

Capital Acquisitions Tax Act, 1976



Number 8 of 1976

CAPITAL ACQUISITIONS TAX ACT, 1976

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Number 8 of 1976

CAPITAL ACQUISITIONS TAX ACT, 1976

AN ACT TO CHARGE AND IMPOSE ON CERTAIN GIFTS AND INHERITANCES DUTIES OF INLAND REVENUE TO BE KNOWN AS GIFT TAX AND INHERITANCE TAX, TO AMEND THE LAW RELATING TO INLAND REVENUE AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. [31 *st March*, 1976]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

Short title. **1.**—This Act may be cited as the Capital Acquisitions Tax Act, 1976.

Interpretation. **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 35;

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

“child” includes—

(a) a stepchild;

(b) a child adopted—

(i) under the Adoption Acts, 1952 to 1974; or

(ii) under an adoption law, other than the Adoption Acts, 1952 to 1974, being an adoption that has, in the place where the law applies, substantially the same effect in relation to property rights (including the law of succession) as an adoption under the Adoption Acts, 1952 to 1974, has in the State in relation to such rights;

“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 he 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 he provided or bound himself to provide the property comprised in the disposition;

“date of the gift” means the date of the happening of the event upon which the donee, or any person in right of the donee or on his behalf, becomes beneficially entitled in possession to the benefit, and a reference to the time when a gift is taken shall be 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 his 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 two 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 his behalf, to become beneficially entitled in possession to the benefit,

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

“discretionary trust” means any trust whereby, or by virtue or in consequence of which, property 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 shall be deemed to be the disposer to the extent that he so provided the property; and for the purposes of this definition—

- (a) the testator shall be the disposer in the case of a disposition referred to in paragraph (k) of the definition of “disposition”;
- (b) the intestate shall be 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 shall be 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 shall be deemed to have provided that property;

“disposition” includes—

- (a) any act or omission by a person as a result of which the value of his estate immediately after such act or omission is less than it would be but for such 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 he 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 shall be deemed to have been released when it has become unenforceable by action through lapse of time (save 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 shall also, for the purposes of this Act, be deemed to be entitled in possession to an interest or share in a partnership, joint tenancy or estate of a deceased person, in which he is a partner, joint tenant or beneficiary, as the case may be, but he shall not be 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 thereof to appoint or dispose of property to whomsoever he 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 himself, 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 (2) of the Local Government Act, 1941 , and includes a body established under the Local Government Services (Corporate Bodies) Act, 1971 ;

“market value”, in relation to property, means the market value thereof ascertained in accordance with sections 15, 16 and 17;

“minor child” means a child who has not attained the age of 21 years;

“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 any person who takes possession of or intermeddles with the property of a deceased person and also includes 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 71;

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

“return” means such a return as is referred to in section 36;

“share”, in relation to a company, includes any interest whatsoever 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 21.

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

- (a) notwithstanding that he is not *sui juris* or is under a physical disability;
- (b) over money which he has a general power to charge on property; and
- (c) over property of which he 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, shall be deemed to be a disposition made by that other shareholder if he 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 shall be relatives of another person, that is to say—

- (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—

(a) 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, shall be 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 his being so adopted shall be deemed to have ceased; and

(b) an illegitimate child who has not been—

(i) legitimated; or

(ii) adopted under—

(I) the Adoption Acts, 1952 to 1974; or

(II) an adoption law other than the Adoption Acts, 1952 to 1974, having the effect referred to in paragraph (b) (ii) of the definition of “child” contained in subsection (1),

shall be the child of his mother.

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

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

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

Meaning of “on a death”.

3.—(1) In this Act, “on a death”, in relation to a person becoming beneficially entitled in possession, means—

(a) on the death of a person or at a time ascertainable only by reference to the death of a person;

(b) under a disposition where the date of the disposition is the date of the death of the disponent;

(c) under a disposition where the date of the disposition is on or after the 1st day of April, 1975, and within two years prior to the death of the disponent; or

(d) on the happening, after the cesser of an intervening life interest, of any such event as is referred to in subsection (2).

(2) The events referred to in subsection (1) (d) are any of the following—

(a) the determination or failure of any charge, estate, interest or trust;

(b) the exercise of a special power of appointment;

(c) in the case where a benefit was given under a disposition in such terms that the amount or value of the benefit could only be ascertained from time to time by the actual payment or application of property for the purpose of giving effect to the benefit, the making of any payment or the application of the property; or

(d) any other event which, under a disposition, affects the right to property, or to the enjoyment thereof.

PART II

Gift Tax

Charge of gift tax. **4.**—A capital acquisitions tax, to be called gift tax and to be computed as hereinafter provided, shall, subject to this Act and the regulations thereunder, be charged, levied and paid upon the taxable value of every taxable gift taken by a donee, where the date of the gift is on or after the 28th day of February, 1974.

Gift deemed to be taken. **5.**—(1) For the purposes of this Act, where, under or in consequence of any disposition, a person becomes beneficially entitled in possession, otherwise than on a death, to any benefit (whether or not the person becoming so entitled already has any interest in the property in which he takes such benefit), otherwise than for full consideration in money or money's worth paid by him, he shall be deemed to take a gift.

(2) A gift shall be deemed—

(a) to consist of the whole or the appropriate part, as the case may be, of the property in which the donee takes a benefit, or on which the benefit is charged or secured or on which the donee is entitled to have it charged or secured; and

(b) if the benefit is an annuity or other periodic payment which is not charged on or secured by any property and which the donee is not entitled to have so charged or secured, to consist of such sum as would, if invested on the date of the gift in the security of the Government which was issued last before that date for subscription in the State and is redeemable not less than 10 years after the date of issue, yield, on the basis of the current yield on the security, an annual income equivalent to the annual value of the annuity or of the other periodic payment receivable by the donee.

(3) For the purposes of section 6 (1) (c), the sum referred to in subsection (2) (b) shall be deemed not to be situate in the State at the date of the gift.

(4) Where a person makes a disposition under which a relative of the person becomes beneficially entitled in possession to any benefit, the creation or disposition in favour of the person of an annuity or other interest limited to cease on the death, or at a time ascertainable only by reference to the death, of the person, shall not be treated for the purposes of this section as consideration for the grant of such benefit or of any part thereof.

(5) For the purposes of this Act, “appropriate part”, in relation to property referred to in subsection (2), means that part of the entire property in which the benefit subsists, or on which the benefit is charged or secured, or on which the donee is entitled to have it so charged or secured, which bears the same proportion to the entire property as the gross annual value of the benefit bears to the gross annual value of the entire property, and the gift shall be deemed to consist of the appropriate part of each and every item of property comprised in the entire property.

(6) (a) Where, before the 28th day of February, 1974, a contract or agreement was entered into, under or as a consequence of which a person acquired the right, otherwise than for full consideration in money or money's worth, to have a benefit transferred to him, or to another in his right or on his behalf, and an act or acts is or are done, on or after that date, in pursuance of, or in performance or satisfaction, whether in whole or in part, of such contract or agreement, then the gift or inheritance, as the case may be, taken by or in right or on behalf of that person, shall be deemed to have been taken, not when the right was acquired as aforesaid, but either—

(i) when the benefit was transferred to him or to another in his right or on his behalf; or

(ii) when he or another in his right or on his behalf became beneficially entitled in possession to the benefit,

whichever is the later.

(b) In this subsection, a reference to a contract or agreement does not include a reference to a contract or agreement—

(i) which is a complete grant, transfer, assignment or conveyance; or

(ii) which was enforceable by action prior to the 28th day of February, 1974.

Taxable gift.

6.—(1) In this Act, “taxable gift” means—

(a) in the case of a gift, other than a gift taken under a discretionary trust, where—

(i) the donor is domiciled in the State at the date of the disposition under which the donee takes the gift;

or

(ii) the proper law of the disposition under which the donee takes the gift is, at the date of the disposition, the law of the State,

the whole of the gift;

(b) in the case of a gift taken under a discretionary trust where—

(i) the donor is domiciled in the State at the date of the gift or was (in the case of a gift taken after his death) so domiciled at the time of his death; or

(ii) the proper law of the discretionary trust at the date of the gift is the law of the State,

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

(3) Notwithstanding anything contained in subsection (1), no part of the property of which a gift consists shall be a taxable gift where—

(a) the gift is taken prior to the 1st day of April, 1975; and

(b) the donor in relation to the gift dies prior to that date.

Liability to gift tax in respect of gift taken by joint tenants. **7.**—The liability to gift tax in respect of a gift taken by persons as joint tenants shall be the same in all respects as if they took the gift as tenants in common in equal shares.

Donor in certain connected dispositions. **8.**—(1) Where a donee takes a gift under a disposition made by a donor (in this section referred to as the original donor) and, within the period commencing three years before and ending three years after the date of that gift, the donee makes a disposition under which a second donee takes a gift and whether or not the second donee makes a disposition within the same period under which a third donee takes a gift, and so on, each donee shall be deemed to take a gift from the original donor (and not from the immediate donor under whose disposition the gift was taken); and a gift so deemed to be taken shall be deemed to be an inheritance (and not a gift) taken by the donee, as successor, from the original donor if—

(a) the original disponent dies within two years after the date of the disposition made by him; and

(b) the date of the disposition was on or after the 1st day of April, 1975.

(2) This section shall not apply in the case of any disposition (in this subsection referred to as the first-mentioned disposition) in so far as no other disposition, which was connected in the manner described in subsection (1) with such first-mentioned disposition, was made with a view to enabling or facilitating the making of the first-mentioned disposition or the recoupment in any manner of the cost thereof.

Aggregable gifts.

9.—Any gift taken by a donee on or after the 28th day of February, 1969, and before the 28th day of February, 1974, so far as it is a taxable gift, shall, for the purpose of computing tax—

(a) on any taxable gift taken by that donee from the same disponent on or after the 28th day of February, 1974; and

(b) on any taxable inheritance taken by that donee, as successor, from the same disponent on or after the 1st day of April, 1975,

be aggregated with the latter taxable gift or taxable inheritance in accordance with the provisions of the Second Schedule.

PART III

Inheritance Tax

Charge of inheritance tax.

10.—A capital acquisitions tax, to be called inheritance tax and to be computed as hereinafter provided, shall, subject to this Act and the regulations thereunder, be charged, levied and paid upon the taxable value of every taxable inheritance taken by a successor, where the date of the inheritance is on or after the 1st day of April, 1975.

Inheritance deemed to be taken.

11.—(1) For the purposes of this Act, where, under or in consequence of any disposition, a person becomes beneficially entitled in possession on a death to any benefit (whether or not the person becoming so entitled already has any interest in the property in which he takes such benefit), otherwise than for full consideration in money or money's worth paid by him, he shall be deemed to take an inheritance.

(2) The provisions of subsections (2), (4) and (5) of section 5 shall apply, with any necessary modifications, in relation to an inheritance as they apply in relation to a gift.

(3) For the purposes of section 12 (1) (b) the sum referred to in section 5 (2) (b) shall be deemed not to be situate in the State at the date of the inheritance.

Taxable inheritance.

12.—(1) In this Act, “taxable inheritance” means—

(a) in the case where—

- (i) the disponent is domiciled in the State at the date of the disposition under which the successor takes the inheritance; or
- (ii) the proper law of the disposition under which the successor takes the inheritance is, at the date of the disposition, the law of the State, the whole of the inheritance; and

(b) in any case, other than the case referred to in paragraph (a), where, at the date of the inheritance—

(i) the whole of the property—

(I) which was to be appropriated to the inheritance;

or

(II) out of which property was to be appropriated to the inheritance, was situate in the State, the whole of the inheritance;

(ii) a part or proportion of the property—

(I) which was to be appropriated to the inheritance;

or

(II) out of which property was to be appropriated to the inheritance, was situate in the State, that part or proportion of the inheritance.

(2) For the purposes of subsection (1) (b)—

(a) “property which was to be appropriated to the inheritance” and “property out of which property was to be appropriated to the inheritance” shall not include any property which was not applicable to satisfy the inheritance; and

(b) a right to the proceeds of sale of property shall be deemed to be situate in the State to the extent that such property is unsold and situate in the State.

Disclaimer.

13.—(1) If—

(a) (i) a benefit under a will or an intestacy; or

(ii) an entitlement to an interest in settled property, is disclaimed;

(b) a claim—

(i) under a purported will in respect of which a grant of representation (within the meaning of the Succession Act, 1965) was not issued; or

(ii) under an alleged intestacy where a will exists in respect of which such a grant was issued,

is waived; or

(c) a right under Part IX of the Succession Act, 1965 , or any analogous right under the law of another territory, is renounced, disclaimed, elected against or lapses, any liability to tax in respect of such benefit, entitlement, claim or right shall cease as if such benefit, entitlement, claim or right, as the case may be, had not existed.

(2) Notwithstanding anything contained in this Act—

(a) a disclaimer of a benefit under a will or intestacy or of an entitlement to an interest in settled property;

(b) the waiver of a claim—

(i) under a purported will in respect of which a grant of representation (within the meaning of the Succession Act, 1965) was not issued; or

(ii) under an alleged intestacy where a will exists in respect of which such a grant issued; or

(c) (i) the renunciation or disclaimer of;

(ii) the election against; or

(iii) the lapse of,

a right under Part IX of the Succession Act, 1965 , or any analogous right under the law of another territory,

shall not be a disposition for the purposes of this Act.

(3) Subsection (1) shall not have effect to the extent of the amount of any consideration in money or money's worth received for the disclaimer, renunciation, election or lapse or for the waiver of a claim; and the receipt of such consideration shall be deemed to be a gift or an inheritance, as the case may be, in respect of which no consideration was paid by the donee or successor and which was derived from the disponer who provided the property in relation to which the benefit, entitlement, claim or right, referred to in subsection (1), arose.

Surviving joint
tenant deemed to
take an
inheritance, etc.

