NOTES FOR GUIDANCE

CAPITAL ACQUISITIONS TAX CONSOLIDATION ACT 2003

(as amended by subsequent Acts up to and including the Finance Act 2025)

Part 3: Inheritance Tax

Revenue Cáin agus Custaim na hÉireann Irish Tax and Customs	**These notes are for guidance only and do not purport to be a definitive legal interpretation of the provisions of the Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003) as amended by subsequent Acts up to and including the Finance Act 2025.**

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PART 3 INHERITANCE TAX

This Part, which consists of 3 Chapters, contains provisions dealing with mainstream inheritance tax and with the initial 6% charge and the 1% annual charge imposed on property comprised in certain discretionary trusts.

Chapter 1 deals with the charge to tax on mainstream inheritances. It also contains provisions dealing with the disclaimer of benefits and joint tenancies.

Chapter 2 deals with the initial 6% charge imposed on certain discretionary trusts. The charge applies only where the settlor is dead and where none of the principal objects, if any, of the trust (i.e. the settlor's spouse/civil partner, children/children of a civil partner and certain grandchildren) is under the age of 21 years (25 years where the property became subject to the discretionary trust on or after 25 January 1984 and before 31 January 1993). The scheme of the legislation is to tax the property in the discretionary trust as if the trust and the trustees took an inheritance of that property on the relevant date, and the general provisions of the Act (e.g. valuation rules) apply to those inheritances.

Chapter 3 deals with the annual 1% charge imposed on certain discretionary trusts. These trusts would normally have been liable to the 6% charge.

CHAPTER 1

General

9. Charge of inheritance tax

This section imposes the charge to inheritance tax. The tax is charged on the taxable value (see ***section 28***) of every taxable inheritance (see ***section 11***) taken by a successor.

10. Inheritance deemed to be taken

<u>Summary</u>

This section relates the charge to tax on inheritances to the property involved in the same way as ***section 5*** does for gifts.

<u>Details</u>

Where, under a disposition, a person becomes beneficially entitled in possession on a death to any benefit otherwise than for full consideration in money or money's worth, he/she is deemed to take an inheritance. This is so irrespective of whether the person becoming so entitled already has an interest in the property in which he/she takes such benefit. **(1)**

The provisions of ***subsections (2)***, ***(4)*** and ***(5)*** of ***section 5*** apply, subject to any necessary modifications, in relation to an inheritance as they apply in relation to a gift (see notes on ***section 5*** for details regarding those subsections). **(2)**

Tax is not chargeable on the notional sum deemed to exist for the purposes of ***section 5(2)(b)*** where the disponer was not domiciled in the State at the date of the disposition, where that date was before 1 December 1999. This is also the case where the date of the disposition is on or after 1 December 1999 and the disponer was not resident or ordinarily resident in the State at the date of the disposition, **and** the successor is not resident or ordinarily resident in the State at the date of the inheritance, (see note on ***section 5(3)***). **(3)**

Where an inheritance arises on the transfer of shares in a family-controlled private company, the value of such shares is ascertained for inheritance tax purposes in accordance with ***section 27***. Genuine arm's length sales are excluded from this provision, however. **(4)**

11 Taxable inheritance

Summary

Where an inheritance is taken under a disposition made before 1 December 1999, the entire property comprised in the inheritance is liable to tax where the disponer is domiciled in the State at the date of the disposition. In any other case, only the property located in the State is liable to tax.

Where an inheritance is taken under a disposition made on or after 1 December 1999, the entire property comprised in the inheritance is liable to tax where—

- the disponer is resident or ordinarily resident in the State at the date of the disposition, or
- the successor i.e. the beneficiary (other than in the case of certain discretionary trusts to which the 6% and 1% charges apply) is resident or ordinarily resident in the State at the date of the inheritance.

A foreign-domiciled person will not be considered to be resident or ordinarily resident in the State on a particular date for this purpose unless that date occurs on or after 1 December 2004 and then only if he/she has been resident in the State for the 5 consecutive years preceding that date.

