

Gifts: recovery of capital gains tax from donee. CGTA75 s51(1) and Sch4 par18 978.—(1) In this section—

“old asset” and “new asset” have the same meanings respectively as in section 597;

references to a donor include, in the case of an individual who has died, references to his or her personal representatives;

references to a gift include references to any transaction otherwise than by means of a bargain made at arm's length in so far as money or money's worth passes under the transaction without full consideration in money or money's worth, and “donor” and “donee” shall be construed accordingly.

(2) Where—

(a) a chargeable gain accrues in any year of assessment to any person on the disposal of an asset by means of a gift, and

(b) any amount of capital gains tax assessed on that person for that year of assessment is not paid within 12 months from the date when the tax becomes payable,

the donee may by an assessment made not later than 2 years from the date when the tax became payable be assessed and charged (in the name of the donor) to capital gains tax on an amount—

(i) not exceeding the amount of the chargeable gain so accruing, and

(ii) not exceeding such an amount of chargeable gains as would, if charged at the rate provided in section 28 (3), result in liability to an amount of capital gains tax equal to that amount of capital gains tax which was not paid by the donor.

(3) Where the gift consists of a new asset, the donee may, in addition to being assessed and charged under subsection (2) in respect of the new asset, be assessed and charged as if the chargeable gain on the disposal of the old asset were a chargeable gain on the disposal of the new asset the capital gains tax in respect of which was not paid within 12 months from the date when the tax had become payable.

(4) (a) Where a person on whom capital gains tax is assessed and charged in respect of the disposal of an asset transfers directly or indirectly by means of a gift to a donee—

(i) the whole of the proceeds of the disposal, or

(ii) in a case where the asset is a new asset acquired by the use of the proceeds of the disposal of an old asset, the whole of the proceeds of the disposal of the new asset,

subsections (2) and (3) shall apply to the amount of capital gains tax so assessed and charged.

(b) Where a person on whom capital gains tax is assessed and charged in respect of the disposal of an asset transfers directly or indirectly by means of a gift to a donee—

(i) part of the proceeds of the disposal, or

(ii) in a case where the asset is a new asset acquired by the use of the proceeds of the disposal of an old asset, part of the proceeds of the disposal of the new asset,

subsections (2) and (3) shall apply to such part of the amount of capital gains tax so assessed and charged as bears to the whole of such tax the same proportion that that part of the proceeds bears to the whole of those proceeds.

(5) The donee of a gift paying any amount of tax in pursuance of this section shall, subject to any terms or conditions of the gift, be entitled to recover a sum of that amount from the donor of the gift as a simple contract debt in any court of competent jurisdiction.

(6) This section shall apply in relation to a gift made to 2 or more donees with any necessary modifications and subject to the condition that each such donee shall be liable to be assessed and charged in respect only of such part of the amount of capital gains tax payable by the donees by virtue of this section as bears to the whole of such tax the same proportion as the part of the gift made to that donee bears to the whole of the gift.