14.—(1) On the death of one of several persons who are beneficially and absolutely entitled in possession as joint tenants, the surviving joint tenant or surviving joint tenants shall be deemed to take an inheritance of the share of the deceased joint tenant, as successor or successors from the deceased joint tenant as disponer.

(2) The liability to inheritance tax in respect of an inheritance taken by persons as joint tenants shall be the same in all respects as if they took the inheritance as tenants in common in equal shares.

PART IV

Value Of Property For Tax

Market value of property.

15.—(1) Subject to the provisions of this Act, the market value of any property for the purposes of this Act shall be estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market on the date on which the property is to be valued in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property.

(2) In estimating the market value of any property, the Commissioners shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time.

(3) The market value of any property shall be ascertained by the Commissioners in such manner and by such means as they think fit, and they may authorise a person to inspect any property and report to them the value thereof for the purposes of this Act, and the person having the custody or possession of that property shall permit the person so authorised to inspect it at such reasonable times as the Commissioners consider necessary.

(4) Where the Commissioners require a valuation to be made by a person named by them, the costs of such valuation shall be defrayed by the Commissioners.

(5) Subject to the provisions of this Act, in estimating the price which unquoted shares or securities might be expected to fetch if sold in the open market, it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.

(6) In subsection (5), "unquoted shares or securities" means shares or securities which are not dealt in on a stock exchange.

Market value of certain shares in private trading companies.

16.—(1) The market value of each share in a private trading company which (after the taking of the gift or of the inheritance) is, on the date of the gift or on the date of the inheritance, a company controlled by the donee or the successor, shall be ascertained by the Commissioners, for the purposes of tax, as if it formed part of a group of shares sufficient in number to give the owner of the group control of the company.

(2) In this section—

"nominee" includes a person who may be required to exercise his voting power on the directions of, or who holds shares directly or indirectly on behalf of, another person;

"private company" means a body corporate (wherever incorporated)—

(a) in which the number of shareholders (excluding employees who are not directors of the company and any shareholder who is such as nominee of a beneficial owner of shares) is not more than fifty;

(b) which has not issued any of its shares as a result of a public invitation to subscribe for shares; and

(c) which is under the control of not more than five persons;

“private trading company” means a private company which is not a private non-trading company within the meaning of section 17.

(3) In this section, a reference to a company controlled by the donee or successor is a reference to a company that is under the control of any one or more of the following, that is to say, the donee or successor, the relatives of the donee or successor, nominees of the donee or successor, nominees of relatives of the donee or successor, and the trustees of a settlement whose objects include the donee or successor or relatives of the donee or successor; and for the purposes of this section, a company which is so controlled by the donee or successor shall be regarded as being itself a relative of the donee or successor.

(4) For the purposes of this section—

(a) a company shall be deemed to be under the control of not more than five persons if any five or fewer persons together exercise, or are able to exercise, or are entitled to acquire, control, whether direct or indirect, of the company; and for this purpose—

(i) persons who are relatives of any other person together with that other person;

(ii) persons who are nominees of any other person together with that other person;

(iii) persons in partnership; and

(iv) persons interested in any shares or obligations of the company which are subject to any trust or are part of the estate of a deceased person, shall respectively be treated as a single person; and

(b) a person shall be deemed to have control of a company at any time if—

(i) he then had control of the powers of voting on all questions, or on any particular question, affecting the company as a whole, which, if exercised, would have yielded a majority of the votes capable of being exercised thereon, or could then have obtained such control by an exercise at that time of a power exercisable by him or at his direction or with his consent;

(ii) he then had the capacity, or could then by an exercise of a power exercisable by him or at his direction or with his consent obtain the capacity, to exercise or to control the exercise of any of the following powers, that is to say—

- (I) the powers of a board of directors of the company;
 - (II) powers of a governing director of the company;
 - (III) power to nominate a majority of the directors of the company or a governing director thereof;
 - (IV) the power to veto the appointment of a director of the company, or
 - (V) powers of a like nature;
- (iii) he then had a right to receive, or the receipt of, more than one-half of the total amount of the dividends of the company, whether declared or not, and for the purposes of this subparagraph, "dividend" shall be deemed to include interest on any debentures of the company; or
- (iv) he then had an interest in the shares of the company of an aggregate nominal value representing one-half or more of the aggregate nominal value of the shares of the company.

Market value of certain shares in private non-trading companies. **17.—**(1) The market value of each share in a private non-trading company which (after the taking of the gift or of the inheritance) is, on the date of the gift or on the date of the inheritance, a company controlled by the donee or the successor, shall for the purposes of this Act, be such sum as would have been payable in respect of the share to the owner thereof if the company had been voluntarily wound up and all the assets realised on the date at which the share is to be valued.

(2) In this section—

"investment income", in relation to a private company, means income which, if the company were an individual, would not be earned income within the meaning of section 2 of the Income Tax Act, 1967 ;

"private company" and "company controlled by the donee or the successor" have the meanings assigned to them by section 16;

"private non-trading company" means a private company—

- (a) whose income (if any) in the twelve months preceding the date at which a share therein is to be valued consisted wholly or mainly of investment income; and
- (b) whose property, on the date referred to in paragraph (a), consisted wholly or mainly of property from which investment income is derived.

(3) Where the assets of such a private non-trading company as is referred to in subsection (1) include a share in another such private non-trading company (hereinafter referred to as the latter company), the market value of such share shall be ascertained on the basis that the latter company is voluntarily wound up and its assets realised on the date on which the share is to be valued.

(4) In determining the market value of the share referred to in subsection (1) or (3), no allowance shall be made for the costs of winding up any company or of realising its assets.

(5) In ascertaining, for the purposes of subsection (1) or (3), the amount which the assets of a company would realise, the assets shall be deemed to realise the amount of their market value as at the date at which the share referred to in subsection (1) or (3) is to be valued.

Taxable value of a taxable gift or taxable inheritance. **18.—**(1) In this section, “incumbrance-free value”, in relation to a taxable gift or a taxable inheritance, means the market value at the valuation date of the property of which the taxable gift or taxable inheritance consists at that date, after deducting any liabilities, costs and expenses that are properly payable out of the taxable gift or taxable inheritance.

(2) Subject to the provisions of this section (but save as provided in section 19), the taxable value of a taxable gift or a taxable inheritance (where the interest taken by the donee or successor is not a limited interest) shall be ascertained by deducting from the incumbrance-free value thereof the market value of any *bona fide* consideration in money or money's worth, paid by the donee or successor for the gift or inheritance, including—

(a) any liability of the donor which the donee or successor undertakes to discharge as his own personal liability; and

(b) any other liability to which the gift or inheritance is subject under the terms of the disposition under which it is taken,

and the amount so ascertained shall be the taxable value:

Provided that no deduction shall be made under this subsection in respect of any liability which falls to be deducted in ascertaining the incumbrance-free value.

(3) Where a liability (other than a liability within the meaning of subsection (9)) for which a deduction may be made under the provisions of subsection (1) or (2) falls to be discharged after the time at which it falls to be taken into account as a deduction under either of those subsections, it shall be valued for the purpose of making such a deduction at its current market value at the time at which it falls to be so taken into account.

(4) The taxable value of a taxable gift or a taxable inheritance, where the interest taken by the donee or the successor is a limited interest, shall be ascertained as follows—

(a) the value of the limited interest in a capital sum equal to the incumbrance-free value shall be ascertained in accordance with the Rules contained in the First Schedule; and

(b) from the value ascertained in accordance with paragraph (a) a deduction shall be made in respect of the market value of any *bona fide* consideration in money or money's worth paid by the donee or the successor for the gift or the inheritance and the amount remaining after such deduction shall be the taxable value:

Provided that no deduction shall be made under this paragraph in respect of any liability which falls to be deducted in ascertaining the incumbrance-free value.

(5) A deduction shall not be made under the provisions of this section—

(a) in respect of any liability the payment of which is contingent on the happening of some future event:

Provided that if the event on the happening of which the liability is contingent happens and the liability is paid, then, on a claim for relief being made to the Commissioners and subject to the other provisions of this section, a deduction shall be made in respect of the liability and such adjustment of tax as is appropriate shall be made; and such adjustment shall be made on the basis that the donee or successor had taken an interest in possession in the amount which falls to be deducted for the liability, for a period certain which was equal to the actual duration of the postponement of the payment of the liability;

(b) in respect of any liability, costs or expenses in so far as the donee or successor has a right of reimbursement from any source, unless such reimbursement cannot be obtained;

(c) in respect of any liability created by the donee or successor or any person claiming in right of the donee or successor or on his behalf;

(d) in respect of tax, interest or penalties chargeable under this Act in respect of the gift or inheritance, or of the costs, expenses or interest incurred in raising or paying the same;

(e) in respect of any liability in so far as such liability is an incumbrance on, or was created or incurred in acquiring, any property which is comprised in any gift or inheritance and which is exempt from tax under any provision of this Act or otherwise;

(f) in the case of any gift or inheritance referred to in section 6 (1) (c) or section 12 (1) (b) in respect of—

(i) any liability, costs or expenses due to a person resident outside the State (save in so far as such liability is required by contract to be paid in the State or is charged on the property which is situate in the State and which is comprised in the gift or inheritance); or

(ii) any liability, costs or expenses in so far as the same are charged on or secured by property which is comprised in the gift or inheritance and which is not situate in the State,

save to the extent that all the property situate outside the State and comprised in the gift or inheritance is insufficient for the payment of the liability, costs or expenses;

(g) for any tax in respect of which a credit is allowed under the provisions of section 66 or 67.

(6) In the case of a gift or inheritance referred to in subsection (5) (f), any deduction to be made under subsection (2) or (4) (b) shall be restricted to the proportion of the consideration which bears the same proportion to the whole of the consideration as the taxable gift or taxable inheritance bears to the whole of the gift or the whole of the inheritance.

(7) A deduction shall not be made under the provisions of this section—

(a) more than once for the same liability, costs, expenses or consideration, in respect of all gifts and inheritances taken by the donee or successor from the disponent; or

(b) for any liability, costs, expenses or consideration, a proportion of which falls to be allowed under the provisions of section 19 (2) (ii) or (iii) in respect of a gift or inheritance taken by the donee or successor from the disponent.

(8) Where a taxable gift or a taxable inheritance is subject to a liability within the meaning of subsection (9), the deduction to be made in respect thereof under this section shall be an amount equal to the market value of the whole or the appropriate part, as the case may be, of the property, within the meaning of section 5 (5).

(9) For the purpose of subsection (8), “liability”, in relation to a taxable gift or a taxable inheritance, means a liability which deprives the donee or successor, whether permanently or temporarily, of the use, enjoyment or income in whole or in part of the property, or of any part of the property, of which the taxable gift or taxable inheritance consists.

(10) Where—

(a) *bona fide* consideration in money or money's worth has been paid by a person for the granting to him, by a disposition, of an interest in expectancy in property; and

(b) at the coming into possession of the interest in expectancy, that person takes a gift or an inheritance of that property under that disposition,

the deduction to be made under subsection (2) or (4) (*b*) for consideration paid by that person shall be a sum equal to the same proportion of the taxable value of the taxable gift or taxable inheritance (as if no deduction had been made for such consideration) as the amount of the consideration so paid bore to the market value of the interest in expectancy at the date of the payment of the consideration.

(11) Any deduction, under the provisions of this section, in respect of a liability which is an incumbrance on any property shall so far as possible be made against that property.

Value of
agricultural
property.

19.—(1) In this section—

“agricultural property” means agricultural land, pasture and woodland situate in the State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with the lands occupied therewith) as are of a character appropriate to the property;

“agricultural value” means the market value of agricultural property reduced by 50 per cent. of that value, or by a sum of £100,000, whichever is the lesser;

“farmer”, in relation to a donee or successor, means an individual who is domiciled and ordinarily resident in the State and in respect of whom not less than 75 per cent. of the market value of the property to which he is beneficially entitled in possession is represented by the market value of property in the State which consists of agricultural property, livestock, bloodstock and farm machinery, and, for the purposes of this definition, no deduction shall be made from the market value of property for any debts or incumbrances.

(2) Save as provided in subsection (7), in so far as any gift or inheritance consists of agricultural property—

(a) at the date of the gift or at the date of the inheritance; and

(b) at the valuation date,

and is taken by a donee or successor who is, on the valuation date and after taking the gift or inheritance, a farmer, the provisions of section 18 (other than subsection 7 (*b*) thereof) shall apply in relation to agricultural property as they apply in relation to other property subject to the following modifications—

(i) in subsection (1) of that section, the reference to market value shall be construed as a reference to agricultural value;

(ii) where a deduction is to be made for any liability, costs or expenses, in accordance with subsection (1) of that section, only a proportion of such liability, costs or expenses shall be deducted and that proportion shall be the proportion that the agricultural value of the agricultural property bears to the market value of that property; and

(iii) where a deduction is to be made for any consideration under subsection (2) or (4) (b) of that section, only a proportion of such consideration shall be deducted and that proportion shall be the proportion that the agricultural value of the agricultural property bears to the market value of that property.

(3) Where a taxable gift or a taxable inheritance is taken by a donee or successor subject to the condition that the whole or part thereof will be invested in agricultural property and such condition is complied with within two years after the date of the gift or the date of the inheritance, then the gift or inheritance shall be deemed, for the purposes of this section, to have consisted—

(a) at the date of the gift or at the date of the inheritance; and

(b) at the valuation date,

of agricultural property to the extent to which the gift or inheritance is subject to such condition and has been so invested.

(4) In relation to the deduction, in respect of agricultural property, of 50 per cent. of its market value, or £100,000, whichever is the lesser, the total amount deductible in ascertaining the agricultural value shall not exceed £100,000, in respect of the aggregate of —

(a) all taxable gifts taken on or after the 28th day of February, 1969; and

(b) all taxable inheritances taken on or after the 1st day of April, 1975,

which consist in whole or in part of agricultural property, taken by the same person, as donee or successor, from the same disponer.