Details

Where an inheritance is taken under a disposition made prior to 1 December 1999, the "taxable inheritance" means the whole of the inheritance where the disponer is domiciled in the State at the date of the disposition under which the successor takes the inheritance. **(1)**

Example

A, who is domiciled in the State, transfers property to trustees on trust to B for life and, on his death, to C absolutely. C will be liable to tax when B dies even though A may no longer be domiciled in the State at the date of B's death.

In any other case, the location of the property at the date of the inheritance is taken into account. Where, at that date, the whole of the property—

- which was to be appropriated to the inheritance or
- out of which the property was to be appropriated to the inheritance,

was located in the State, the "taxable inheritance" means the whole of the inheritance. A specific bequest of "all my shares in Allied Irish Bank" in the will of a foreigner is an example of property which was to be appropriated to the inheritance. A specific bequest of "€2,000 from my account in Allied Irish Bank, Rathfarnham" is an example of property out of which the property was to be appropriated to the inheritance.

As the securities and bank account were located here at the date of death, the entire legacies are liable to tax notwithstanding that, at the date when the legacies are retained for the legatees, the securities may have been sold or the bank account may have been closed and the proceeds are held in a foreign bank.

Where, however, the property referred to above is located partly inside and partly outside the State, the part or proportion of the property that is located in the State at the date of the inheritance (e.g. the Irish securities in a bequest of "all securities" contained in a will) is liable to tax.

Where an inheritance is taken under a disposition made on or after 1 December 1999, all the property comprised in the inheritance is liable to tax where— **(2)**

- the disponer is resident or ordinarily resident in the State at the date of the disposition, or
- the successor (other than a discretionary trust to which the 6% and 1% charges imposed on certain discretionary trusts under ***sections 15(1)*** and ***20(1)*** respectively apply) is resident or ordinarily resident in the State at the date of the inheritance.

Property located in the State is liable to inheritance tax irrespective of the residence or ordinary residence of the disponer or the successor.

[As regards "property which was to be appropriated to the inheritance" and "out of which property was to be appropriated to the inheritance", see the last three paragraphs of the note on ***subsection (1)*** which are also relevant to inheritances taken under dispositions made on or after 1 December 1999.]

Property which was not applied to satisfy the inheritance (i.e. property specifically bequeathed by will to another beneficiary) is to be ignored for the purpose of ascertaining what part of the property concerned is located in the State. **(3)(a)**

A right to the proceeds of sale of property is deemed to be located in the State to the extent that such property is unsold and located in the State. **(3)(b)**

A foreign-domiciled person will not be considered to be resident or ordinarily resident in the State on a particular date unless that date occurs on or after 1 December 2004 and then only if he/she has been resident in the State for the 5 consecutive tax years preceding the relevant date. **(4)**

"company" and "share" have the same meanings as they have in ***section 27***; "company controlled by the donee" has the same meaning as is assigned to "company controlled by the donee or successor" by ***section 27.*** **(5)(a)**

A person cannot artificially change the location of Irish assets by transferring them into a foreign, family-controlled private company. The measure operates by deeming the proportion of the value of a share in a foreign company that is directly or indirectly attributable to underlying Irish assets to be property located in the State. **(5)(b)**

The measure in ***subsection (5)(b)*** will not apply to a disponer who was foreign- domiciled at the date of the disposition under which the successor takes the inheritance, or where the share in question is actually located in the State at the date of the inheritance. **(5)(c)**

12 Disclaimer

Summary

This section provides that benefits which are disclaimed are ignored for tax purposes. It also provides that the disclaimer is not regarded as a disposition and that any consideration received by the person who made the disclaimer is deemed to be a gift or inheritance, as the case may be, taken from the person who paid the consideration.

