in whom the property is vested after that date, other than a bona fide purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee,

(b) (i) in the case of an inheritance, taken on or before the death of the disponent, the disponent (other than a disponent in relation to a disposition, where the date of the disposition was prior to 1 May 1989), and

(ii) in the case of any other inheritance, every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the inheritance or the income from such property is placed at the date of the inheritance or at any time after that date and every person in whom the property is vested after that date, other than a bona fide purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee.

(3) No person referred to in subsection (2)(a)(ii) or (b)(ii) is (unless that person is a person who is also primarily accountable under subsection (1)) liable for tax chargeable on any gift or inheritance to an amount in excess of—

(a) the market value of so much of the property of which the gift or inheritance consists, and

(b) so much of the income from such property,

which has been received by that person, or which, but for that person's own neglect or default, would

have been received by that person or to which that person is beneficially entitled in possession.

(4) A person who acts solely in the capacity of an agent is not liable for tax chargeable on a gift or inheritance to an amount in excess of the market value of so much of the property of which the gift or inheritance consists and of the income from such property which that person held, or which came into that person's possession, at any time after the serving on that person of the notice referred to in subsection (5).

(5) The Commissioners may serve on any person who acts solely in the capacity of agent in relation to any property comprised in a gift or an inheritance a notice in writing informing that person of that person's liability under this section.

(6) The tax shall be recoverable from any one or more of—

(a) the accountable persons, and

(b) the personal representatives of any accountable persons who are dead,

on whom the Commissioners have served notice in writing of the assessment of tax in exercise of the power conferred on them by section 49, but the liability of a personal representative under this subsection shall not exceed the amount for which the accountable person, of whom that person is the personal representative, was liable.

(7) Any person referred to in subsection (2)(a) or (b) or in subsection (6)(b) who is authorised or required to pay, and pays, any tax in respect of any property comprised in a gift or in an inheritance may recover the amount paid by that person in respect of tax from the person primarily accountable for that tax unless—

(a) the latter person is the donee or successor referred to in paragraph (a) of subsection (1) and the interest taken by that latter person is a limited interest, or

(b) in the case referred to in paragraph (b) of subsection (1), the latter person is the transferee and the interest taken by the remainderman is a limited interest.

(8) A person—

(a) who is primarily accountable for the payment of tax, or

(b) referred to in subsection (2)(a) or (b) or in subsection (6)(b) who is authorised or required to pay tax,

in respect of any property shall, for the purpose of paying the tax, or raising the amount of the tax when already paid, have power, whether the property is or is not vested in that person, to raise the amount of such tax and any interest and expenses properly paid or incurred by that person in respect thereof, by the sale or mortgage of, or a terminable charge on, that property or any part of that property.

(9) If a person, who is primarily accountable for the payment of tax in respect of a gift or inheritance (in this subsection and in subsection (11) referred to as the first gift or inheritance) derived from a disponent, has not paid the tax on the first gift or inheritance, the Commissioners may serve a notice in writing in accordance with subsection (11) on any person who is, by virtue of paragraph (a)(ii) or (b)(ii) of subsection (2), accountable for the payment of tax on any other gift or inheritance (referred to in subsections (10) and (11) as the second gift or inheritance) taken by the same donee or successor from the same disponent, and the person on whom the notice is served shall at that time become accountable for the payment of tax in respect of the first gift or inheritance.

(10) Subsections (3), (4), (5), (6), (7) and (8) shall apply in relation to a person made accountable under subsection (9) as they apply in relation to a person referred to in paragraph (a)(ii) or (b) of subsection (2) and, for the purposes of this subsection—

(a) references in subsections (3) and (4) to the property of which the gift or inheritance consists, and

(b) the second and third references to property in subsection (8),

shall be construed as references to the property of which the second gift or inheritance consists, in so far as the last-mentioned property had not been duly paid out at the date of the service of the notice under subsection (9).

(11) A notice under subsection (9) shall refer expressly to the first and the second gift or inheritance, and shall inform the person on whom it is served of that person's accountability in respect of the first gift or inheritance.

(12) Every public officer having in such person's custody any rolls, books, records, papers, documents, or proceedings, the inspection of which may tend to secure the tax, or to prove or lead to the discovery of any fraud or omission in relation to the tax, shall at all reasonable times permit any person authorised by the Commissioners to inspect the rolls, books, records, papers, documents and proceedings, and to take notes and extracts as that person may deem necessary.