(5) (a) The agricultural value shall cease to be applicable to real property which is agricultural property if and to the extent that the property—

(i) is sold or compulsorily acquired within the period of six years after the date of the gift or the date of the inheritance; and

(ii) is not replaced, within a year of the sale or compulsory acquisition, by other agricultural property,

and tax shall be chargeable in respect of the gift or inheritance as if the property were not agricultural property :

Provided that this paragraph shall not have effect where the donee or successor dies before the property is sold or compulsorily acquired.

(b) If an arrangement is made, in the administration of property subject to a disposition, for the appropriation of property in or towards the satisfaction of a benefit under the disposition, such arrangement shall be deemed not to be a sale or a compulsory acquisition for the purposes of paragraph (a).

(6) For the purposes of subsection (2), if, in the administration of property subject to a disposition, property is appropriated in or towards the satisfaction of a benefit in respect of which a person is deemed to take a gift or an inheritance under the disposition, the property so appropriated, if it was subject to the disposition at the date of the gift or at the date of the inheritance, shall be deemed to have been comprised in that gift or inheritance at the date of the gift or at the date of the inheritance.

(7) The provisions of subsection (2) shall have effect in relation to agricultural property which consists of trees or underwood as if the words “and is taken by a donee or successor who is, on the valuation date and after taking the gift or inheritance, a farmer,” were omitted therefrom.

(8) In this section, other than in subsection (4), any reference to a donee or successor shall include a reference to the transferee referred to in section 23 (1).

Contingencies affecting gifts or inheritances.

20.—Where, under a disposition, a person becomes beneficially entitled in possession to any benefit and, under the terms of the disposition, the entitlement, or any part thereof, may cease upon the happening of a contingency (other than the revocation of the entitlement upon the exercise by the disponent of such a power as is referred to in section 30), the taxable value of any taxable gift or taxable inheritance taken by that person on becoming so entitled to that benefit shall be ascertained as if no part of the entitlement were so to cease; but, in the event and to the extent that the entitlement so ceases, the tax payable by that person shall, to that extent, be adjusted (if, by so doing, a lesser amount of tax would be payable by him) on the basis that he had taken an interest in possession for a period certain which was equal to the actual duration of his beneficial entitlement in possession :

Provided that nothing in this section shall prejudice any charge for tax on the taking by such person of a substituted gift or inheritance on the happening of such a contingency.

Valuation date for tax purposes.

21.—(1) Subject to the provisions of subsection (7), the valuation date of a taxable gift shall be the date of the gift.

(2) The valuation date of a taxable inheritance shall be the date of death of the deceased person on whose death the inheritance is taken if the successor or any person in right of the successor or on his behalf takes the inheritance—

(a) as a *donatio mortis causa*; or

(b) by reason of the failure to exercise a power of revocation.

(3) If a gift becomes an inheritance by reason of its being taken under a disposition where the date of the disposition is within two years prior to the death of the disponent, the valuation date thereof shall be determined as if it were a gift.

(4) The valuation date of a taxable inheritance, other than a taxable inheritance referred to in subsection (2) or (3), shall be the earliest date of the following—

(a) the earliest date on which a personal representative or trustee or the successor or any other person is entitled to retain the subject matter of the inheritance for the benefit of the successor or of any person in right of the successor or on his behalf;

(b) the date on which the subject matter of the inheritance is so retained; or

(c) the date of delivery, payment or other satisfaction or discharge of the subject matter of the inheritance to the successor or for his benefit or to or for the benefit of any person in right of the successor or on his behalf.

(5) If any part of a taxable inheritance referred to in subsection (4) may be retained, or is retained, delivered, paid or otherwise satisfied, whether by way of part payment, advancement, payment on account or in any manner whatsoever, before any other part or parts of such inheritance, the appropriate valuation date for each part of the inheritance shall be determined in accordance with that subsection as if each such part respectively were a separate inheritance.

(6) The Commissioners may give to an accountable person a notice in writing of the date determined by them to be the valuation date in respect of the whole or any part of an inheritance, and, subject to any decision on appeal pursuant to subsection (9), the date so determined shall be deemed to be the valuation date.

(7) If a taxable inheritance referred to in subsection (4) or (5) is disposed of, ceases or comes to an end before the valuation date referred to in those subsections in such circumstances as to give rise to a taxable gift, the valuation date in respect of such taxable gift shall be the same date as the valuation date of the taxable inheritance.

(8) Notwithstanding anything contained in this section, the Commissioners may, in case of doubt, with the agreement in writing of the accountable person or his agent, determine the valuation date of the whole or any part of any taxable inheritance and the valuation date so determined shall be substituted for the valuation date which would otherwise be applicable by virtue of this section.

(9) An appeal shall lie against any determination made by the Commissioners under subsection (6) and the provisions of section 52 shall apply, with any necessary modifications, in relation to an appeal under this subsection as they apply in relation to an appeal against an assessment of tax.

PART V

Provisions relating to Gifts and Inheritances

Discretionary trusts.

22.—Where a person becomes beneficially entitled in possession to any benefit—

(a) under a discretionary trust, other than a discretionary trust referred to in paragraph (b), otherwise than for full consideration in money or money's worth paid by him, he shall be deemed to have taken a gift;

(b) under a discretionary trust created—

(i) by will at any time;

(ii) by a disposition, where the date of the disposition is on or after the 1st day of April, 1975, and within two years prior to the death of the disponent; or

(iii) by a disposition *inter vivos* and limited to come into operation on a death occurring before or after the passing of this Act,

otherwise than for full consideration in money or money's worth paid by him, he shall be deemed to have taken an inheritance.

Dealings with future interests.

23.—(1) Where a benefit, to which a person (in this section referred to as the remainderman) is entitled under a disposition, devolves, or is disposed of, either in whole or in part, before it has become an interest in possession so that, at the time when the benefit comes into possession, it is taken, either in whole or in part, by a person (in this section referred to as the transferee) other than the remainderman to whom it was limited by the disposition, then tax shall be payable, in respect of a gift or inheritance, as the case may be, of the remainderman in all respects as if, at that time, the remainderman had become beneficially entitled in possession to the full extent of the benefit limited to him under the disposition, and the transferee shall be the person primarily accountable for the payment of tax to the extent that the benefit is taken by him.

(2) The provisions of subsection (1) shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under any other disposition.

(3) In subsection (1), “benefit” includes the benefit of the cesser of a liability referred to in section 28.

Release of limited
interests, etc.

24.—(1) Where an interest in property, which is limited by the disposition creating it to cease on an event, has come to an end (whether by another disposition, the taking of successive interests into one ownership, or by any means whatever other than the happening of another event on which the interest was limited by the first-mentioned disposition to cease) before the happening of such event, tax shall be payable under the first-mentioned disposition in all respects as if the event on which the interest was limited to cease under that disposition had happened immediately before the coming to an end of the interest.

(2) The provisions of subsection (1) shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under any disposition other than that first mentioned in subsection (1).

(3) Notwithstanding anything contained in subsection (2), if—

- (a) an interest in property which was limited to cease on an event was limited to the disponent by the disposition creating that interest; and
- (b) on the coming to an end of that interest, the provisions of subsection (1) have effect in relation to a gift or inheritance which was taken by a donee or successor under that disposition and which consists of the property in which that interest subsisted, then—

a further gift or inheritance taken by the same donee or successor under another disposition made by the same disponent (being the disposition by which that interest has come to an end) shall not be a taxable gift or a taxable inheritance in so far as it consists of the whole or any part of the same property.

(4) In this section, “event” includes—

- (a) a death; and
- (b) the expiration of a specified period.

Settlement of an
interest not in
possession.

25.—(1) Where any donee or successor takes a gift or an inheritance under a disposition made by himself then, if at the date of such disposition he was entitled to the property comprised in the disposition, either expectantly on the happening of an event, or subject to a liability within the meaning of section 18 (9), and such event happens or such liability ceases during the continuance of the disposition, tax shall be charged on the taxable value of the taxable gift or taxable inheritance which he would have taken on the happening of such event, or on the cesser of such liability, if no such disposition had been made.

(2) The provisions of subsection (1) shall not prejudice any charge for tax in respect of any gift or inheritance affecting the same property or any part of it under the said disposition.

(3) In this section, “event” has the same meaning as it has in section 24.

Enlargement of interests. **26.**—(1) Where a person, having a limited interest in possession in property (in this section referred to as the first-mentioned interest), takes a further interest (in this section referred to as the second-mentioned interest) in the same property, as a taxable gift or a taxable inheritance, in consequence of which he becomes the absolute owner of the property, the taxable value of the taxable gift or taxable inheritance of the second-mentioned interest at the valuation date shall be reduced by the value at that date of the first-mentioned interest, taking such value to be the value, ascertained in accordance with the Rules contained in the First Schedule, of a limited interest which—

(a) is a limited interest in a capital sum equal to the value of the property;

(b) commences on that date; and

(c) is to continue for the unexpired balance of the term of the first-mentioned interest.

(2) For the purposes of subsection (1) (a), “value” means such amount as would be the incumbrance-free value, within the meaning of section 18 (1), if the limited interest were taken, at the date referred to in subsection (1), as a taxable gift or taxable inheritance.

(3) The provisions of this section shall not have effect where the second-mentioned interest is taken under the disposition under which the first-mentioned interest was created.

Dispositions involving powers of appointment. **27.**—(1) Where, by virtue of or in consequence of the exercise of, or the failure to exercise, or the release of, a general power of appointment by any person having such a power, a person becomes beneficially entitled in possession to any benefit, then, for the purposes of this Act, the disposition shall be the exercise of, or the failure to exercise, or the release of, the power and not the disposition under which the power was created, and the person exercising, or failing to exercise, or releasing, the power shall be the disponer.

(2) Where, by virtue of or in consequence of the exercise of, or the failure to exercise, or the release of, a special power of appointment by any person having such a power, a person becomes beneficially entitled in possession to any benefit, then, for the purposes of this Act, the disposition shall be the disposition under which the power was created and the person who created the power shall be the disponer.

Cesser of liabilities. **28.**—(1) The benefit of the cesser of—

(a) a liability within the meaning of section 18 (9); or

(b) any liability similar to that referred to in paragraph (a) to which the taking of a benefit which was a gift or inheritance was subject,

shall be deemed to be a gift or an inheritance, as the case may be, which shall be deemed—

(i) to the extent that the liability is charged on or secured by any property at the time of its cesser, to consist of the whole or the appropriate part, as the case may be, of that property; and

(ii) to the extent that the liability is not charged on or secured by any property at the time of its cesser, to consist of such sum as would, under the provisions of section 5 (2) (b), be the sum the annual income of which would be equal to the annual value of the liability.

(2) In this section, “appropriate part” has the meaning assigned to it by section 5 (5).

(3) For the purposes of sections 6 (1) (c) and 12 (1) (b), the sum referred to in subparagraph (ii) of subsection (1) shall be deemed not to be situate in the State at the date of the gift or at the date of the inheritance.

Disposition

enlarging value of property. **29.—**(1) In this section, “property” does not include any property to which a donee or successor became beneficially entitled in possession prior to the 28th day of February, 1969.

(2) Where the taking by any person of a beneficial interest in any property (hereinafter in this section referred to as additional property) under any disposition made by a disponent has the effect of increasing the value of any other property (hereinafter in this section referred to as original property) to which that person is beneficially entitled in possession, and which had been derived from the same disponent, the following provisions shall have effect—

- (a) the increase in value so effected shall be deemed to be a gift or an inheritance, as the case may be, arising under that disposition and taken by that person, as donee or successor, from that disponent, at the time he took the beneficial interest in the additional property;
- (b) the original property shall be treated as having been increased in value if the market value of that property at the time referred to in paragraph (a) would be greater if it was sold as part of an aggregate of the original property and the additional property rather than as a single item of property, and the increase in value for the purposes of this section shall be the amount by which the market value of the original property if sold at that time as part of such aggregate would be greater than the amount of the market value of that property if sold at that time as a single item of property;
- (c) the additional property shall, for the purpose of determining its market value, be deemed to be part of an aggregate of the original property and the additional property; and
- (d) the market value of any property which is to be valued as part of an aggregate of property shall be ascertained as being so much of the market value of such aggregate as may reasonably be ascribed to that part.

(3) For the purpose of this section, the donee or successor shall be deemed to be beneficially entitled in possession to any property notwithstanding that within five years prior to such a disposition as is referred to in subsection (2) he has divested himself of such property, or any part thereof, otherwise than for full consideration in money or money's worth or has disposed of it to a company of which he is, at any time within that period of five years, deemed to have control within the meaning of section 16 (4) (b).

(4) In subsection (3), "company" means a private company within the meaning of section 16 (2).

Gift subject to
power of
revocation.

30.—Where, under any disposition, a person becomes beneficially entitled in possession to any benefit and, under the terms of the disposition, the donor has reserved to himself the power to revoke the benefit, such person shall, for the purposes of this Act, be deemed not to be beneficially entitled in possession to the benefit unless and until the power of revocation is released by the donor, or otherwise ceases to be exercisable.

Free use of
property, free
loans, etc.

31.—(1) A person shall be deemed to take a gift in each relevant period during the whole or part of which he is allowed to have the use, occupation or enjoyment of any property (to which property he is not beneficially entitled in possession) otherwise than for full consideration in money or money's worth.

(2) In subsections (1) and (4), "relevant period", in relation to any use, occupation or enjoyment of property, means the period from the 28th day of February, 1974, to the 31st day of December, 1974, and thereafter the period of twelve months ending on the 31st day of December in each year.

(3) A gift referred to in subsection (1) shall be deemed to consist of a sum equal to the difference between the amount of any consideration in money or money's worth, given by the person referred to in subsection (1) for such use, occupation or enjoyment, and the best price obtainable in the open market for such use, occupation or enjoyment.

(4) A gift referred to in subsection (1) shall be treated as being taken at the end of the relevant period or, if earlier, immediately prior to the time when the use, occupation or enjoyment referred to in subsection (1) comes to an end.