Details

Inheritance tax is not payable where a benefit under a will or intestacy or an entitlement to an interest in settled property is disclaimed. This also applies where a claim under a purported will in respect of which a grant of probate or letters of administration was not issued or under an alleged intestacy in respect of which such grant was issued is waived or a right under Part IX of the Succession Act 1965, which deals with the legal right of the spouse of a person who makes a will and provision for his/her children, or an analogous right under the law of another country is renounced, disclaimed, elected against or lapses. In the case of an entitlement to an interest in settled property, neither gift tax nor inheritance tax is payable where the entitlement to the interest is disclaimed. **(1)**

The disclaimer, waiver, etc. is not a disposition by the person disclaiming the benefit. **(2)**

Any consideration received for giving up the benefit disclaimed is a gift or inheritance from the disponer who provided that benefit. **(3)**

13 Surviving joint tenant deemed to take an inheritance, etc.

Summary

This section provides that, where joint tenants own property, on the death of one of them, the survivor takes an inheritance from the deceased joint tenant, as disponer.

Details

Where persons are joint tenants and one of them dies, the survivor or survivors is/are deemed to have taken the deceased's share as an inheritance derived from him/her/them, because the deceased could have made himself/herself absolute owner of his/her share up to the date of his/her death. **(1)**

Following the rule made by ***section 7*** as to gifts, the beneficiaries of property left to persons as joint tenants will be taxed as if they took as tenants in common in equal shares. This is because each joint tenant has power to become the absolute owner of a share in the property by severing the joint tenancy. **(2)**

CHAPTER 2

Initial levy on discretionary trusts

14 Interpretation (Chapter 2)

Summary

This section is an interpretation section.

Details

There are 2 definitions in this section—

- "object" means a person who may at any time derive a benefit from the capital or income or part of the capital or income of the trust,
- "principal objects" means the spouse/civil partner, children/children of civil partners and children of a pre-deceased child/child of a civil partner of the disponer.

15 Acquisitions by discretionary trusts

Summary

This section provides that where property is or becomes subject to a discretionary trust on or after 25 January 1984, the trust will be deemed to have taken an inheritance accordingly, which is chargeable at the rate of 6%. This once-off charge for tax will not arise until—

- the disponer is dead, and
- none of the principal objects (see ***section 14***) of the trust, if any, is under the age of 21 years (25 years where the property became subject to the discretionary trust on or after 25 January 1984 and before 31 January 1993).

Where there are no principal objects of the trust, the charge will arise when the disponer dies if the property in the trust is held on a discretionary trust as defined in ***section 2(1)***.

All the provisions of the Act will apply except where restricted by ***section 16***.

Details

Where property becomes subject to a discretionary trust on or after 25 January 1984, the trust will be deemed, on the latest of 3 dates, to have become beneficially entitled in possession to an absolute interest in the property comprised in the trust on that latest date and to have taken an inheritance as if the trust and the trustees were together a person and the latest date is the date of the inheritance. The 3 dates are: **(1)**

- the date on which the property becomes or became subject to the discretionary trust;
- the date of death of the disponer; or

- where there are principal objects of the trust, the date on which there ceases to be a principal object of the trust who is under the age of 21 years (25 years where the property became subject to the discretionary trust on or after 25 January 1984 and before 31 January 1993).

For the purposes of section 15 and section 20, where a discretionary trust is created under the will (including under a codicil to that will) of a deceased person, property shall be deemed to be subject to the trust on the date of death of that person. **(1A)**

Property which was subject to a discretionary trust on 25 January 1984 or on 31 January 1993 is deemed to have become subject to the trust on those dates. The first date referred to is the date when the charge originally applied. Where property became subject to a discretionary trust on or after 31 January 1993, the age requirement of a principal object was reduced from 25 years to 21 years. **(2), (3)**

An interest in expectancy is not property until an event happens whereby the interest ceases to be an interest in expectancy or is represented by property which is not an interest in expectancy e.g. the proceeds of sale of a future interest. **(4)(a)**

An interest in a life assurance policy is not property until the interest becomes an interest in possession under ***section 41*** or is represented by property which is not an interest in possession. **(4)(b)**

While it is intended that property in a discretionary trust should be charged with inheritance tax on one occasion only, it may happen that the same property in the same discretionary trust may be chargeable with tax more than once. For example, a person died in 1990 leaving his/her residuary estate to trustees on discretionary trusts for his/her nephews and nieces. In 1995, the trustees appointed a life interest in the trust property to a niece for life. The niece died in 2003. Under ***subsection (1)***, a further claim for tax would arise in 2003 when the niece dies and the property becomes subject to the discretionary trust. ***Subsection (5)*** ensures that only one charge for tax will arise i.e. the charge arising in 1990. **(5)**

16 Application of this Act

<u>Summary</u>

Certain provisions of the Act, which apply to inheritances generally, are restricted or amended to allow for the fact that the successor in question is a notional successor.

