

General interpretation. CATA 1976 s2 2.—(1) In this Act, unless the context otherwise requires—

“absolute interest”, in relation to property, includes the interest of a person who has a general power of appointment over the property;

“accountable person” means a person who is accountable for the payment of tax by virtue of section 45;

“benefit” includes any estate, interest, income or right;

“child” includes—

(a) a stepchild;

(b) a child adopted—

(i) under the Adoption Acts 1952 to 1998, or

(ii) under a foreign adoption which by virtue of section 2 , 3 , 4 or 5 of the Adoption Act 1991 , is deemed to have been effected by a valid adoption order within the meaning of section 1 of that Act;

“Collector” means the Collector-General appointed under section 851 of the Taxes Consolidation Act 1997 ;

“Commissioners” means the Revenue Commissioners;

“date of the disposition” means—

(a) in the case of a will, the date of the testator's death,

(b) in the case of an intestacy or a partial intestacy, the date of death of the intestate,

(c) in the case of a benefit under Part IX or section 56 of the Succession Act 1965 , the date of death of the relevant testator or other deceased person, and correspondingly in the case of an analogous benefit under the law of another territory,

(d) in the case of a disposition which consists of the failure to exercise a right or a power, the date of the latest time when the disponent could have exercised the right or the power if that disponent were sui juris and not under any physical disability, and

(e) in any other case, the date on which the act (or where more than one act is involved, the last act) of the disponent was done by which that disponent provided or bound that disponent to provide the property comprised in the disposition;

“date of the gift” means the date of the happening of the event on which the donee, or any person in right of the donee or on that donee's behalf, becomes beneficially entitled in possession to the benefit, and a reference to the time when a gift is taken is construed as a reference to the date of the gift;

“date of the inheritance” means—

(a) in the case where the successor or any person in right of the successor or on that successor's behalf becomes entitled in possession to the benefit on the happening of any such event as is referred to in section 3 (2), the date of the event,

(b) in the case of a gift which becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within 2 years prior to the death of the disposer, the date which would have been the date of the gift if the entitlement were a gift, and

(c) in any other case, the date of the latest death which had to occur for the successor, or any person in right of the successor or on that successor's behalf, to become beneficially entitled in possession to the benefit,

and a reference to the time when an inheritance is taken is construed as a reference to the date of the inheritance;

“discretionary trust” means any trust whereby, or by virtue or in consequence of which—

(a) property is held on trust to accumulate the income or part of the income of the property, or

(b) property (other than property to which for the time being a person is beneficially entitled for an interest in possession) is held on trust to apply, or with a power to apply, the income or capital or part of the income or capital of the property for the benefit of any person or persons or of any one or more of a number or of a class of persons whether at the discretion of trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income;

“disponer”, in relation to a disposition, means the person who, for the purpose of the disposition, directly or indirectly provided the property comprised in the disposition, and in any case where more than one person provided the property each is deemed to be the disposer to the extent that that disposer so provided the property; and for the purposes of this definition—

(a) the testator is the disposer in the case of a disposition referred to in paragraph (k) of the definition of “disposition”,

(b) the intestate is the disposer in the case of a disposition referred to in paragraph (l) of that definition,

(c) the deceased person referred to in paragraph (m) of that definition is the disposer in the case of a disposition referred to in that paragraph, and

(d) a person who has made with any other person a reciprocal arrangement by which that other person provided property comprised in the disposition is deemed to have provided that property;

“disposition” includes—

(a) any act or omission by a person as a result of which the value of that person's estate immediately after the act or omission is less than it would be but for the act or omission,

(b) any trust, covenant, agreement or arrangement, whether made by a single operation or by associated operations,

(c) the creation of a debt or other right enforceable against the disponent personally or against any estate or interest that disponent may have in property,

(d) the payment of money,

(e) the allotment of shares in a company,

(f) the grant or the creation of any benefit,

(g) the grant or the creation of any lease, mortgage, charge, licence, option, power, partnership or joint tenancy or other estate or interest in or over any property,

(h) the release, forfeiture, surrender or abandonment of any debt or benefit, or the failure to exercise a right, and, for the purpose of this paragraph, a debt or benefit is deemed to have been released when it has become unenforceable by action through lapse of time (except to the extent that it is recovered subsequent to its becoming so unenforceable),

(i) the exercise of a general power of appointment in favour of any person other than the holder of the power,

(j) a donatio mortis causa,

(k) a will or other testamentary disposition,

(l) an intestacy, whether total or partial,

(m) the payment of a share as a legal right under Part IX of the Succession Act 1965, to a deceased person's spouse, or the making of provision for a widow or child of a deceased person under section 56 or section 117 of the Succession Act 1965, or an analogous share or provision paid or made on the death of a deceased person to or for the benefit of any person under the law of another territory, and

(n) a resolution passed by a company which is deemed by subsection (3) to be a disposition;

“donee” means a person who takes a gift;