(5) In any case where the use, occupation or enjoyment of property is allowed to a person, not being beneficially entitled in possession to that property, under a disposition—

(a) made by will;

(b) where the date of the disposition is on or after the 1st day of April, 1975, and within two years prior to the death of the donor; or

(c) which is a disposition *inter vivos* and the use, occupation or enjoyment is had by that person after the cesser of another person's life interest,

subsections (1), (3) and (4) shall have effect in relation to that property as if a reference to an inheritance were substituted for the reference to a gift wherever it occurs in those subsections, and for the purpose of this subsection “relevant period” in subsections (1) and (4), in relation to the use, occupation or enjoyment of property, means the period of nine months ending on the 31st day of December, 1975, and thereafter the period of twelve months ending on the 31st day of December in any year.

(6) For the purposes of sections 6 (1) (c) and 12 (1) (b), the sum referred to in subsection (3) shall be deemed not to be situate in the State at the date of the gift or at the date of the inheritance.

When interest in
assurance policy
becomes interest
in possession.

32.—(1) For the purposes of this Act, an interest in a policy of assurance upon human life shall be deemed to become an interest in possession when and only when, either—

(a) the policy matures; or

(b) prior to the maturing of the policy, the policy is surrendered to the insurer for a consideration in money or money's worth:

Provided that if, during the currency of the policy, the insurer makes a payment of money or money's worth, in full or partial discharge of the policy, the interest shall be deemed to have come into possession to the extent of such payment.

(2) This section shall have effect in relation to a contract for a deferred annuity, and for the purposes of this section such a contract shall be deemed to mature on the date when the first instalment of the annuity falls due.

Provisions to apply
where section 98
of Succession Act,
1965, has effect.

33.—(1) If, on the death of a testator and by virtue of the provisions of section 98 of the Succession Act, 1965, or otherwise, a disposition takes effect as if a person, who had predeceased the testator, had survived the testator, the benefit taken by the estate of that person shall not be deemed to be an inheritance.

(2) Where a person survives a testator, and—

(a) such person becomes beneficially entitled, under a disposition made by a person who predeceased the testator, to any benefit in relation to any property devised or bequeathed by the testator; and

(b) section 33 of the Wills Act, 1837, or section 98 of the Succession Act, 1965, or any analogous provision of the law of another territory has effect in relation to the devise or bequest.

such person shall be deemed for the purposes of inheritance tax to derive the benefit from the testator, as disponer.

Disposition by or to a company. **34.—**(1) For the purposes of this Act—

(a) consideration paid by, or a disposition made by, a company shall be deemed to be consideration, or a disposition, as the case may be, paid or made; and

(b) consideration, or a gift, or an inheritance taken by a company shall be deemed to be consideration, or a gift or an inheritance, as the case may be, taken,

by the beneficial owners of the shares in the company and the beneficial owners of the entitlements under any liability incurred by the company (otherwise than for the purposes of the business of the company, wholly and exclusively) in the same proportions as the amounts which would be payable to them if the company were wound up voluntarily and its assets were realised on the date of the payment, disposition, gift or inheritance, as the case may be, would bear to each other (the amount of any realisation being ascertained for this purpose in accordance with section 17 as if the date of the payment, disposition, gift or inheritance were the date of such realisation).

(2) In this section, “company” means a private company within the meaning of section 16 (2).

(3) For the purposes of subsection (1) all acts, omissions and receipts of the company shall be deemed to be those of the beneficial owners of the shares and entitlements, referred to in subsection (1), in the company, in the proportions mentioned in that subsection.

(4) Where the beneficial owner of any shares in a company or of any entitlement of the kind referred to in subsection (1), is itself a company, the beneficial owners of the shares and entitlements, referred to in subsection (1), in the latter company, shall be deemed to be the beneficial owners of the latter company's shares and entitlements in the former company, in the proportions in which they are the beneficial owners of the shares and entitlements in the latter company.

(5) So far as the shares and entitlements referred to in subsection (1) are held in trust and have no ascertainable beneficial owners, consideration paid, or a disposition made, by the company shall be deemed to be paid or made by the disponent who made the disposition under which the shares and entitlements are so held in trust.

PART VI

Returns and Assessments

Accountable persons.

35.—(1) The person primarily accountable for the payment of tax shall be—

(a) save as provided in paragraph (b), the donee or successor, as the case may be; and

(b) in the case referred to in section 23 (1), the transferee referred to in that subsection, to the extent referred to in that subsection.

(2) Subject to subsections (3) and (4), the following persons shall also be accountable for the payment of any amount of the tax for which the persons referred to in subsection (1) are made primarily accountable—

(a) in the case of a gift—

(i) the disponent; and

(ii) every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the gift or the income therefrom is placed at the date of the gift or at any time thereafter and every person in whom the property is vested after that date, other than a *bona fide* purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee;

(b) in the case of an inheritance, every trustee, guardian, committee, personal representative, agent or other person in whose care any property comprised in the inheritance or the income therefrom is placed at the date of the inheritance or at any time thereafter and every person in whom the property is vested after that date, other than a *bona fide* purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee:

Provided that the disponent as such shall not be so accountable in the case where the date of the disposition was prior to the 28th day of February, 1974.

(3) No person referred to in subsection (2) (a) (ii) or (b) shall (unless he is a person who is also primarily accountable under subsection (1)) be liable for tax chargeable on any gift or inheritance to an amount in excess of—

(a) the market value of so much of the property of which the gift or inheritance consists; and

(b) so much of the income from such property,

which has been received by him, or which, but for his own neglect or default, would have been received by him or to which he is beneficially entitled in possession.

(4) A person who acts solely in the capacity of an agent shall not be liable for tax chargeable on a gift or inheritance to an amount in excess of the market value of so much of the property of which the gift or inheritance consists and of the income from such property which he held, or which came into his possession, at any time after the serving on him of the notice referred to in subsection (5).

(5) The Commissioners may serve on any person who acts solely in the capacity of agent in relation to any property comprised in a gift or an inheritance a notice in writing informing him of his liability under this section.

(6) The tax shall be recoverable from any one or more of—

(a) the accountable persons; and

(b) the personal representatives of any accountable persons who are dead,

on whom the Commissioners have served notice in writing of the assessment of tax in exercise of the power conferred on them by section 39:

Provided that the liability of a personal representative under this subsection shall not exceed the amount for which the accountable person, of whom he is the personal representative, was liable.

(7) Any person referred to in subsection (2) (a) or (b) or in subsection (6) (b) who is authorised or required to pay, and pays, any tax in respect of any property comprised in a gift or in an inheritance may recover the amount paid by him in respect of tax from the person primarily accountable therefor.

(8) A person—

(a) who is primarily accountable for the payment of tax; or

(b) referred to in subsection (2) (a) or (b) or in subsection (6) (b) who is authorised or required to pay tax,

in respect of any property shall, for the purpose of paying the tax, or raising the amount of the tax when already paid, have power, whether the property is or is not vested in him, to raise the amount of such tax and any interest and expenses properly paid or incurred by him in respect thereof, by the sale or mortgage of, or a terminable charge on, that property or any part thereof.

(9) If a person, who is primarily accountable for the payment of tax in respect of a gift or inheritance (in this subsection and in subsection (11) referred to as the first gift or inheritance) derived from a disponent, has not paid the tax on the first gift or inheritance, the Commissioners may serve a notice in writing in accordance with subsection (11) on any person who is, by virtue of paragraph (a) (ii) or (b) of subsection (2), accountable for the payment of tax on any other gift or inheritance (referred to in subsections (10) and (11) as the second gift or inheritance) taken by the same donee or successor from the same disponent, and the person on whom the notice is served shall thereupon become accountable for the payment of tax in respect of the first gift or inheritance.

(10) The provisions of subsections (3), (4), (5), (6), (7) and (8) shall apply in relation to a person made accountable under subsection (9) as they apply in relation to a person referred to in paragraph (a) (ii) or (b) of subsection (2) and, for the purposes of this subsection—

(a) references in subsections (3) and (4) to the property of which the gift or inheritance consists; and

(b) the second and third references to property in subsection (8),

shall be construed as references to the property of which the second gift or inheritance consists, in so far as the last-mentioned property had not been duly paid out at the date of the service of the notice under subsection (9).

(11) A notice under subsection (9) shall refer expressly to the first and the second gift or inheritance, and shall inform the person on whom it is served of his accountability in respect of the first gift or inheritance.

(12) Every public officer having in his custody any rolls, books, records, papers, documents, or proceedings, the inspection whereof may tend to secure the tax, or to prove or lead to the discovery of any fraud or omission in relation to the tax, shall at all reasonable times permit any person thereto authorised by the Commissioners to inspect the rolls, books, records, papers, documents and proceedings, and to take notes and extracts as he may deem necessary.

Delivery of returns. **36.—**(1) In this section—

(a) notwithstanding anything contained in sections 6 and 12—

(i) a reference to a taxable gift is a reference to a taxable gift taken on or after the 28th day of February, 1974;

(ii) a reference to a taxable inheritance is a reference to a taxable inheritance taken on or after the 1st day of April, 1975; and

(iii) a reference, other than in subparagraph (i), to a gift or a taxable gift includes a reference to an inheritance or a taxable inheritance, as the case may be; and

(b) a reference to a donee includes a reference to a successor.

(2) Any person who is primarily accountable for the payment of tax by virtue of section 35 (1) shall, within three months after the relevant date referred to in subsection (5), deliver to the Commissioners a full and true return—

(a) of every gift in respect of which he is so primarily accountable and to which this subsection applies;

(b) of all the property comprised in such gift; and

(c) of an estimate of the market value of such property.

(3) Subsection (2) applies to a gift in the case where—

(a) the taxable value of the taxable gift taken by the donee from the donor—

(i) (I) exceeds £120,000; and

(II) the donee is a spouse, child, or minor child of a deceased child, of the donor;

(ii) (I) exceeds £12,000; and

(II) the donee is a lineal ancestor or a lineal descendant (other than a child, or a minor child of a deceased child) of the donor;

(iii) (I) exceeds £8,000; and

(II) the donee is—

(A) a brother or a sister of the donor; or

(B) a child of a brother or of a sister of the donor; or

(iv) (I) exceeds £4,000; and

(II) the donee does not stand to the donor in a relationship referred to in subparagraph (i) (II), (ii) (II) or (iii) (II);

(b) the taxable value of a taxable gift taken by a donee from the donor increases the total taxable value of all taxable gifts taken by the donee from the donor from an amount less than or equal to the amount specified in paragraph (a) (i) (I), (a) (ii) (I), (a) (iii) (I) or (a) (iv) (I), as the case may be, to an amount which exceeds the amount so specified;

(c) the total taxable value of all taxable gifts taken by the donee from the donor exceeds the amount specified in paragraph (a) (i) (I), (a) (ii) (I), (a) (iii) (I) or (a) (iv) (I), as the case may be, and the donee takes a further taxable gift from the donor; or

(d) the donee is required by notice in writing by the Commissioners to deliver a return.

(4) Any reference in subsection (3) (b) or (c) to the total taxable value of all taxable gifts includes a reference to the total aggregable value of all aggregable gifts and for the purpose of this section “aggregable gift” and “aggregable value” have the meanings assigned to them by paragraph 1 of Part I of the Second Schedule.

(5) For the purposes of this section, the relevant date shall be—

(a) the valuation date or three months after the passing of this Act, whichever is the later; or

(b) where the donee is required by notice in writing by the Commissioners to deliver a return, the date of the notice.

(6) Any person who is accountable for the payment of tax by virtue of subsection (2) or (9) of section 35 shall, if he is required by notice in writing by the Commissioners to do so, deliver a return to the Commissioners within such time, not being less than 30 days, as may be specified in the notice.

(7) Any accountable person shall, if he is so required by the Commissioners by notice in writing, deliver and verify to the Commissioners within such time, not being less than 30 days, as may be specified in the notice, a statement of such particulars together with such evidence as they require relating to any property, as may be relevant to the assessment of tax in respect of the gift.

(8) The Commissioners may by notice in writing require any accountable person to deliver to them within such time, not being less than 30 days, as may be specified in the notice, an additional return, if it appears to the Commissioners that a return made by that accountable person is defective in a material respect by reason of anything contained in or omitted from it.

(9) Where any accountable person who has delivered a return or an additional return is aware or becomes aware at any time that the return or additional return is defective in a material respect by reason of anything contained in or omitted from it, he shall, without application from the Commissioners and within three months of so becoming aware, deliver to them an additional return.

Signing of returns,
etc. **37.—**(1) A return or an additional return required to be delivered under this Act shall be signed by the accountable person who delivers the return or the additional return and shall include a declaration by the person signing it that the return or additional return is, to the best of his knowledge, information and belief, correct and complete.

(2) The Commissioners may require a return or an additional return to be made on oath.

(3) The Commissioners may, if they so think fit, accept a return or an additional return under this Act that has not been signed in accordance with this section and such return or additional return shall be deemed to be duly delivered to the Commissioners under this Act.

(4) A return, additional return, affidavit, additional affidavit, account or additional account, delivered under this Act, shall be made on a form provided by the Commissioners.

(5) Any oath or affidavit to be made for the purposes of this Act may be made—

(a) before the Commissioners;

(b) before any officer or person authorised by the Commissioners in that behalf;

- (c) before any Commissioner for Oaths or any Peace Commissioner or Notary Public in the State; or
- (d) at any place outside the State, before any person duly authorised to administer oaths there.

Affidavits and
accounts.

38.—(1) In this section, “Inland Revenue affidavit” has the meaning assigned to it by section 22 (1) (n) of the Finance Act, 1894 .

