

Taxable gift. CATA 1976 s6 (part) 6.—(1) In relation to a gift taken under a disposition, where the date of the disposition is before 1 December 1999, “taxable gift” in this Act means—

(a) in the case of a gift, other than a gift taken under a discretionary trust, where the disponent is domiciled in the State at the date of the disposition under which the donee takes the gift, the whole of the gift,

(b) in the case of a gift taken under a discretionary trust where the disponent is domiciled in the State at the date of the disposition under which the donee takes the gift or at the date of the gift or was (in the case of a gift taken after that donee's death) so domiciled at the time of that donee's death, the whole of the gift, and

(c) in any other case, so much of the property of which the gift consists as is situate in the State at the date of the gift.

(2) In relation to a gift taken under a disposition, where the date of the disposition is on or after 1 December 1999, “taxable gift” in this Act means—

(a) in the case of a gift, other than a gift taken under a discretionary trust, where the disponent is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift, the whole of the gift,

(b) in the case of a gift taken under a discretionary trust where the disponent is resident or ordinarily resident in the State at the date of the disposition under which the donee takes the gift or at the date of the gift or was (in the case of a gift taken after the death of the disponent) so resident or ordinarily resident at the date of that death, the whole of the gift,

(c) in the case where the donee is resident or ordinarily resident in the State at the date of the gift, the whole of the gift, and

(d) in any other case, so much of the property of which the gift consists as is situate in the State at the date of the gift.

(3) For the purposes of subsections (1)(c) and (2)(d), a right to the proceeds of sale of property is deemed to be situate in the State to the extent that such property is unsold and situate in the State.

(4) For the purposes of subsection (2), a person who is not domiciled in the State on a particular date is treated as not resident and not ordinarily resident in the State on that date unless—

(a) that date occurs on or after 1 December 2004,

(b) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and

(c) that person is either resident or ordinarily resident in the State on that date.

(5) (a) In this subsection—

“company” and “share” have the same meaning as they have in section 27;

“company controlled by the donee” has the same meaning as is assigned to “company controlled by the donee or successor” by section 27.

(b) For the purposes of subsection (2)(d), a proportion of the market value of any share in a private company incorporated outside the State which (after the taking of the gift) is a company controlled by the donee is deemed to be a sum situate in the State and is the amount determined by the following formula—

$$A \times B \div C$$

where

A is the market value of that share at the date of the gift ascertained under section 27,

B is the market value of all property in the beneficial ownership of that company which is situate in the State at the date of the gift, and

C is the total market value of all property in the beneficial ownership of that company at the date of the gift.

(c) Paragraph (b) shall not apply in a case where the disponent was domiciled outside the State at all times up to and including the date of the gift or, in the case of a gift taken after the death of the disponent, up to and including the date of that death or where the share in question is actually situate in the State at the date of the gift.