

Separated spouses: transfers of assets. FA97 s72(1) to (3) 1030.—(1) In this section, “spouse” shall be construed in accordance with section 2 (2) (c) of the Family Law Act, 1995.

(2) Notwithstanding any other provision of the Capital Gains Tax Acts, where by virtue or in consequence of—

(a) an order made under Part II of the Family Law Act, 1995 , on or following the granting of a decree of judicial separation within the meaning of that Act,

(b) an order made under Part II of the Judicial Separation and Family Law Reform Act, 1989 , on or following the granting of a decree of judicial separation where such order is treated, by virtue of section 3 of the Family Law Act, 1995 , as if made under the corresponding provision of the Family Law Act, 1995 ,

(c) a deed of separation, or

(d) a relief order ) made following the dissolution of a marriage,

either of the spouses concerned disposes of an asset to the other spouse, then, subject to subsection (3), both spouses shall be treated for the purposes of the Capital Gains Tax Acts as if the asset was acquired from the spouse making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the spouse making the disposal.

(3) Subsection (2) shall not apply if until the disposal the asset formed part of the trading stock of a trade carried on by the spouse making the disposal or if the asset is acquired as trading stock for the purposes of a trade carried on by the spouse acquiring the asset.

(4) Where subsection (2) applies in relation to a disposal of an asset by a spouse to the other spouse, then, in relation to a subsequent disposal of the asset (not being a disposal to which subsection (2) applies), the spouse making the disposal shall be treated for the purposes of the Capital Gains Tax Acts as if the other spouse's acquisition or provision of the asset had been his or her acquisition or provision of the asset.