(2) The Inland Revenue affidavit required for an application for probate or letters of administration shall extend to the verification of a statement of the following particulars—

- (a) details of all property in respect of which the grant of probate or administration is required and, in the case of a deceased person who died domiciled in the State, details of all property, wheresoever situate, the beneficial ownership of which, on his death, is affected—
 - (i) by his will;
 - (ii) by the rules for distribution on intestacy; or
 - (iii) by Part IX or section 56 of the Succession Act, 1965 ;
- (b) details of any property which was the subject matter of a disposition *inter vivos* made by the deceased person where the date of the disposition was within two years prior to his death or of a *donatio mortis causa*;
- (c) details of the inheritances arising under the will or intestacy of the deceased person or under Part IX or section 56 of the Succession Act, 1965 , or under the analogous law of another territory, together with a copy of any such will;
- (d) particulars of the inheritances (including the property comprised therein) other than those referred to in paragraphs (b) and (c), arising on the death of the deceased person;
- (e) the name and address of each person who takes an inheritance on the death of the deceased person and his relationship to the disponent; and
- (f) such other particulars as the Commissioners may require for the purposes of this Act.

(3) Where the interest of the deceased person was a limited interest and that person died on or after the 1st day of April, 1975, the trustee of the property in which the limited interest subsisted shall deliver an account which shall contain the following particulars—

- (a) details of each inheritance arising on the death of the deceased person under the disposition under which the limited interest of the deceased person arose, including the name and address of each person taking such inheritance and his relationship to the disponent; and

(b) such other particulars as the Commissioners may require for the purposes of this Act.

(4) If at any time it shall appear that any material error or omission was made in an affidavit or account referred to in this section, the persons liable to deliver an affidavit or account shall be liable to deliver an additional affidavit or an additional account, correcting the error or omission.

Assessment of tax. **39.**—(1) Assessments of tax under this Act shall be made by the Commissioners.

(2) If at any time it appears that for any reason an assessment was incorrect, the Commissioners may make a correcting assessment, which shall be substituted for the first-mentioned assessment.

(3) If at any time it appears that for any reason too little tax was assessed, the Commissioners may make an additional assessment.

(4) The Commissioners may serve notice in writing of the assessment of tax on any accountable person or, at the request of an accountable person, on his agent, or on the personal representative of an accountable person if that person is dead.

(5) Where the place of residence of the accountable person or of his personal representative is not known to the Commissioners they may publish in the *Iris Oifigiúil* a notice of the making of the assessment with such particulars thereof as they shall think proper and on the publication of the notice in the *Iris Oifigiúil* the accountable person or his personal representative, as the case may be, shall be deemed to have been served with the notice of the assessment on the date of such publication.

(6) Any assessment, correcting assessment or additional assessment under this section may be made by the Commissioners from any return or additional return delivered under the provisions of section 36 or from any other information in the possession of the Commissioners or from any one or more of these sources.

(7) The Commissioners, in making any assessment, correcting assessment or additional assessment, otherwise than from a return or an additional return which is satisfactory to them, shall make an assessment of such amount of tax as, to the best of their knowledge, information and belief, ought to be charged, levied and paid.

Computation of tax. **40.**—The amount of tax payable shall be computed in accordance with the provisions of the Second Schedule.

PART VII

Payment and Recovery of Tax

Payment of tax and interest on tax. **41.**—(1) Tax shall be due and payable on the valuation date.

(2) Simple interest at the rate of one and one-half per cent. per month or part of a month, without deduction of income tax, shall be payable upon the tax from the valuation date to the date of payment of the tax and shall be chargeable and recoverable in the same manner as if it were part of the tax.

(3) Notwithstanding the provisions of subsection (2), interest shall not be payable on tax which is paid within three months of the valuation date, and where tax and interest, if any, thereon is paid within thirty days of the date of assessment thereof, interest shall not run on that tax for the period of thirty days from the date of the assessment or any part of that period.

(4) A payment on account of tax shall be applied—

(a) if there is interest due on tax at the date of the payment, to the discharge, so far as may be, of the interest so due; and

(b) if there is any balance of that payment remaining, to the discharge of so much tax as is equal to that balance.

(5) Subject to the provisions of subsections (2), (3) and (4), payments on account may be made at any time, and when a payment on account is made, interest shall not be chargeable in respect of any period subsequent to the date of such payment on so much of the payment on account as is to be applied in discharge of the tax.

(6) 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 two years prior to the death of the disponent, the provisions of this section shall have effect as if the references to the valuation date in subsections (1), (2) and (3) were references to the date of death of the disponent.

(7) In the case of a gift or inheritance taken prior to the date of the passing of this Act, the provisions of this section shall have effect as if the references to the valuation date in subsections (1), (2) and (3) were references to the date of the passing of this Act, or to the valuation date, whichever is the later.

(8) Where the value of a limited interest falls to be ascertained in accordance with rule 8 of the First Schedule as if it were a series of absolute interests, this section shall have effect, in relation to each of those absolute interests, as if the references to the valuation date in subsections (1), (2) and (3) were references to the date of the taking of that absolute interest.

(9) All sums due under the provisions of this Act shall be paid to the Accountant-General of the Commissioners.

Set-off of gift tax paid in respect of an inheritance. **42.**—Where an amount has been paid in respect of gift tax (or interest thereon) on a gift which, by reason of the death of the donor within two years after the date of the disposition under which the gift was taken, becomes an inheritance in respect of which inheritance tax is payable, the amount so paid shall be treated as a payment on account of the inheritance tax.

Payment of tax by instalments. **43.**—(1) Subject to the payment of interest in accordance with section 41 and save as hereinafter provided, the tax due and payable in respect of a taxable gift or a taxable inheritance may, at the option of the person delivering the return or additional return, be paid by five equal yearly instalments, the first of which shall be due at the expiration of twelve months from the date on which the tax became due and payable and the interest on the unpaid tax shall be added to each instalment and shall be paid at the same time as such instalment.

(2) An instalment not due may be paid at any time before it falls due.

(3) In any case where and to the extent that the property of which the taxable gift or taxable inheritance consists is sold or compulsorily acquired, all unpaid instalments shall, unless the interest of the donee or successor is a limited interest, be paid on completion of the sale or compulsory acquisition and, if not so paid, shall be tax in arrear.

(4) This section shall not apply in any case where and to the extent to which a taxable gift or a taxable inheritance consists of personal property in which the donee, or the successor, or the transferee referred to in section 23 (1), as the case may be, takes an absolute interest.

(5) In any case where the interest taken by a donee or a successor is an interest limited to cease on his death, and his death occurs before all the instalments of the tax in respect of the taxable gift or taxable inheritance would have fallen due if such tax were being paid by instalments, any instalment of such tax which would not have fallen due prior to the date of the death of that donee or successor shall cease to be payable, and the payment, if made, of any such last-mentioned instalment shall be treated as an overpayment of tax for the purposes of section 46.

Postponement, remission and compounding of tax. **44.**—(1) Where the Commissioners are satisfied that tax leviable in respect of any gift or inheritance cannot without excessive hardship be raised at once, they may allow payment to be postponed for such period, to such extent and on such terms (including the waiver of interest) as they think fit.

(2) If, after the expiration of the relevant period immediately following the date on which any tax became due and payable, the tax or any part thereof remains unpaid, the Commissioners may, if they think fit, remit the payment of any interest accruing after such expiration on the unpaid tax; and in this subsection, “relevant period” means the period at the end of which the interest on an amount payable in respect of tax would, at the rate from time to time chargeable during that period in respect of interest on tax, equal the amount of such tax.

(3) If, after the expiration of twenty years from the date on which any tax became due and payable, the tax or any part thereof remains unpaid, the Commissioners may, if they think fit, remit the payment of such tax or any part thereof and all or any interest thereon.

(4) Where, in the opinion of the Commissioners, the complication of circumstances affecting a gift or inheritance or the value thereof or the assessment or recovery of tax thereon are such as to justify them in doing so, they may compound the tax payable on the gift or inheritance upon such terms as they shall think fit, and may give a discharge to the person or persons accountable for the tax upon payment of the tax according to such composition.

Payment of inheritance tax by transfer of securities. **45.**—The provisions of section 22 of the Finance Act, 1954 , (which relates to the payment of death duties by the transfer of securities to the Minister for Finance) and the regulations made thereunder shall apply, with any necessary modifications, to the payment of inheritance tax by the transfer of securities to the Minister for Finance, as they apply to the payment of death duties by the transfer of securities to the Minister for Finance.

Overpayment of tax. **46.**—Where, on application to the Commissioners for relief under this section, it is proved to their satisfaction that an amount has been paid in excess of the liability for tax or for interest on tax, they shall give relief by way of repayment of the excess or otherwise as is reasonable and just; and any such repayment shall carry simple interest (not exceeding the amount of such excess), without deduction of income tax, from the date on which the payment was made, at the same rate as that at which the tax would from time to time have carried interest if it were due and such payment had not been made.

Tax to be a charge. **47.**—(1) Tax due and payable in respect of a taxable gift or a taxable inheritance shall, subject to the provisions of this section, be and remain a charge on the property (other than money or negotiable instruments) of which the taxable gift or taxable inheritance consists at the valuation date and the tax shall have priority over all charges and interests created by the donee or successor or any person claiming in right of the donee or successor or on his behalf:

Provided that where any settled property comprised in any taxable gift or taxable inheritance shall be subject to any power of sale, exchange, or partition, exercisable with the consent of the donee or successor, or by the donee or successor with the consent of another person, the donee or successor shall not be precluded by the charge of tax on his taxable gift or taxable inheritance from consenting to the exercise of such power, or exercising any power with proper consent, as the case may be; and where any such power is exercised, the tax shall be charged upon the property acquired, in substitution for charging it on the property previously comprised in the gift or inheritance, and upon all moneys arising from the exercise of any such power, and upon all investments of such moneys.

(2) Property comprised in a taxable gift or taxable inheritance shall not, as against a *bona fide* purchaser or mortgagee for full consideration in money or money's worth, or a person deriving title from or under such a purchaser or mortgagee, remain charged with or liable to the payment of tax after the expiration of twelve years from the date of the gift or the date of the inheritance.

(3) Tax shall not be a charge on property under subsection (1) as against a *bona fide* purchaser or mortgagee of such property for full consideration in money or money's worth without notice, or a person deriving title from or under such a purchaser or mortgagee.

Receipts and
certificates.

48.—(1) When any amount in respect of tax is paid, the Commissioners shall give a receipt for the payment.

(2) The Commissioners shall, on application to them by a person who has paid the tax in respect of any property comprised in any taxable gift or taxable inheritance, give to the person a certificate, in such form as they think fit, of the amount of the tax paid by him in respect of that property.

(3) The Commissioners shall, on application to them by a person who is an accountable person in respect of any of the property of which a taxable gift or taxable inheritance consists, if they are satisfied that the tax charged on the property in respect of the taxable gift or taxable inheritance has been or will be paid, or that there is no tax so charged, give a certificate to the person, in such form as they think fit, to that effect, which shall discharge the property from liability for tax (if any) in respect of the gift or inheritance, to the extent specified in the certificate.

(4) A certificate referred to in subsection (3) shall not discharge the property from tax in case of fraud or failure to disclose material facts and, in any case, shall not affect the tax payable in respect of any other property:

Provided that a certificate purporting to be a discharge of the whole tax payable in respect of any property included in the certificate in respect of a gift or inheritance shall exonerate from liability for such tax a *bona fide* purchaser or mortgagee for full consideration in money or money's worth without notice of such fraud or failure and a person deriving title from or under such a purchaser or mortgagee.

Recovery of tax
and penalties.

49.—(1) Any sum due and payable in respect of tax or interest thereon and any penalty incurred in connection with tax or interest thereon shall be deemed to be a debt due by the accountable person or, if he is dead, by his personal representative, to the Minister for Finance for the benefit of the Central Fund and shall be payable to the Commissioners and may (without prejudice to any other mode of recovery thereof) be sued for and recovered by action, or other appropriate proceeding, at the suit of the Attorney-General or the Minister for Finance or the Commissioners in any court of competent jurisdiction, notwithstanding anything to the contrary contained in the Inland Revenue Regulation Act, 1890 .

(2) Any person who, having received any sum of money as or for any tax, interest, or penalty under this Act, does not apply the money to the due payment of the tax, interest or penalty, and improperly withholds or detains the same, shall be accountable for the payment of the tax, interest or penalty to the extent of the amount so received by him and the same shall be a debt due by him to the Minister for Finance for the benefit of the Central Fund and shall be recoverable in like manner as a debt under subsection (1).

(3) If any accountable person is liable under section 36 to deliver to the Commissioners a return or an additional return and makes default in so doing, the Attorney-General or the Minister for Finance or the Commissioners may sue by action or other appropriate proceeding in the Circuit Court for an order directing the person so making default to deliver such return or additional return or to show cause to the contrary; and the Circuit Court may by order direct such accountable person to deliver such return or additional return within such time as may be specified in the order.

(4) Whenever property is subject to a charge by virtue of section 47, the Attorney-General or the Minister for Finance or the Commissioners may sue by action or other appropriate proceeding in any court of competent jurisdiction for, and the court may make, an order directing the owner of the property to pay the tax with which the property is charged.

Evidence in
proceedings for
recovery of tax.

50.—The provisions of section 39 of the Finance Act, 1926 , shall apply in any proceedings in the Circuit Court or the District Court for or in relation to the recovery of the tax.

PART VIII

Appeals

Appeals regarding value of real property. **51.**—If a person is aggrieved by the decision of the Commissioners as to the market value of any real property, he may appeal against the decision in the manner prescribed by section 33 of the Finance (1909-10) Act, 1910 , and the provisions as to appeals under that section of that Act shall apply accordingly with any necessary modifications.

Appeals in other cases. **52.**—(1) In this section—

“Appeal Commissioners” has the meaning assigned to it by section 156 of the Income Tax Act, 1967 ;

“appellant” means a person who appeals to the Appeal Commissioners under subsection (2) of this section.

(2) Subject to the other provisions of this Act, a person who is called upon by the Commissioners to pay an assessment of tax in respect of any property and who is aggrieved by the assessment may, in accordance with the provisions of this section, appeal to the Appeal Commissioners against the assessment and the appeal shall be heard and determined by the Appeal Commissioners whose determination shall be final and conclusive unless the appeal is required to be reheard by a judge of the Circuit Court or a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

(3) An appeal shall not lie under this section in relation to the market value of real property.