<u>Details</u>

Where a charge to discretionary trust tax arises under ***section 15***, all the provisions of the Act apply to such a charge, but with the following exceptions:

a reference in ***section 27*** to a company controlled by the successor and the definition of “group of shares” in that section is construed as if the list of persons contained in ***subsection (3)*** of that section included the following: **(a)**

- the trustees of the discretionary trust,
- the living objects of the discretionary trust
- the relatives of those objects,
- nominees of those trustees or of the relatives (see note on ***section 2(4)***) of those objects, and
- the trustees of a settlement whose objects include the living objects of the discretionary trust or relatives of those living objects;

the valuation date of the notional inheritance will be the date of the inheritance or the valuation date ascertained in accordance with ***section 30***, whichever is the later date; **(b)**

since there is no actual successor as such, the trustees (who are deemed to take an inheritance) are the persons primarily accountable for the payment of the tax; **(c)** any object of the trust who has received a benefit from the trust subsequent to the date of the charge is also accountable for the payment of the tax; **(d)**

sections 45(1), ***50***, ***56*** and ***81*** and ***Schedule 2*** do not apply to discretionary trust tax. **(e)**

Section 45(1) specifies the persons who are primarily accountable for the payment of Capital Acquisitions Tax. That provision is replaced by ***paragraph (c)***. ***Section 50*** and ***Schedule 2***, which deal with the computation of the tax, are replaced by ***section 18*** of this Act.

Section 56 deals with the payment of inheritance tax by transfer of Government securities and ***section 81*** grants exemption in respect of Government securities when in the beneficial ownership of a person neither resident nor ordinarily resident in the State.

17 Exemptions

<u>Summary</u>

This section exempts from the charge for discretionary trust tax under ***section 15*** trusts which are set up *exclusively* for charitable purposes, for the purposes of a superannuation or unit trust scheme, for the benefit of improvident or incapacitated individuals or for the upkeep of heritage houses or gardens.

<u>Details</u>

A discretionary trust tax charge will not arise in relation to trusts which have been set up *exclusively* for certain purposes. The following trusts are exempt from discretionary trust tax: **(1)**

discretionary trusts set up exclusively for purposes which, in accordance with the law of the State, are public or charitable. Prior to the passing of the 2014 Finance Act only discretionary trusts created exclusively for public or charitable purposes in the State or Northern Ireland qualified for exemption from discretionary trust tax. The Finance Act 2014 removed the territorial limit of "the State or Northern Ireland" for discretionary trusts created on or after the passing of the Act. In effect the exemption now applies wherever the public or charitable purpose is based; **(1)(a)**

trusts set up in connection with superannuation schemes. The funds of these schemes are normally held by trustees to meet claims as and when they arise, and are often held on trusts which give powers to the trustees sufficiently wide to be classed as discretionary; **(1)(b)**

unit trust schemes within the meaning of the Unit Trusts Act 1990. Again, the trustees might have powers, in connection with the funds of a unit trust scheme, which might be classed as discretionary, giving rise to a discretionary trust tax claim; **(1)(c)**

discretionary trusts for the benefit of one or more named individuals who are, because of age or improvidence, or of physical, mental or legal incapacity, incapable of managing their affairs; and **(1)(d)**

discretionary trusts set up exclusively for the upkeep of houses and gardens referred to in ***section 77(6)***, i.e. houses and gardens situated in the State and not held for the purposes of trading which— **(1)(e)**

- are of national, scientific, historic or artistic interest, and
- are open to the public.

Discretionary trust tax is not chargeable— **(2)**

- where property is taken by the State when the trust terminates, or
- where notional sums representing the benefit of interest-free loans etc are deemed to be taken by a discretionary trust under the provisions of ***section 40***.

