

Exemption relating to certain dwellings. CATA 1976 s59C 86.—(1) In this section—

“dwelling-house” means—

(a) a building or part (5)) of a building which was used or was suitable for use as a dwelling, and

(b) the curtilage of the dwelling-house up to an area (exclusive of the site of the dwelling-house) of one acre but if the area of the curtilage (exclusive of the site of the dwelling-house) exceeds one acre then the part which comes within this definition is the part which, if the remainder were separately occupied, would be the most suitable for occupation and enjoyment with the dwelling-house;

“relevant period”, in relation to a dwelling-house comprised in a gift or inheritance, means the period of 6 years commencing on the date of the gift or the date of the inheritance.

(2) In this section any reference to a donee or successor is construed as including a reference to the transferee referred to in section 32 (2).

(3) Subject to subsections (4), (5), (6) and (7), a dwelling-house comprised in a gift or inheritance which is taken by a donee or successor who—

(a) has continuously occupied as that donee or successor's only or main residence—

(i) that dwelling-house throughout the period of 3 years immediately preceding the date of the gift or the date of the inheritance, or

(ii) where that dwelling-house has directly or indirectly replaced other property, that dwelling-house and that other property for periods which together comprised at least 3 years falling within the period of 4 years immediately preceding the date of the gift or the date of the inheritance,

(b) is not, at the date of the gift or at the date of the inheritance, beneficially entitled to any other dwelling-house or to any interest in any other dwelling-house, and

(c) continues to occupy that dwelling-house as that donee or successor's only or main residence throughout the relevant period,

is exempt from tax in relation to that gift or inheritance, and the value of that dwelling-house is not to be taken into account in computing tax on any gift or inheritance taken by that person unless the exemption ceases to apply under subsection (6) or (7).

(4) The condition in paragraph (c) of subsection (3) shall not apply where the donee or successor has attained the age of 55 years at the date of the gift or at the date of the inheritance.

(5) For the purpose of paragraph (c) of subsection (3), the donee or successor is deemed to occupy the

dwelling-house concerned as that donee or successor's only or main residence throughout any period of absence during which that donee or successor worked in an employment or office all the duties of which were performed outside the State.

(6) If a dwelling-house exempted from tax by virtue of subsection (3) is sold or disposed of, either in whole or in part, within the relevant period, and before the death of the donee or successor (not being a donee or successor who had attained the age of 55 years at the date of the gift or inheritance), the exemption referred to in that subsection shall cease to apply to such dwelling-house unless the sale or disposal occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home.

(7) The exemption referred to in subsection (3) shall cease to apply to a dwelling-house, if at any time during the relevant period and—

(a) before the dwelling-house is sold or disposed of, and

(b) before the death of the donee or successor,

the condition specified in paragraph (c) of subsection (3) has not been complied with unless that non-compliance occurs in consequence of the donee or successor requiring long-term medical care in a hospital, nursing home or convalescent home, or in consequence of any condition imposed by the employer of the donee or successor requiring the donee or successor to reside elsewhere.

(8) Where a dwelling-house exempted from tax by virtue of subsection (3) (in this section referred to as the “first-mentioned dwelling-house”) is replaced within the relevant period by another dwelling-house, the condition specified in paragraph (c) of subsection (3) is treated as satisfied if the donee or successor has occupied as that donee or successor's only or main residence the first-mentioned dwelling-house, that other dwelling-house and any dwelling-house which has within the relevant period directly or indirectly replaced that other dwelling-house for periods which together comprised at least 6 years falling within the period of 7 years commencing on the date of the gift or the date of the inheritance.

(9) Any period of absence which would satisfy the condition specified in paragraph (c) of subsection (3) in relation to the first-mentioned dwelling-house shall, if it occurs in relation to any dwelling-house which has directly or indirectly replaced that dwelling-house, likewise satisfy that condition as it has effect by virtue of subsection (8).

(10) Subsection (6) shall not apply to a case falling within subsection (8), but the extent of the exemption under this section in such a case shall, where the donee or successor had not attained the age of 55 years at the date of the gift or at the date of the inheritance, not exceed what it would have been had the replacement of one dwelling-house by another referred to in subsection (8), or any one or more of such replacements, taken place immediately prior to that date.