“entitled in possession” means having a present right to the enjoyment of property as opposed to having a future such right, and without prejudice to the generality of the foregoing a person is also, for the purposes of this Act, deemed to be entitled in possession to an interest or share in a partnership, joint tenancy or estate of a deceased person, in which that person is a partner, joint tenant or beneficiary, as the case may be, but that person is not deemed to be entitled in possession to an interest in expectancy until an event happens whereby this interest ceases to be an interest in expectancy;

“general power of appointment” includes every power, right, or authority whether exercisable only by will or otherwise which would enable the holder of such power, right, or authority to appoint or dispose of property to whoever the holder thinks fit or to obtain such power, right or authority, but exclusive of any power exercisable solely in a fiduciary capacity under a disposition not made by the holder, or exercisable by a tenant for life under the Settled Land Act 1882, or as mortgagee;

“gift” means a gift which a person is by this Act deemed to take;

“inheritance” means an inheritance which a person is by this Act deemed to take;

“interest in expectancy” includes an estate in remainder or reversion and every other future interest, whether vested or contingent, but does not include a reversion expectant on the determination of a lease;

“limited interest” means—

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

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

“local authority” has the meaning assigned to it by section 2 (1) of the Local Government Act 2001 and includes a body established under the Local Government Services (Corporate Bodies) Act 1971 ;

“market value”, in relation to property, means the market value of that property ascertained in accordance with sections 26 and 27;

“minor child” means a child who has not attained the age of 18 years and is not and has not been married;

“personal property” means any property other than real property;

“personal representative” means the executor or administrator for the time being of a deceased person and includes—

(a) any person who takes possession of or intermeddles with the property of a deceased person,

(b) any person having, in relation to the deceased person, under the law of another country, any functions corresponding to the functions, for administration purposes under the law of the State, of an

executor or administrator;

“property” includes rights and interests of any description;

“real property” means real and chattel real property;

“regulations” means regulations made under section 116;

“relative” means a relative within the meaning of subsection (4);

“return” means such a return as is referred to in section 46;

“share”, in relation to a company, includes any interest whatever in the company which is analogous to a share in the company, and “shareholder” shall be construed accordingly;

“special power of appointment” means a power of appointment which is not a general power of appointment;

“successor” means a person who takes an inheritance;

“tax” means any tax chargeable under this Act;

“valuation date” has the meaning assigned to it by section 30;

“year of assessment” has the meaning assigned to it by section 2 of the Taxes Consolidation Act 1997 .

(2) For the purpose of the definition of “general power of appointment” contained in subsection (1), a person is deemed to have a general power of appointment—

- (a) notwithstanding that the person is not sui juris or is under a physical disability,
- (b) over money which the person has a general power to charge on property, and
- (c) over property of which the person is tenant in tail in possession.

(3) For the purpose of the definition of “disposition” contained in subsection (1), the passing by a company of a resolution which, by the extinguishment or alteration of the rights attaching to any share of the company, results, directly or indirectly, in the estate of any shareholder of the company being increased in value at the expense of the estate of any other shareholder, is deemed to be a disposition made by that other shareholder if that other shareholder could have prevented the passing of the resolution by voting against it or otherwise; and in this subsection, “share” includes a debenture and loan stock and “shareholder” includes a debenture holder and a holder of loan stock.

(4) For the purposes of this Act, the following persons and no other person are relatives of another person, that is—

(a) the spouse of that other person,

(b) the father, mother, and any child, uncle or aunt of that other person,

(c) any child (other than that other person), and any child of a child, of any person who is by virtue of paragraph (a) or (b) a relative of that other person, and

(d) the spouse of a person who is by virtue of paragraph (b) or (c) a relative of that other person,

(e) the grandparent of that other person.

(5) For the purposes of this Act, the relationship between a child, adopted in the manner referred to in paragraph (b) of the definition of “child” contained in subsection (1), and any other person, or between other persons, that would exist if such child had been born to the adoptor or adoptors in lawful wedlock, is deemed to exist between such child and that other person or between those other persons, and the relationship of any such child and any person that existed prior to that child being so adopted is deemed to have ceased.

(6) For the purposes of this Act—

(a) a reference to a person being resident in the State on a particular date is construed as a reference to that person being resident in the State in the year of assessment in which that date falls of the Taxes Consolidation Act 1997, relating to residence of individuals is not construed as requiring a year of assessment to have elapsed before a determination of whether or not a person is resident in the State on a date falling in that year may be made), and

(b) a reference to a person being ordinarily resident in the State on a particular date is construed as a reference to that person being ordinarily resident in the State in the year of assessment in which that date falls.

(7) In this Act, references to any enactment are, unless the context otherwise requires, construed as references to that enactment as amended or extended by any subsequent enactment.

(8) In this Act, a reference to a Part, Chapter, section or Schedule is a reference to a Part, Chapter, section of, or Schedule to, this Act, unless it is indicated that reference to some other enactment is intended.

(9) In this Act, a reference to a subsection, paragraph, subparagraph, clause or subclause is to the subsection, paragraph, subparagraph, clause or subclause of the provision (including a Schedule) in which the reference occurs, unless it is indicated that reference to some other provision is intended.