18 Computation of tax

Summary

This section provides that the rate of tax imposed on certain discretionary trusts by ***section 15*** is 6%. If the property is transferred absolutely to the beneficiaries of such trusts within 5 years of certain events specified in the section, the charge will be restricted to 3%. The excess amount of tax paid will be refunded.

Details

"earlier relevant inheritance" means a relevant inheritance deemed to be taken on the date of death of the disponer; **(1)**

"later relevant inheritance" means a relevant inheritance which, after the date of death of the disponer, is deemed to be taken by a discretionary trust by virtue of there ceasing to be a principal object of that trust who is under the age of 21 years;

"relevant inheritance" means an inheritance which, by virtue of ***section 15(1)***, is deemed to be taken by a discretionary trust;

"relevant period" means—

- in relation to an earlier relevant inheritance, the period of 5 years commencing on the date of death of the disponer,
- in relation to a settled relevant inheritance, the period of 5 years commencing on the date of death of the life tenant, and
- in relation to a later relevant inheritance, the period of 5 years commencing on the latest date on which a later relevant inheritance was deemed to be taken from the disponer;

"settled relevant inheritance" means a relevant inheritance taken on the death of a life tenant;

"appropriate trust", in relation to a relevant inheritance, means the trust by which that inheritance was deemed to be taken;

Tax is charged at the rate of 6% on the taxable value (see note on ***section 28***) of the taxable inheritance (see note on ***section 11***) chargeable under ***section 15***. **(2)**

Notwithstanding ***subsection (2)***, if the property comprised in the discretionary trust is transferred absolutely to any one or more of the objects of the trust within 5 years of the death of the disponer or the life tenant or the date when there ceases to be a principal object of the trust who is under the age of 21 years (as the case may be), the charge will be restricted to 3%. **(3)**

Where 2 or more persons are beneficially entitled in possession to an absolute interest in property, those persons will not be treated, for the purposes of ***subsection (3)***, as beneficially entitled in possession by reason only that together they are beneficially so entitled in possession. For example, the trustees of a discretionary trust appoint property so that it is held in trust to pay the income to A during his/her life and thereafter to be held by B absolutely. Neither A nor B have an absolute interest in the trust property but, acting together, they can demand the termination of the trust and the transfer of the trust property to them in agreed shares. This provision ensures that this type of appointment will not qualify for the refund. **(4)**

CHAPTER 3

Annual levy on discretionary trusts

19 Interpretation (Chapter 3)

Summary

This section defines a number of terms used in ***Chapter 3*** of ***Part 3*** of the Act.

Details

There are 4 definitions in the section as follows:

- "chargeable date" means 5 April and 31 December in the year 2006 and 31 December in the year 2007 and subsequent years;

- "chargeable discretionary trust" means a discretionary trust in relation to which—

    - the disponer (i.e. the settlor) is dead, and
    - none of the principal objects of the trust (if any) is under the age of 21;

- "object" and "principal objects", in relation to a discretionary trust, have the meanings, respectively, given to them by ***section 14*** of the Act i.e.—

"object", in relation to a discretionary trust, means a person for whose benefit the income or capital, or any part of the income or capital, of the trust property is applied, or may be applied;

"principal objects", in relation to a discretionary trust, means such objects, if any, of the trust for the time being as are—

- the spouse/civil partner of the disponer,
- the children of the disponer and the civil partner of the disponer, or
- the children of a child of the disponer/civil partner of the disponer who pre- deceased the disponer.

20 Annual acquisitions by discretionary trusts

Summary

This section provides that, where on a chargeable date in any year, commencing with the year 2003, property is subject to a chargeable discretionary trust (see ***section 19***), the trust will be deemed to have taken an absolute inheritance on that date. All the provisions of the Act will apply to the inheritance so taken, except where restricted by ***section 21***.

This section also contains other provisions—

- to counter avoidance of the annual charge to tax by appointments of property out of the discretionary trust for short periods,

- to ensure that that certain future interests not in possession on the relevant date will not be taxed, and

- to eliminate a 1% annual charge on property in the same year in which a once-off 6% charge is imposed on the same property under ***section 15*** of the Act.

