

Power to require return of property. FA83 s20; FA92 s239 909.—(1) (a) In this section—

“asset” includes any interest in an asset;

“limited interest” means—

(i) an interest (other than a leasehold interest) for the duration of a life or lives or for a period certain, or

(ii) any other interest which is not an absolute interest;

“prescribed” means prescribed by the Revenue Commissioners;

“property” includes interests and rights of any description and, without prejudice to the generality of the foregoing, includes—

(i) in the case of a limited interest, the property in which the limited interest subsists or on which it is charged or secured or on which there exists a right to have it charged or secured,

(ii) an interest in expectancy,

(iii) an interest or share in a partnership, joint tenancy or estate of a deceased person,

(iv) stock or shares in a company which is in the course of liquidation,

(v) an annuity, and

(vi) property comprised in a settlement which the person concerned is empowered to revoke;

“settlement” has the same meaning as in section 794

“specified date”, in relation to a notice under subsection (2), means the date specified in the notice;

“tax” means income tax and capital gains tax.

(b) For the purposes of this section, the cost of acquisition to a person of an asset shall include—

(i) the amount or value of the consideration, in money or money's worth, given by the person or on the person's behalf for the acquisition of the asset, together with the incidental costs to the person of the acquisition or, if the asset was not acquired by the person, any expenditure incurred by the person in providing the asset, and

(ii) the amount of any expenditure incurred on the asset by the person or on the person's behalf for the

purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the specified date, and any expenditure incurred by the person in establishing, preserving or defending the person's title to, or to a right over, the asset.

(2) Where for the purposes of tax a person is required under any provision of the Tax Acts or the Capital Gains Tax Acts to deliver a tax return to an inspector of taxes or to the inspector of returns (11)), as the case may be, the inspector may require—

(a) that person, by notice in writing given to that person, and

(b) where that person and his or her spouse are, for the year of assessment to which the tax return relates, treated as living together for the purpose of section 1015, that person's spouse, by notice in writing given to the spouse,

to deliver to the inspector within the time specified in the notice or within such further period as the inspector may allow a statement of affairs in the prescribed form as at the date specified in the notice, and that person or that person's spouse shall, if required by further notice or notices in writing by the inspector, deliver to the inspector within such time, not being less than 30 days, as may be specified in such further notice or notices, a statement verifying such statement of affairs together with such evidence, statement or documents required by the inspector in respect of any asset or liability shown on the statement of affairs, or in respect of any asset or liability which the inspector has reason to believe has been omitted from the statement of affairs.

(3) (a) In this section, “statement of affairs”, in relation to a notice under subsection (2), means—

(i) where the person to whom notice is given is an individual who is a chargeable person and the tax return concerned relates to income or capital gains in respect of which that individual is chargeable to tax otherwise than in a representative capacity or as a trustee, a statement of all the assets wherever situated to which that individual is beneficially entitled on the specified date and all the liabilities for which that individual is liable on the specified date,

(ii) where the person to whom notice is given is the spouse of an individual referred to in subparagraph (i), a statement of all the assets wherever situated to which that spouse is beneficially entitled on the specified date and all the liabilities for which that spouse is liable on the specified date,

(iii) where the person to whom notice is given is a chargeable person in a representative capacity and the tax return concerned relates to income or capital gains of a person (in this paragraph referred to as “the second-mentioned person”) in respect of which that chargeable person is so chargeable, a statement of all the assets wherever situated to which the second-mentioned person is beneficially entitled and which give rise to income or capital gains in respect of which that chargeable person is chargeable to tax in a representative capacity and all the liabilities for which the second-mentioned person is liable, or which are assets or liabilities in relation to which that chargeable person performs functions or duties in such a capacity on the specified date, or

(iv) where the person to whom notice is given is a chargeable person as a trustee of a trust and the tax

return concerned relates to income or capital gains of a trust, a statement of all the assets and liabilities comprised in the trust on the specified date.

(b) Any assets to which a minor child of an individual referred to in subparagraph (i) or (ii) of paragraph (a) is beneficially entitled shall be included in that individual's statement of affairs under this section where—

(i) such assets at any time before their acquisition by the minor child were disposed of by that individual whether to the minor child or not, or

(ii) the consideration for the acquisition of such assets by the minor child was provided directly or indirectly by that individual.

(4) (a) A statement of affairs delivered under this section shall contain in relation to each asset included in the statement—

(i) a full description,

(ii) its location on the specified date,

(iii) the cost of acquisition to the person beneficially entitled to that asset,

(iv) the date of acquisition, and

(v) if it was acquired otherwise than by means of a bargain at arm's length, the name and address of the person from whom it was acquired and the consideration, if any, given to that person in respect of its acquisition.

(b) A statement of affairs delivered under this section shall, in the case of an asset which is an interest other than an absolute interest, contain particulars of the title under which the beneficial entitlement arises.

(c) A statement of affairs delivered under this section shall be signed by the person by whom it is delivered and shall include a declaration by that person that it is to the best of that person's knowledge, information and belief correct and complete.

(d) The Revenue Commissioners may require the declaration mentioned in paragraph (c) to be made on oath.