(4) A person who intends to appeal under this section against an assessment shall, within 30 days after the date of the assessment, give notice in writing to the Commissioners of his intention to appeal against the assessment.

(5) (a) Subject to the provisions of this section, the provisions of the Income Tax Acts relating to—

- (i) the appointment of times and places for the hearing of appeals;
- (ii) the giving of notice to each person who has given notice of appeal of the time and place appointed for the hearing of his appeal;
- (iii) the determination of an appeal by agreement between the appellant and an officer appointed by the Commissioners in that behalf;
- (iv) the determination of an appeal by the appellant giving notice of his intention not to proceed with the appeal;
- (v) the hearing and determination of an appeal by the Appeal Commissioners, including the hearing and determination of an appeal by one Appeal Commissioner;

- (vi) the determination of an appeal through the neglect or refusal of a person who has given notice of appeal to attend before the Appeal Commissioners at the time and place appointed;
- (vii) the extension of the time for giving notice of appeal and the readmission of appeals by the Appeal Commissioners and the provisions which apply where action by way of court proceedings has been taken;
- (viii) the rehearing of an appeal by a judge of the Circuit Court and the statement of a case for the opinion of the High Court on a point of law;
- (ix) the payment of tax in accordance with the determination of the Appeal Commissioners notwithstanding that an appeal is required to be reheard by a judge of the Circuit Court or that a case for the opinion of the High Court on a point of law has been required to be stated or is pending;
- (x) the procedures for appeal,
shall, with any necessary modifications, apply to an appeal under this section as if the appeal were an appeal against an assessment to income tax.

(b) The Commissioners shall, subject to their giving notice in writing in that behalf to the appellant within ten days after the determination of an appeal by the Appeal Commissioners, have the same right as the appellant to have the appeal reheard by a judge of the Circuit Court.

(c) The rehearing of an appeal under this section by a judge of the Circuit Court shall be by a judge of the Circuit Court in whose circuit the appellant or one of the appellants resides or (in the case of a body corporate) has its principal place of business:

Provided that—

(i) in any case where no appellant is resident in or (in the case of a body corporate) has a place of business in the State; or

(ii) in any case where there is a doubt or a dispute as to the circuit,

the appeal shall be reheard by a judge of the Circuit Court assigned to the Dublin Circuit.

(6) (a) Where a notice or other document which is required or authorised to be served by this section falls to be served on a body corporate, such notice shall be served on the secretary or other officer of the body corporate.

(b) Any notice or other document which is required or authorised by this section to be served by the Commissioners or by an appellant may be served by post and in the case of a notice or other document addressed to the Commissioners, shall be sent to the Secretaries, Revenue Commissioners, Dublin Castle, Dublin 2.

(c) Any notice or other document which is required or authorised to be served by the Commissioners on an appellant under this section may be sent to the solicitor, accountant or other agent of the appellant and a notice thus served shall be deemed to have been served on the appellant unless the appellant proves to the satisfaction of the Appeal Commissioners, or the Circuit Court, as the case may be, that he had, before the notice or other document was served, withdrawn the authority of such solicitor, accountant or other agent to act on his behalf.

(7) *Prima facie* evidence of any notice given under this section by the Commissioners or by an officer of the Commissioners may be given in any proceedings by production of a document purporting to be a copy of the notice and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised so to do.

(8) (a) The Commissioners may serve notice in writing, referring expressly to this subsection, on any person whom they have reason to believe to be accountable for the payment of tax, of any decision they have made which is relevant to such tax.

(b) Any person who is informed of a decision in accordance with paragraph (a) may appeal to the Appeal Commissioners against the decision.

(c) The Appeal Commissioners shall hear and determine an appeal to them under this subsection as if it were an appeal to them against an assessment to tax, and the provisions of this section relating to an appeal or to the rehearing of an appeal or to the statement of a case for the opinion of the High Court on a point of law shall, with any necessary modifications, apply accordingly.

PART IX

Exemptions

Exemption of small gifts. **53.—**(1) The first £250 of the total taxable value of all taxable gifts taken by a donee from any one disponent in any relevant period shall be exempt from tax and shall not be taken into account in computing tax.

(2) 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 two years prior to the death of the disponent, the same relief shall be granted in respect thereof under *subsection (1)* as if it were a gift.

(3) The first £250 of the total aggregable value of all aggregable gifts (within the meaning of paragraph 1 of Part I of the Second Schedule) which are taken by the donee from any one disponent in any relevant period shall not be taken into account in computing tax.

(4) In this section, “relevant period” means the period commencing on the 28th day of February, 1969, and ending on the 31st day of December, 1969, and thereafter the period of twelve months ending on the 31st day of December in each year.

Provisions relating to charities, etc. **54.—**(1) Any benefit taken by a person for public or charitable purposes shall, for the purposes of sections 5 (1) and 11 (1), be deemed to be taken beneficially by a person who is other than a donee or successor referred to in Table I, II or III of Part II of the Second Schedule.

(2) A gift or an inheritance which is taken for public or charitable purposes shall, to the extent that the Commissioners are satisfied that it has been or will be applied to public or charitable purposes in the State or Northern Ireland, be exempt from tax and shall not be taken into account in computing tax.

(3) Save as provided in section 56 (4), a gift or inheritance which a person takes on becoming entitled to any benefit on the application to public or charitable purposes of property (including moneys provided by the Oireachtas or a local authority) held for such purposes shall be exempt from tax and shall not be taken into account in computing tax.

Exemption of certain objects. **55.—**(1) This section applies to the following objects, that is to say, any pictures, prints, books, manuscripts, works of art, jewellery, scientific collections or other things not held for the purposes of trading—

(a) which, on a claim being made to the Commissioners, appear to them to be of national, scientific, historic or artistic interest;

(b) which are kept permanently in the State except for such temporary absences outside the State as are approved by the Commissioners; and

(c) in respect of which reasonable facilities for viewing are allowed to members of the public or to recognised bodies or to associations of persons.

(2) (a) Any object to which this section applies and which, at the date of the gift or at the date of inheritance, and at the valuation date, is comprised in a gift or an inheritance taken by a person shall be exempt from tax in relation to that gift or inheritance, and the value thereof shall not be taken into account in computing tax on any gift or inheritance taken by that person from the same disponent unless the exemption ceases to apply under the provisions of subsection (3) or (4).

(b) The provisions of section 19 (6) shall apply, for the purposes of this subsection, as they apply in relation to agricultural property.

(3) If an object exempted from tax by virtue of subsection (2) is sold within six years after the valuation date, and before such object forms part of the property comprised in a subsequent gift or inheritance, the exemption referred to in subsection (2) shall cease to apply to such object:

Provided that, if the sale of such object is a sale by private treaty to the National Gallery of Ireland, the National Museum of Science and Art or any other similar national institution, any university in the State, a local authority or the Friends of the National Collections of Ireland, the exemption referred to in subsection (2) shall continue to apply.

(4) The exemption referred to in subsection (2) shall cease to apply to an object, if at any time after the valuation date, and before such object again forms part of the property comprised in a gift or an inheritance, there has been a breach, by the donee or successor, of any condition specified in subsection (1) (b) or (c).

Payments relating to retirement, etc. **56.**—(1) Subject to the provisions of subsection (2), any payment to an employee or former employee by, or out of funds provided by, his employer or any other person, *bona fide* by way of retirement benefit, redundancy payment or pension shall not be a gift or an inheritance.

(2) Subsection (1) shall not have effect in relation to a payment referred to in that subsection, and any such payment shall be deemed to be a gift or an inheritance where—

(a) (i) the employee is a relative of the employer or other disponent; or

(ii) the employer is a private company within the meaning of section 16 (2), and of which private company the employee is deemed to have control within the meaning of that section:

(b) the payment is not made under a scheme (relating to superannuation, retirement or redundancy) approved by the Commissioners under the Income Tax Acts; and

(c) the Commissioners decide that in the circumstances of the case the payment is excessive.

(3) The Commissioners shall serve on an accountable person a notice in writing of their decision referred to in subsection (2) and the accountable person concerned may appeal against such decision and section 52 shall apply with any necessary modifications in relation to such appeal as it applies in relation to an appeal against an assessment of tax.

(4) Any benefit taken by a person other than the person in respect of whose service the benefit arises, under the provisions of any superannuation fund, or under any superannuation scheme, established solely or mainly for persons employed in a profession, trade, undertaking or employment, and their dependants, shall (whether or not any person had a right enforceable at law to the benefit) be deemed to be a gift or an inheritance, as the case may be, derived under a disposition made by the person in respect of whose service the benefit arises and not by any other person.

(5) In this section—

“superannuation scheme” includes any arrangement in connection with employment for the provision of a benefit on or in connection with the retirement or death of an employee;

“employment” includes employment as a director of a body corporate and cognate words shall be construed accordingly.

Exemption of
certain securities.

57.—(1) In this section—

“security” means any security, stock, share, debenture, debenture stock, certificate of charge or other form of security issued, whether before or after the passing of this Act, and which by virtue of any enactment or by virtue of the exercise of any power conferred by any enactment is exempt from taxation when in the beneficial ownership of a person neither domiciled nor ordinarily resident in the State;

“unit trust scheme” means a unit trust scheme registered in the register established by the Unit Trusts Act, 1972 , whose deed expressing the trusts of the scheme restricts the property subject to those trusts to securities.

(2) Any security, or units (within the meaning of the Unit Trusts Act, 1972) of a unit trust scheme, comprised in a gift or an inheritance shall be exempt from tax (and shall not be taken into account in computing tax on any gift or inheritance taken by the donee or successor from the same disponent) if and only if—

(a) the security or units was or were comprised in the gift or inheritance—

(i) at the date of the gift or at the date of the inheritance; and

(ii) at the valuation date; and

(b) the donee or successor is at the date of the gift or at the date of the inheritance neither domiciled nor ordinarily resident in the State and the provisions of section 19 (6) shall apply, for the purposes of this subsection, as they apply in relation to agricultural property:

Provided that if a security or units or any part thereof comprised—

(a) in a gift; or

(b) in a gift which becomes an inheritance by reason that it was taken under a disposition where the date of the disposition was within two years prior to the death of the disponer,

is within one year after the valuation date sold or exchanged, or is converted (otherwise than into another security or other units respectively, which, during that period of one year, are not sold or exchanged), the donee or successor shall be deemed to have taken from the disponer a gift or an inheritance, as the case may be, consisting of a sum equal to the market value at the valuation date of the security or units or of the part thereof that has been sold, exchanged or converted.

(3) For the purposes of sections 6 (1) (c) and 12 (1) (b), the sum referred to in the proviso to subsection (2) shall be deemed to be situate in the State at the date of the gift or at the date of the inheritance, as the case may be, if the security or units (or the part thereof) so sold, exchanged or converted had at that date been situate in the State and not otherwise.

Exemption of
certain receipts.

58.—(1) The following shall not be gifts or inheritances—

(a) the receipt by a person of any sum *bona fide* by way of compensation or damages for any wrong or injury suffered by him in his person, property, reputation or means of livelihood;

(b) the receipt by a person of any sum *bona fide* by way of compensation or damages for any wrong or injury resulting in the death of any other person;

(c) the receipt by a person of any sum *bona fide* by way of winnings from betting (including pool betting) or from any lottery, sweepstake or game with prizes;

(d) any benefit arising out of—

(i) the payment to the Official Assignee in Bankruptcy of money which has been provided by, or which represents property provided by, friends of a bankrupt; or

(ii) a remission or abatement of debts by the creditors of a bankrupt, to enable the bankrupt to fulfil an offer of composition after bankruptcy in accordance with the provisions of section 149 of the Irish Bankrupt and Insolvent Act, 1857; and

(e) any benefit arising out of—

(i) the payment to the Official Assignee in Bankruptcy of money which has been provided by, or which represents property provided by, friends of an arranging debtor; or

(ii) a remission or abatement of debts by the creditors of an arranging debtor,

to enable the debtor to carry out the terms of a proposal made by him under section 345 of the Irish Bankrupt and Insolvent Act, 1857, which has been accepted by his creditors and approved and confirmed by the High Court.

(2) Notwithstanding anything contained in this Act, the receipt in the lifetime of the disponent of money or money's worth—

(a) by—

(i) the spouse or child of the disponent; or

(ii) a person in relation to whom the disponent stands *in loco parentis*, for support, maintenance or education; or

(b) by a person who is in relation to the disponent a dependent relative under section 142 of the Income Tax Act, 1967, for support or maintenance,

shall not be a gift or an inheritance, where the provision of such support, maintenance or education, or such support or maintenance—

(i) is such as would be part of the normal expenditure of a person in the circumstances of the disponent, and

(ii) is reasonable having regard to the financial circumstances of the disponent.

Exemption where
disposition was
made by the donee
or successor.

59.—(1) Tax shall not be chargeable upon a gift or an inheritance taken by the donee or successor under a disposition made by himself.

(2) Where, at the date of the gift, two companies are associated in the manner described in subsection (3), a gift taken by one of them under a disposition made by the other shall be deemed to be a gift to which subsection (1) applies.

(3) For the purposes of subsection (2), two companies shall be regarded as associated if—

(a) one company would be beneficially entitled to not less than 90 per cent. of any assets of the other company available for distribution to the owners of its shares and entitlements of the kind referred to in section 34 (1) on a winding up; or

(b) a third company would be beneficially entitled to not less than 90 per cent. of any assets of each of them available as in paragraph (a).

(4) In this section, “company” means a body corporate (wherever incorporated), other than a private company within the meaning of section 16 (2).

PART X

Miscellaneous

Certificates for
probate.

60.—(1) Where an Inland Revenue affidavit has been delivered to the Commissioners and they are satisfied—

(a) that an adequate payment on account of inheritance tax in respect of the property passing under the deceased person's will or intestacy or Part IX or section 56 of the Succession Act, 1965 , has been made; or

(b) that the payment of inheritance tax in respect of such property may be deferred for the time being,

they shall certify in writing—

(i) that the Inland Revenue affidavit was delivered to them; and

(ii) (I) that a payment referred to in paragraph (a) has been made; or

(II) that the payment referred to in paragraph (b) has been deferred for the time being,

as the case may be.