Details

Where, on a chargeable date in any year, commencing with the year 2003, property is subject to a chargeable discretionary trust, the trust will be deemed on each chargeable date to become beneficially entitled in possession to an absolute interest in that property and to have taken on each such date an inheritance as if the trust and the trustees were together a person for the purposes of the Act. Each chargeable date on which property is subject to a chargeable discretionary trust is the date of the inheritance. **(1)**

The definition of the term "chargeable discretionary trust" ensures that an annual 1% charge cannot arise on any chargeable date while—

- the disponer is alive, or

- any one of the principal objects (i.e. the disponer's spouse, his/her children and the children of a pre-deceased child of the disponer) of the trust, if any, is under the age of 21 years.

Where there are no principal objects of the trust, the charge will apply on the chargeable date each year if the property is subject to a chargeable discretionary trust on that date (but see note on ***subsection (4)***).

Property includes property representing such property. **(2)(a)**

This provision prevents the avoidance of the 1% annual charge by the appointment of property out of a discretionary trust for short periods spanning a chargeable date. **(2)(b)**

Where property is subject to a chargeable discretionary trust prior to a chargeable date, it is deemed to remain subject to a chargeable discretionary trust notwithstanding the creation of an interest in possession which is in existence on the chargeable date if that interest is—

- revocable, or
- will cease on an event other than—
    - ❖ the death of that person, or
    - ❖ the expiration of a period certain of not less than 5 years

A claim for discretionary trust tax will not arise in respect of an interest in remainder until it becomes an interest in possession on, for example, the death of a life tenant or in respect of an interest in a policy of assurance until the policy matures on a death, is surrendered or where the insurer makes a payment of money or money's worth in full or partial discharge of the policy under ***section 41*** of the Act. **(3)**

Property will not be subject to a 1% discretionary trust tax charge on any chargeable date if that same property is subject to the once-off 6% charge under the provisions of ***section 15*** of the Act or under section 103 of the Finance Act 1984 on the same date or within the year prior to that date. **(4)**

21 Application of this Act

<u>Summary</u>

Certain provisions of the Act, which apply to inheritances generally, are restricted or amended to allow for the fact that the successor in question is a notional successor.

<u>Details</u>

Where a charge to discretionary trust tax arises under ***section 20***, all the provisions of the Act apply to such a charge except for those set out below.

A reference in ***section 27*** to a company controlled by the successor and the definition of "group of shares" in that section is construed as if the list of persons contained in ***subsection (3)*** of that section included the following: **(a)**

- the trustees of the discretionary trust,

- the living objects of the discretionary trust,

- the relatives (see note on ***section 2(4)***) of those objects,

- nominees of those trustees or of the relatives of those objects, and

- the trustees of a settlement whose objects include the living objects of the discretionary trust or relatives of those living objects.

The valuation date in respect of the 1% levy is the same as the chargeable date, i.e. 5 April and 31 December in the year 2006 and 31 December in the year 2007 and subsequent years. If 1% annual charges have arisen before the valuation date for the initial 6% charge has arisen, then the valuation date for those accrued annual 1% charges is the same as the valuation date for the initial 6% charge. **(b)**

Since there is no actual successor, as such, the trustees are the persons primarily accountable for the payment of the tax. **(c)**

Any object of the trust who has received a benefit from the trust subsequent to the date of the charge is also accountable for the payment of the tax. **(d)**

[This provision has been deleted by section 117 of the Finance Act 2006.] **(e)**

Certain provisions of the Act do not apply in relation to the 1% charge to discretionary trust tax imposed by ***section 20***. **(f)**

Section 30 of the Act is replaced by ***paragraph (b)*** of this section. ***Section 45(1)***, which specifies the persons who are primarily accountable for payment of capital acquisitions tax, is replaced by ***paragraph (c)*** of this section.

Section 50 deals with the computation of mainstream capital acquisitions tax. ***Section 81*** grants exemption in respect of Government securities when in the beneficial ownership of a person who is neither resident nor ordinarily resident in the State. ***Schedule 2***, which deals with the computation of tax, is replaced by ***section 23***.

