



AN BILLE CANACH RACHMAIS, 1975

WEALTH TAX BILL, 1975

*Mar a leasaíodh i gCoiste
As amended in Committee*

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[No. 4a of 1975]



AN BILLE CANACH RACHMAIS, 1975
WEALTH TAX BILL, 1975

BILL

entitled

AN ACT TO CHARGE AND IMPOSE ON CERTAIN WEALTH 5
A DUTY OF INLAND REVENUE TO BE KNOWN AS
WEALTH TAX, TO AMEND THE LAW RELATING TO
INLAND REVENUE AND TO MAKE FURTHER PRO-
VISIONS IN CONNECTION WITH FINANCE.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS: 10

Interpretation.

1.—(1) In this Act save where the context otherwise requires—

“accountable person” means a person who is accountable for the
payment of tax by virtue of *section 14*;

“assessable person” means an individual, discretionary trust or
private non-trading company; 15

“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 20
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 25
relation to such rights;

“the Commissioners” means the Revenue Commissioners;

“discretionary trust” means any disposition 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 30
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
and for the purposes of this definition “disposition” includes any 35
disposition whether by deed or will and any covenant, agreement or
arrangement whether effected with or without writing;

“entitled in possession” means having a present right to the enjoy-
ment of property as opposed to having a future such right, and with-
out prejudice to the generality of the foregoing, a person shall also, 40
for the purposes of this Act, be deemed to be entitled in possession
to—

(a) property comprised in an instrument which he may revoke,
and

5 (b) 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 and for the purposes of this
definition "interest in expectancy" includes an estate in remainder
10 or reversion but does not include—

(i) a remainder expectant on the determination of a lease,

(ii) a reversion expectant on the determination of a
limited interest created by the person;

"limited interest" shall be construed in accordance with *sec-*
15 *tion 3 (5) (b)*;

"the market value", in relation to property, means the market value
thereof ascertained in accordance with *section 8 or 9* as the case may
be;

20 "minor child" means a child who has not attained the age of 21
years on the relevant valuation date and who has not married on or
before that date;

"the net market value", in relation to any property, means the net
market value thereof ascertained in accordance with *section 10 or*
11, as the case may be;

25 "ordinarily resident" has the same meaning as in the Income Tax
Acts and an individual who has been ordinarily resident in the
State for a year ending on a valuation date shall be deemed to be
ordinarily resident in the State on that valuation date;

"personal property" means any property other than real property;

30 "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 de-
ceased under the law of another country any functions correspond-
35 ing to the functions for administration purposes under the law of
the State of an executor or administrator;

"private non-trading company" has the meaning assigned to it by
section 6 (3);

"property" includes interests and rights of any description;

40 "real property" means real and chattel real property and includes
real and chattel real property that is impressed with a trust for sale
and to which an individual or other assessable person whose property
situate outside the State is not liable to tax is beneficially entitled
in possession;

45 "tax" means wealth tax chargeable by virtue of this Act;

"valuation date", in relation to any year, means the 5th day of
April in that year.

(2) For the purposes of this Act, a husband and wife shall be
50 treated as living with each other, on a valuation date, unless on
that date—

- (a) they are separated under an order of a court of competent jurisdiction or by deed of separation, or
- (b) they are in fact separated in such circumstances that the separation is likely to be permanent.

(3) In this Act— 5

- (a) a reference to a section is to a section of this Act unless it is indicated that a reference to some other enactment is intended;
- (b) a reference to a subsection, paragraph or subparagraph is to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended; 10
- (c) a reference to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Act. 15

Charge of wealth tax.

2.—Subject to the provisions of this Act and any regulations thereunder, with effect on and from the 5th day of April, 1975, a tax, to be called wealth tax, shall be charged, levied and paid annually upon the net market value of the taxable wealth on the valuation date in every year of every assessable person and the rate of tax shall be one per cent. of that net market value. 20

Taxable wealth of individual.

3.—(1) Subject to the provisions of this Act, the taxable wealth of an individual who is domiciled and ordinarily resident in the State on the valuation date shall comprise all the property, where-soever situate, to which he is beneficially entitled in possession on that date. 25

(2) Subject to the provisions of this Act, the taxable wealth of an individual other than an individual who is domiciled and ordinarily resident in the State on the valuation date shall comprise only the property situate in the State to which he is beneficially entitled in possession on that date. 30

(3) Where the property to which an individual is beneficially entitled in possession includes an interest which is a limited interest, the whole or the appropriate part of the property in which the limited interest subsists or on which it is charged or secured or on which the individual is entitled to have it so charged or secured shall be property to which the individual is beneficially entitled in possession; and, if the limited interest of an individual who is domiciled and ordinarily resident in the State is an annuity or other periodic payment which is not charged or secured on any property, such sum, as would, if invested on the valuation date 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 amount of the annuity or of the other periodic payment received in the twelve months prior to the valuation date shall be taxable wealth of the individual: 35 40 45

Provided that in the case of a purchased annuity, the annuitant shall have the option— 50

- (a) of having treated for the purposes of this subsection as an annuity which is not charged or secured on any property so much of the purchased annuity as is regarded as income for the purposes of the Income Tax Acts, and 55
- (b) in addition, of having treated as part of his taxable wealth the proportion of the consideration for the purchase of

the annuity which is equal to the proportion which the balance of the purchased annuity (after deducting so much thereof as is referred to in *paragraph (a)*) bears to the entire annuity.