(2) In this section “Inland Revenue affidavit” has the meaning referred to in section 38 (1).

(3) If, in the opinion of the Commissioners, the payment of inheritance tax in respect of the property passing under the deceased person's will or intestacy or Part IX or section 56 of the Succession Act, 1965 , cannot be deferred for the time being without serious risk of such tax not being recovered, they may refuse to issue the certificate referred to in subsection (1) until the tax has been paid, or until such payment as is referred to in paragraph (a) of that subsection has been made.

(4) The certificate required by section 30 of the Customs and Inland Revenue Act, 1881 , to be made by the proper officer of the court, shall not be made until a certificate of the Commissioners issued under subsection (1) has been produced to such officer and shall (instead of showing that the affidavit, if liable to stamp duty, has been duly stamped) show that the Commissioners have issued a certificate under subsection (1) and shall state the substance of the certificate so issued by the Commissioners.

(5) The form of certificate required to be given by the proper officer of the court under section 30 of the Customs and Inland Revenue Act, 1881 , may be prescribed by rule of court in such manner as may be necessary for giving effect to this Act.

(6) This section shall apply only where the deceased person dies on or after the 1st day of April, 1975.

Payment of money standing in names of two or more persons. **61.**—(1) Where, either before or after the passing of this Act, a sum of money exceeding £5,000 is lodged or deposited (otherwise than on a current account) in the State with a banker, in the joint names of two or more persons, and one of such persons (in this section referred to as the deceased) dies on or after the 1st day of April, 1975, the banker shall not pay such money or any part thereof to the survivor or all or any of the survivors of such persons, or to any other person, unless or until there is furnished to such banker a certificate by the Commissioners certifying that there is no outstanding claim for inheritance tax in connection with the death of the deceased in respect of such money or any part thereof or a consent in writing by the Commissioners to such payment pending the ascertainment and payment of such tax.

(2) Notwithstanding anything contained in this Act, tax chargeable on the death of the deceased shall be deemed for the purposes of this section to become due on the day of the death of the deceased.

(3) A banker who, after the passing of this Act, pays money in contravention of this section shall be liable to a penalty of £1,000.

(4) Where a penalty is demanded of a banker under this section, the onus of proving that such certificate or such consent as is mentioned in this section was furnished to such banker before he paid such money shall lie on such banker.

(5) Where a penalty is demanded of a banker under this section, it shall be a good defence to prove that, at the time when such banker paid such money, he had reasonable ground for believing that none of the persons in whose joint names such money was lodged or deposited with him was dead.

(6) Section 33 of the Finance Act, 1935 , shall not have effect in any case where the death of a person, referred to in that section as the deceased, occurs on or after the 1st day of April, 1975.

(7) In this section—

“banker” means a person who carries on banking business in the State and includes a friendly society, an industrial and provident society, a building society, the Post Office Savings Bank, a trustee savings bank, the Industrial Credit Company Limited, the Agricultural Credit Corporation Limited and any person with whom money is lodged or deposited;

“pay” includes transfer in the books of a banker and any dealings whatsoever with any moneys which were lodged or deposited in the name of a person who died after the time of the lodgment or deposit and any other person or persons;

“current account” means an account which is customarily operated upon by means of a cheque or banker's order;

“banking business” has the meaning assigned to it by section 2 of the Central Bank Act, 1971 ;

references to moneys lodged or deposited include references to shares of a building society, friendly society or industrial and provident society.

Court to provide **62.**—Where any suit is pending in any court for the administration of any property for payment of tax. chargeable with tax under this Act, such court shall provide, out of any such property which may be in the possession or control of the court, for the payment to the Commissioners of any of the tax or the interest thereon which remains unpaid.

Penalties. **63.**—(1) (a) Any person who contravenes or fails to comply with—

- (i) any requirement under section 36 (6), (7) or (8); or
- (ii) the provisions of section 36 (2) or (9)

shall be liable to a penalty of £500.

(b) Where the contravention or failure referred to in paragraph (a) continues after judgment has been given by the court before which proceedings for the penalty have been commenced, the person concerned shall be liable to a further penalty of £25 for each day on which the contravention or failure so continues.

(2) Where, under, or for the purposes of, any of the provisions of this Act, a person is authorised to inspect any property for the purpose of reporting to the Commissioners the market value thereof and the person having custody or possession of that property prevents such inspection or obstructs the person so authorised in the performance of his functions in relation to the inspection, the person so having custody or possession shall be liable to a penalty of £500.

(3) Where an accountable person fraudulently or negligently—

- (a) delivers any incorrect return or additional return;
- (b) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any property comprised in any disposition;
- (c) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any claim for any allowance, deduction, exemption or relief; or
- (d) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any other matter,

on the basis of which the amount of tax assessable in respect of a taxable gift or taxable inheritance would be less than it would have been if the correct return, additional return, statement, declaration, evidence or valuation had been delivered, made or furnished, he shall be liable to a penalty of—

(i) £1,000; and

(ii) the amount, or in the case of fraud, twice the amount, of the difference specified in subsection (5).

(4) Where any such return, additional return, statement, declaration, evidence or valuation as is mentioned in subsection (3) was delivered, made or furnished neither fraudulently nor negligently by a person and it comes to his notice that it was incorrect, then, unless the error is remedied without unreasonable delay, such matter shall be treated, for the purposes of this section, as having been negligently done by him.

(5) The difference referred to in subsection (3) is the difference between—

(a) the amount of tax payable in respect of the taxable gift or taxable inheritance to which the return, additional return, statement, declaration, evidence or valuation relates; and

(b) the amount which would have been the amount so payable if the return, additional return, statement, declaration, evidence or valuation as made or submitted had been correct.

(6) For the purpose of subsection (3), where anything referred to in that subsection is delivered, made or furnished on behalf of a person, it shall be deemed to have been delivered, made or furnished by that person unless he proves that it was done without his knowledge or consent.

(7) Any person who assists in or induces the delivery, making or furnishing for any purposes of the tax of any return, additional return, statement, declaration, evidence or valuation which he knows to be incorrect shall be liable to a penalty of £250.

(8) The provisions of this section shall not affect any criminal proceedings.

(9) Subject to the provisions of this section, sections 128 (4), 507 , 508 , 510 , 511 , 512 , 517 and 518 of the Income Tax Act, 1967 , shall, with any necessary modifications, apply to a penalty under this Act as if the penalty were a penalty under the Income Tax Acts.

Liability to tax in
respect of certain
sales and
mortgages.

64.—(1) In this section—

“death duties” has the meaning assigned to it by section 30 of the Finance Act, 1971 ; and

“purchaser or mortgagee” includes a person deriving title from or under a purchaser or mortgagee in the case of such a sale or mortgage as is referred to in this section.

(2) Where an interest in expectancy has, prior to the 1st day of April, 1975, been *bona fide* sold or mortgaged for full consideration in money or money's worth, and that interest comes into possession on a death occurring on or after that date, the following provisions shall have effect, that is to say—

- (a) the purchaser or mortgagee shall not be liable in respect of inheritance tax on the inheritance referred to in paragraph (b) for an amount greater than that referred to in paragraph (c);
- (b) the inheritance referred to in paragraph (a) is the inheritance of property in which the interest so sold or mortgaged subsists and which arises in respect of the interest of the remainderman referred to in section 23 so coming into possession;
- (c) the amount referred to in paragraph (a) shall be the amount that would then have been payable by the purchaser or mortgagee in respect of death duties on the property in which the interest subsists as property passing under the same disposition as that under which the said inheritance is taken, if the property, on so coming into possession, had been chargeable to death duties—
 - (i) under the law in force; and
 - (ii) at the rate or rates having effect,
at the date of the sale or mortgage;
- (d) where such an interest is so mortgaged, any amount of inheritance tax payable in respect of the inheritance referred to in paragraph (b), and from the payment of which the mortgagee is relieved under this section, shall, notwithstanding the priority referred to in section 47 (1), rank, in relation to property charged with such tax under that section, as a charge subsequent to the mortgage;
- (e) any person, other than the purchaser or mortgagee, who is accountable for the payment of so much of the inheritance tax as is not the liability of the purchaser or mortgagee by virtue of the relief given by this section, shall not be liable for the payment of any amount in respect thereof in excess of the amount which is available to him for such payment by reason of there being, at the time when the interest comes into possession, other property, or an equity of redemption, or both, subject to the same trusts, under the disposition referred to in paragraph (c), as the property in which the interest in expectancy subsists; and
- (f) nothing in section 35 (7) or (8) or section 47 (1) shall be construed as derogating from the relief given by this section to a purchaser or mortgagee.

References in
deeds and wills,
etc. to death
duties.

65.—In so far as a provision in a document refers (in whatever terms) to any death duty to arise on any death occurring on or after the 1st day of April, 1975, it shall have effect, as far as may be, as if the reference included a reference to inheritance tax—

- (a) if that document was executed prior to the passing of this Act, and the reference is to legacy duty and succession duty or either of them;
- (b) if that document was so executed, and the reference is to estate duty, and it may reasonably be inferred from all the circumstances (including any similarity of the incidence of inheritance tax to that of estate duty) that the inclusion of the reference to inheritance tax would be just; and
- (c) whether the document was executed prior to or after the passing of this Act, if the reference is to death duties, without referring to any particular death duty.

Arrangements for
relief from double
taxation.

66.—(1) If the Government by order declare that arrangements specified in the order have been made with the government of any territory outside the State in relation to affording relief from double taxation in respect of gift tax or inheritance tax payable under the laws of the State and any tax imposed under the laws of that territory which is of a similar character or is chargeable by reference to death or to gifts *inter vivos* and that it is expedient that those arrangements should have the force of law, the arrangements shall, notwithstanding anything in any enactment, have the force of law.

(2) Any arrangements to which the force of law is given under this section may include provision for relief from tax charged before the making of the arrangements and provisions as to property which is not itself subject to double tax, and the provisions of this section shall have effect accordingly.

(3) For the purposes of subsection (1), arrangements made with the head of a foreign state shall be regarded as made with the government thereof.

(4) Where any arrangements have the force of law by virtue of this section, the obligation as to secrecy imposed by any enactment shall not prevent the Commissioners from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.

(5) (a) Any order made under this section may be revoked by a subsequent order and any such revoking order may contain such transitional provisions as appear to the Government to be necessary or expedient.

(b) Where an order is proposed to be made under this section, a draft thereof shall be laid before Dáil Éireann and the order shall not be made until a resolution approving of the draft has been passed by Dáil Éireann.

Other relief from
double taxation.

67.—(1) (a) In this section—

“foreign tax” means any tax which is chargeable under the laws of any territory outside the State and is of a character similar to estate duty, gift tax or inheritance tax;

“event” means—

(i) a death; or

(ii) any other event,

by reference to which the date of the gift or the date of the inheritance is determined.

(b) For the purposes of this section, a reference to property situate in a territory outside the State is a reference to property situate in that territory at the date of the gift or the date of the inheritance, as the case may be, or to property representing such property.

(2) Where the Commissioners are satisfied that a taxable gift or taxable inheritance, taken under a disposition by a donee or successor on the happening of any event, is reduced by the payment of foreign tax which is chargeable in connection with the same event under the same disposition in respect of property which is situate in the territory outside the State in which that foreign tax is chargeable, they shall allow a credit in respect of that foreign tax against the gift tax or inheritance tax payable by that donee or successor on that taxable gift or taxable inheritance; but such credit shall not exceed—

(a) the amount of the gift tax or inheritance tax payable in respect of the same property by reason of such property being comprised in any taxable gift or taxable inheritance taken under that disposition on the happening of that event; or

(b) the amount of that foreign tax,

whichever is the lesser.

(3) The provisions of this section shall be subject to any arrangement to which the force of law is given under section 66, and, if any such arrangement provides for the allowance of the amount of a tax payable in a territory outside the State as a credit against gift tax or inheritance tax, the provisions of the arrangement shall apply in relation to the tax payable in that territory in lieu of the provisions of subsection (2).

(4) If the amount of tax payable in respect of a taxable gift or taxable inheritance would be less by making a deduction (in ascertaining the taxable value of the taxable gift or taxable inheritance) of the amount of the foreign tax to which the taxable gift or taxable inheritance is subject than by making the allowance of a credit—

(a) under subsection (2); or

(b) under any arrangement to which the force of law is given under section 66,

such deduction shall be made notwithstanding the provisions of section 18 (5) (b), and no such credit shall be allowed.

(5) Where the foreign tax in respect of property comprised in a taxable gift or a taxable inheritance taken under a disposition on the happening of an event is, under the terms of the disposition, directed to be paid out of a taxable gift or a taxable inheritance (taken under that disposition on the happening of the same event) other than the taxable gift or taxable inheritance out of which it would be payable in the absence of such a direction, then, for the purposes of subsection (2), the taxable gift or taxable inheritance out of which the foreign tax would be payable in the absence of such a direction, and no other taxable gift or taxable inheritance, shall be treated as reduced by the payment of the foreign tax.

Tax, in relation to certain legislation. **68.**—(1) Inheritance tax shall not be a duty or a death duty for the purposes of section 9 of the Succession Act, 1965 , but it shall be a death duty for the purposes of—

(a) section 34 (3) of that Act;

(b) the definition of pecuniary legacy in section 3 (1) of that Act; and

(c) paragraph 8 of Part II of the First Schedule to that Act.

(2) Section 72 of the Registration of Title Act, 1964 , shall apply as if gift tax and inheritance tax were therein mentioned as well as estate duty and succession duty.

Extension of certain Acts. **69.**—(1) Section 1 of the Provisional Collection of Taxes Act, 1927 , is hereby amended by the insertion of “and gift tax and inheritance tax” before “but no other tax or duty”.