22 Exemptions

Summary

This section exempts from the 1% annual discretionary trust tax charge trusts, property and inheritances which are exempted from the once-off 6% discretionary trust tax charge.

Details

The scheme of the section is to apply to discretionary trusts the same exemptions from the 1% annual charge as are available in relation to the once-off 6% charge. Those exemptions arose under ***section 17(1)*** and ***(2)***.

The trusts which are exempt from the charge to discretionary trust tax are as follows:

- trusts which are created exclusively for public or charitable purposes,
- trusts created in connection with superannuation schemes,
- unit trust schemes within the meaning of the Unit Trusts Act 1990
- trusts created for the benefit of one or more named individuals who are, because of age or improvidence, or of physical, mental or legal incapacity, incapable of managing his/her/their affairs, and
- trusts created exclusively for the upkeep of heritage houses and gardens referred to in ***section 77(6)*** of the Act i.e. houses and gardens situated in the State and not held for the purpose of trading which—
    - are of national, historic or artistic interest, and are open to the public.

For details regarding these exemptions, see notes on ***section 17***.

23 Computation of tax

Tax is charged at the rate of 1% on the taxable value (see ***section 28***) of a taxable inheritance (see ***section 11***) chargeable under ***section 20***. The charge for tax arising on 31 December 2006 (see note relating to the definition of “chargeable date” in ***section 19***) will be 73.97% of the tax due on that date to take account of the fact that the period from 5 April to 31 December is less than a year.

24 Values agreed

Summary

This section is designed to reduce compliance and collection costs in connection with the 1% annual discretionary trust tax charge. It provides that in relation to houses and lands or shares which are not quoted on a stock exchange, the values agreed between the taxpayer and the Revenue Commissioners for one chargeable date will, subject to certain exceptions, apply to the following 2 chargeable dates where the same property is liable to the 1% charge.

Details

The following conditions must be met before a value, which will stand for a chargeable date and the following 2 chargeable dates, may be agreed:

a 1% discretionary trust tax charge must arise on a chargeable date (the first chargeable date), **(1)(a)**

an accountable person must have furnished all the information necessary to enable the Revenue Commissioners to ascertain the market value of houses, lands or non- quoted shares in the taxable inheritance taken on that chargeable date, **(1)(b)**

the market value of that property must be agreed between the accountable person and the Revenue Commissioners on foot of an application in writing by the applicant to the Revenue Commissioners, **(1)(c)**

a 1% discretionary trust tax charge must arise on either or both of the following chargeable dates, and **(1)(d)**

the same property must be subject to a 1% discretionary trust tax charge on these subsequent chargeable dates. **(1)(e)**

Where the market value of property is determined in accordance with ***subsection (1)*** in respect of the valuation date 5 April 2006, then that market value will be treated as the market value of the property on the valuation date 31 December 2006. **(1A)**

An agreed value will not be binding in the following circumstances: **(2)**

- where there is failure to disclose material facts either in respect of the property in question, or any other property, comprised in a relevant discretionary trust on any of the 3 chargeable dates covered by the agreement,

- where, before the third chargeable date—

    - ❖ in the case of houses or lands, there is a change in the tenure under which the property is held or let (e.g. where a discretionary trust holding a leasehold interest in a house acquired the fee simple interest), or

    - ❖ in the case of non-quoted shares, there is any change in the capital or the ownership of the capital of the company or of the rights of the shareholders between themselves (e.g. where the company passed a resolution altering the rights attaching to the shares and, therefore, altering the rights of the shareholders between themselves).

The trustees can opt out of the agreement if, before the third chargeable date—

- there is a change which would materially alter the value of the real property over and above normal fluctuations in value, or

- there is a material change in the company's assets or in their market value over and above normal fluctuations in value in the case of unquoted shares.

An agreement made is binding on the persons who, as such, are accountable for payment of the tax on the first, second and third chargeable dates. **(3)**

25 Penalty

[This section was deleted by section 98 and paragraph 4(a) of Schedule 5 of the Finance (No. 2) Act 2008 with effect from 24 December 2008.]