5 (4) For the purposes of this Act, where the property to which an individual is beneficially entitled in possession includes a reversion expectant on the determination of a limited interest, the individual shall himself be deemed to be entitled in possession to that limited interest and the provisions of this section shall apply accordingly.

10 (5) For the purposes of this Act—

(a) (i) an individual who is not domiciled in the State on a valuation date and who has resided in the State for not less than—

(I) 183 days in the year ending on that date, and

15 (II) 183 days in each of six or more of the nine years immediately prior to that year,

shall be deemed to be domiciled and ordinarily resident in the State on that valuation date;

20 (ii) an individual who was domiciled and ordinarily resident in the State on a valuation date shall, notwithstanding that he ceased to be ordinarily resident in the State after that date, be deemed to be domiciled and ordinarily resident in the State on the three valuation dates next following that valuation date:

25 Provided that this subparagraph shall not apply to an individual to whom *subparagraph (i)* applies.

(b) an individual shall be deemed to be entitled to an interest which is a limited interest in any case where—

30 (i) the income, or part of the income, if any, or an annuity or other periodic payment out of the income of property to which he is not absolutely entitled, or

(ii) an annuity or other periodic payment which is not charged or secured on any property,

35 must, during any period of time (including a period determinable by reference to a death) which commences before or on and ends on or after the relevant valuation date (whether or not that date is included in the period), be paid to him or applied for his benefit and limited
40 interest shall be construed accordingly.

(c) "the appropriate part", in relation to property referred to in *subsection (3)*, means that part of the property which bears the same proportion to the entire property as the gross income of the limited interest firstly referred to in
45 *subsection (3)* bears to the gross income of the entire property, and the property to which the individual is beneficially entitled in possession shall be deemed to include the appropriate part of each and every item of property comprised in the entire property.

50 4.—(1) For the purposes of this Act, the property to which an individual is beneficially entitled in possession on a valuation date shall also include all the property to which—

Aggregation of taxable wealth of certain individuals.

(a) the wife of the individual, if she is living with him on the valuation date, and

55 (b) the minor children, if any, of the individual,

is or are beneficially entitled in possession on the valuation date:

Provided that where, on a valuation date, a wife is not living with

her husband, or either of them is dead, the property to which either of them or the survivor is entitled in possession shall include the property to which a minor child of those parents is beneficially entitled in possession if, but only if, that parent has custody of the child on that date. 5

(2) Where property of another person is included in the taxable wealth of an individual by virtue of *subsection (1)*, the Commissioners shall, on application being made by or on behalf of that individual or other person, apportion the amount of tax assessed on the individual between the individual and that other person and the amount of tax referable to that other person shall be the amount of tax which bears the same proportion to the total amount of tax of the individual as the net market value of that person's taxable wealth bears to the net market value of the taxable wealth of the individual: 10 15

Provided that the individual shall remain primarily accountable under *section 14* for the payment of tax on the taxable wealth aggregated under this section notwithstanding any apportionment made under this subsection.

Taxable wealth of discretionary trust.

5.—(1) (a) The taxable wealth of a discretionary trust on a valuation date shall include all the property situate in the State which is comprised in the trust on the valuation date. 20

(b) The taxable wealth of a discretionary trust on a valuation date shall also include any property situate outside the State which is comprised in the trust on the valuation date in any case where— 25

(i) the settlor is living and is domiciled and ordinarily resident in the State on that date,

(ii) the settlor was domiciled and ordinarily resident in the State when the trust was established, 30

(iii) if the trust was created by will, the settlor was domiciled in the State at the date of his death, or

(iv) the principal objects under the trust are domiciled and ordinarily resident in the State on that valuation date. 35

(c) Where none of the subparagraphs in *paragraph (b)* applies, the taxable wealth of a discretionary trust shall (in addition to all the property situate in the State which is comprised in the trust on the valuation date) include only that proportion (if any) of the property situate outside the State that is comprised in the trust on the valuation date that equals the proportion that the number of principal objects under the trust who are domiciled and ordinarily resident in the State bears to the total number of principal objects under the trust. 40 45

(2) Where, however, the sole objects under a discretionary trust are a child or children of a marriage either with his or their parent or parents or without his or their parents (or the survivors or survivor of such persons), and a minor child, being one of those children, is living on the relevant valuation date, the property comprised in the trust, shall— 50