(2) Section 39 of the Inland Revenue Regulation Act, 1890 , is hereby amended by the insertion of “gift tax and inheritance tax,” before “stamp duties”.

Delivery, service and evidence of notices and forms, etc. **70.**—(1) Any notice which under this Act is authorised or required to be given by the Commissioners may be served by post.

(2) A notice or form which is to be served on a person may be either delivered to him or left at his usual or last known place of abode.

(3) *Prima facie* evidence of any notice given under this Act by the Commissioners or any officer of the Commissioners may be given in any proceedings by production of a document purporting to be a copy of the notice, and it shall not be necessary to prove the official position of the person by whom the notice purports to be given or, if it is signed, the signature, or that the person signing and giving it was authorised so to do.

(4) In any case where a time limit is specified by or under this Act, other than Part VIII hereof, for the doing of any act required by or under this Act, other than Part VIII hereof, to be done by any person other than the Commissioners, the Commissioners may, in their discretion, extend such time limit.

Regulations.

71.—(1) The Commissioners shall make such regulations as seem to them to be necessary for the purpose of giving effect to this Act and of enabling them to discharge their functions thereunder.

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next twenty-one days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Care and
management.

72.—(1) Tax is hereby placed under the care and management of the Commissioners.

(2) Subject to the direction and control of the Commissioners, any power, function or duty conferred or imposed on the Commissioners by this Act may be exercised or performed on their behalf by an officer of the Commissioners.

FIRST SCHEDULE

Valuation of Limited Interests

Sections 18 , Sections 26 and Sections 41 .

PART I

Rules relating to the valuation of limited interests utilising Tables A and B in Parts II and III of this Schedule

1. The value of an interest for a single life in a capital sum shall be that sum multiplied by the factor, contained in column 3 or 4 respectively of Table A, which is appropriate to the age and sex of the person in respect of the duration of whose life the interest is to be valued.

2. The value of an interest in a capital sum for the joint continuance of two lives shall be the value of an interest in that sum for the older life, ascertained in accordance with rule 1, multiplied by the joint factor in column 2 of Table A which is appropriate to the younger life.

3. The value of an interest in a capital sum for the joint continuance of three or more lives shall be the value of an interest in that sum for the joint continuance of the two oldest of those lives, ascertained in accordance with rule 2, multiplied by the joint factor of the youngest of those lives.

4. The value of an interest in a capital sum for the longer of two lives shall be ascertained by deducting from the total of the values of an interest in that sum for each of those lives, ascertained in accordance with rule 1, the value of an interest in the capital sum for the joint continuance of the same two lives, ascertained in accordance with rule 2.

5. Where an interest is given for the longest of more than two lives, it shall be valued, in accordance with rule 4, as if it were for the longer of the two youngest of those lives.

6. The value of an interest in a capital sum for a period certain shall be the aggregate of—

(a) the value of the capital sum, multiplied by the factor in Table B which is appropriate to the number of whole years in that period (or zero if that period is less than a whole year); and

(b) where the period is not an integral number of years, a fraction (of which the numerator is the number of days in excess of the number of whole years, if any, in that period and the denominator is 365) of the difference between—

(i) the value of an interest in the capital sum for one year longer than the number of whole years, if any, in the period; and

(ii) the value ascertained under the provisions of paragraph (a) (or zero, where so provided in the said paragraph).

7. In the case of a limited interest where the interest is for a life or lives, but is guaranteed for a period certain, the value shall be the higher of—

(a) the value of an interest for such life or lives, ascertained in accordance with the appropriate rule in this part of this Schedule; and

(b) the value of an interest for the period certain, ascertained in accordance with rule 6.

8. The value of a limited interest for which the other rules in this Part of this Schedule provide no method of valuing shall be ascertained as if the interest taken were a series of absolute interests in the property applied in satisfaction of the interest from time to time, taken as separate gifts or inheritances, as the case may be.

PART II

TABLE A

1	2	3	4
Years of age	Joint Factor	Value of an interest in a capital of £1 for a male life aged as in column 1	Value of an interest in a capital of £1 for a female life aged as in column 1
0	·99	·9519	·9624
1	·99	·9767	·9817
2	·99	·9767	·9819
3	·99	·9762	·9817
4	·99	·9753	·9811
5	·99	·9742	·9805
6	·99	·9730	·9797
7	·99	·9717	·9787
8	·99	·9703	·9777
9	·99	·9688	·9765
10	·99	·9671	·9753
11	·98	·9653	·9740
12	·98	·9634	·9726
13	·98	·9614	·9710
14	·98	·9592	·9693
15	·98	·9569	·9676
16	·98	·9546	·9657
17	·98	·9522	·9638
18	·98	·9497	·9617
19	·98	·9471	·9596
20	·97	·9444	·9572

21	·97	·9416	·9547
22	·97	·9387	·9521
23	·97	·9356	·9493
24	·97	·9323	·9464
25	·97	·9288	·9432
26	·97	·9250	·9399
27	·97	·9209	·9364
28	·97	·9165	·9328
29	·97	·9119	·9289
30	·96	·9068	·9248
31	·96	·9015	·9205
32	·96	·8958	·9159
33	·96	·8899	·9111
34	·96	·8836	·9059
35	·96	·8770	·9005
36	·96	·8699	·8947
37	·96	·8626	·8886
38	·95	·8549	·8821
39	·95	·8469	·8753
40	·95	·8384	·8683
41	·95	·8296	·8610
42	·95	·8204	·8534
43	·95	·8107	·8454
44	·94	·8005	·8370
45	·94	·7897	·8283

46	·94	·7783	·8192
47	·94	·7663	·8096
48	·93	·7541	·7997
49	·93	·7415	·7896
50	·92	·7287	·7791
51	·91	·7156	·7683
52	·90	·7024	·7572
53	·89	·6887	·7456
54	·89	·6745	·7335
55	·88	·6598	·7206
56	·88	·6445	·7069
57	·88	·6288	·6926
58	·87	·6129	·6778
59	·86	·5969	·6628
60	·86	·5809	·6475
61	·86	·5650	·6320
62	·86	·5492	·6162
63	·85	·5332	·6000
64	·85	·5171	·5830
65	·85	·5007	·5650
66	·85	·4841	·5462
67	·84	·4673	·5266
68	·84	·4506	·5070
69	·84	·4339	·4873
70	·83	·4173	·4679

71	·83	·4009	·4488
72	·82	·3846	·4301
73	·82	·3683	·4114
74	·81	·3519	·3928
75	·80	·3352	·3743
76	·79	·3181	·3559
77	·78	·3009	·3377
78	·76	·2838	·3198
79	·74	·2671	·3023
80	·72	·2509	·2855
81	·71	·2353	·2693
82	·70	·2203	·2538
83	·69	·2057	·2387
84	·68	·1916	·2242
85	·67	·1783	·2104
86	·66	·1657	·1973
87	·65	·1537	·1849
88	·64	·1423	·1730
89	·62	·1315	·1616
90	·60	·1212	·1509
91	·58	·1116	·1407
92	·56	·1025	·1310
93	·54	·0939	·1218
94	·52	·0858	·1132
95	·50	·0781	·1050

96	·49	·0710	·0972
97	·48	·0642	·0898
98	·47	·0578	·0828
99	·45	·0517	·0762
100 or over	·43	·0458	·0698

PART III

TABLE B

(Column 2 shows the value of an interest in a capital of £1 for the number of years shown in column 1).

1	2	1	2
Number of years	Value	Number of years	Value
1	·0654	26	·8263
2	·1265	27	·8375
3	·1836	28	·8480
4	·2370	29	·8578
5	·2869	30	·8669
6	·3335	31	·8754
7	·3770	32	·8834
8	·4177	33	·8908
9	·4557	34	·8978
10	·4913	35	·9043
11	·5245	36	·9100
12	·5555	37	·9165
13	·5845	38	·9230
14	·6116	39	·9295
15	·6369	40	·9360
16	·6605	41	·9425
17	·6826	42	·9490
18	·7032	43	·9555
19	·7225	44	·9620
20	·7405	45	·9685
21	·7574	46	·9750
22	·7731	47	·9815
23	·7878	48	·9880

24	·8015	49	·9945
25	·8144	50 and over	1·0000

SECOND SCHEDULE

Computation of Tax

Sections 9, 36, 40, 53 and 54.

PART I

Preliminary

1. In this Schedule—

“aggregable gift” means a gift taken by a donee on or after the 28th day of February, 1969, and before the 28th day of February, 1974, which, so far as it is a taxable gift, is by virtue of section 9 to be aggregated with any later taxable gift or taxable inheritance for the purpose mentioned in that section;

“aggregable value” means the taxable value of an aggregable gift;

“appropriate Table”, in relation to a donee or successor who, at the date of the gift or at the date of the inheritance, in respect of which gift or inheritance the tax is being computed, is—

(a) the spouse, child, or minor child of a deceased child, of the donor, means Table I;

(b) a lineal ancestor or a lineal descendant (other than a child, or a minor child of a deceased child) of the donor, means Table II;

(c) a brother or sister, or a child of a brother or of a sister, of the donor, means Table III;

(d) a donee or successor who does not stand to the donor in a relationship referred to in subparagraph (a), (b) or (c), means Table IV;

contained in Part II of this Schedule.

2. In each Table contained in Part II of this Schedule, “value” means—

(a) in the case referred to in paragraph 3, the taxable value referred to in that paragraph;

(b) in the case referred to in paragraph 4, the aggregate referred to in that paragraph.

3. Subject to the provisions of paragraph 6, the tax chargeable on the taxable value of a taxable gift or a taxable inheritance, in the case where the donee or successor has taken no other taxable gift or taxable inheritance or aggregable gift from the same donor, shall be computed at the rate or rates of tax applicable to that taxable value under the appropriate Table.

4. Subject to the provisions of paragraph 6, the tax chargeable on the taxable value of a taxable gift or a taxable inheritance, in the case where the donee or successor has previously taken one or more taxable gifts on or after the 28th day of February, 1974, or taxable inheritances on or after the 1st day of April, 1975, or aggregable gifts, from the same donor, shall be computed at the rate or rates of tax applicable under the appropriate Table to such part of the aggregate of—

(a) that taxable value;

(b) the taxable values of all such previous taxable gifts and taxable inheritances (if any);
and

(c) the aggregable values of all such aggregable gifts (if any),

as is the highest part of that aggregate and is equal to that taxable value.

5. In each Table contained in Part II of this Schedule, any rate of tax shown in the third column is that applicable to such portion of the value (within the meaning of paragraph 2) as exceeds the lower limit shown in the first column but does not exceed the upper limit (if any) shown in the second column.

6. The tax chargeable on the taxable value of a taxable gift shall be 75 per cent. of the amount of tax computed in accordance with this Schedule.

7. For the purposes of this Schedule, all gifts and inheritances taken by a donee or successor from one donor on the same day shall count as one, and to ascertain the amount of tax payable on one gift or inheritance of several taken on the same day, the amount of tax computed under this Schedule as being payable on the gifts or inheritances taken on that day shall be apportioned rateably, according to the taxable values of the several taxable gifts and taxable inheritances taken on the one day.

8. Where any donee or successor is, at the date of the gift or at the date of the inheritance, the surviving spouse of a deceased person who, at the time of his death, was of nearer relationship than such donee or successor to the donor, then such donee or successor shall, in the computation of the tax payable on such taxable gift or taxable inheritance, be deemed to bear to the donor the relationship of that deceased person.

9. In any case where—

(a) the donee or successor is a nephew or niece of the donor who has worked substantially on a full-time basis for the period of 5 years ending on the date of the gift or the date of the inheritance in carrying on, or assisting in the carrying on of, the trade, business or profession or the work of or connected with the office or employment of the donor; and

(b) the gift or inheritance consists of property which was used in connection with such trade, business, profession, office or employment or of shares in a company owning such property,

then, for the purpose of computing the tax payable on the gift or inheritance, the donee or successor shall be deemed to bear to the disponent the relationship of a child.

PART II

TABLE I

Applicable where the donee or successor is the spouse, child, or minor child of a deceased child, of the disponent.

Portion of Value		Rate of tax
Lower Limit	Upper Limit	Per cent.
£	£	
0	150,000	Nil
150,000	200,000	25
200,000	250,000	30
250,000	300,000	35
300,000	350,000	40
350,000	400,000	45
400,000	—	50

TABLE II

Applicable where the donee or successor is a lineal ancestor or a lineal descendant (other than a child, or a minor child of a deceased child) of the disponent.

Portion of Value		Rate of tax
Lower Limit	Upper Limit	Per cent.
£	£	
0	15,000	Nil
15,000	18,000	5
18,000	23,000	7
23,000	33,000	10
33,000	43,000	13
43,000	53,000	16
53,000	63,000	19
63,000	73,000	22
73,000	88,000	25
88,000	103,000	28
103,000	118,000	31
118,000	133,000	34
133,000	148,000	37
148,000	163,000	40
163,000	178,000	43
178,000	193,000	46
193,000	208,000	49
208,000	—	50

TABLE III

Applicable where the donee or successor is a brother or a sister, or a child of a brother or of a sister, of the disponent.

Portion of Value		Rate of tax
Lower Limit	Upper Limit	Per cent.
£	£	
0	10,000	Nil
10,000	13,000	10
13,000	18,000	12
18,000	28,000	15
28,000	38,000	19
38,000	48,000	23
48,000	58,000	27
58,000	68,000	31
68,000	83,000	35
83,000	98,000	40
98,000	113,000	45
113,000	—	50

TABLE IV

Applicable where the donee or successor does not stand to the disponent in a relationship referred to in Table I, II or III of this Part of this Schedule.

Portion of Value		Rate of tax
Lower Limit	Upper Limit	Per cent.
£	£	
0	5,000	Nil
5,000	8,000	20
8,000	13,000	22
13,000	23,000	25
23,000	33,000	30
33,000	43,000	35
43,000	53,000	40
53,000	63,000	45
63,000	78,000	50
78,000	93,000	55
93,000	—	60