(a) if the valuation date occurs during the joint lives of the parties to the marriage, be deemed to be property to which the husband is beneficially entitled in possession: 55

Provided that, if it occurs when the husband and wife are not living with each other and the husband is not an object of the trust, the property comprised in the trust shall be deemed to be property to which the wife is

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(b) if the valuation date occurs during the lifetime of the surviving party to the marriage, be deemed to be property to which that party is beneficially entitled in possession, and

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(c) if the valuation date occurs when neither party to the marriage is an object of the trust or after the death of the surviving party to the marriage, be deemed to be property to which the minor children of the marriage are beneficially entitled in possession in equal shares or property to which the sole minor child of the marriage, if only one such child is living, is beneficially entitled in possession,

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and section 3 shall, in lieu of subsection (1), apply to such property.

(3) Where it is shown to the satisfaction of the Commissioners that a discretionary trust exists on a valuation date for the exclusive benefit of—

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(a) one or both parties to a marriage, or

(b) one or more named individuals, for the reason that such individual, or all such individuals, is or are, because of age, incapacity or improvidence, incapable of managing his or their affairs, or for any other analogous reason which, in the opinion of the Commissioners, is sufficient to justify the benefits conferred by this subsection,

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and that no other person benefited from that trust, the property comprised in the trust on that valuation date shall be deemed to be property to which the party or individual aforesaid is beneficially

30 entitled in possession, or, if there is more than one, to which those parties or individuals are beneficially entitled in possession in equal shares and section 3 shall, in lieu of subsection (1), apply to such property.

(4) In this section—

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“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, at any time, be applied;

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“principal objects”, in relation to a discretionary trust, means such objects of the trust as are living on the relevant valuation date and are related in the same degree of consanguinity to the settlor (being a degree of consanguinity to the settlor nearer than that of any other objects of the trust living on that date) and, if there are no objects of the trust on that date who are so related to the settlor, means all

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the objects of the trust living on that date, and—

(a) where a body of persons is the object or among the objects of the trust, the members of such body of persons shall be deemed to be objects of the trust, and

(b) for the purposes of this definition—

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(i) the spouse of the settlor shall be deemed to be of the same degree of consanguinity to the settlor as the children of the settlor and the spouse of a person shall be deemed to be of the same degree of consanguinity to the settlor as the person,

55

(ii) “body of persons” means any body politic, corporate or collegiate and any company, partnership, fraternity, fellowship and society of persons, whether corporate or not corporate;

“settlor”, in relation to a discretionary trust, includes a person by whom property comprised in the trust was provided and a person shall be deemed to have provided the property comprised in the trust if he has provided it directly or indirectly and in particular (but without prejudice to the generality of the foregoing) if he has provided or undertaken to provide property directly or indirectly for the purposes of the trust, or has made with any other person a reciprocal arrangement for that person to provide property for the purposes of the trust and, in any case where there is more than one settlor, each shall be deemed to be a settlor to the extent that he has so provided the property comprised in the trust and a trust shall be deemed to be established as and when and to the extent that property is so provided by a settlor.

(5) For the purposes of this section, *section 3 (3)* and *paragraphs (b) and (c) of section 3 (5)* shall apply with any necessary modifications in relation to property comprised in a discretionary trust which includes an interest which is a limited interest as they apply in relation to property to which an individual is beneficially entitled in possession and which includes an interest which is a limited interest.

Taxable wealth
of private
non-trading
company.

6.—(1) (a) The taxable wealth of a private non-trading company on a valuation date shall include all the property situate in the State to which the company is beneficially entitled in possession on the valuation date.

(b) The taxable wealth of a private non-trading company on a valuation date shall also include any property situate outside the State to which the company is beneficially entitled in possession on the valuation date in any case where—

(i) the company is incorporated in the State,

(ii) the effective centre of management of the company is in the State, or

(iii) control of the company is in an individual domiciled and ordinarily resident in the State or in the trustee of a discretionary trust all the property of which, wheresoever situate, is chargeable to tax under *section 5* or in a company which is incorporated in, or has its effective centre of management in, the State or is controlled as aforesaid.

(2) For the purposes of this section, *section 3 (3)* and *paragraphs (b) and (c) of section 3 (5)* shall apply with any necessary modifications in relation to property to which a private non-trading company is beneficially entitled in possession and which includes an interest which is a limited interest as they apply in relation to property to which an individual is beneficially entitled in possession and which includes an interest which is a limited interest.

(3) In this section—

“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,
but does not include—

(A) a body corporate (other than a company within the meaning
of section 2 of the Companies Act, 1963) established by or under 1963, No. 33
5 an Act of the Oireachtas, or

(B) a company within the meaning of section 2 of the Companies
Act, 1963, which is under the control of a Minister of State,

and for the purposes of this section—

10 (i) 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
15 persons who are relatives of one another, persons
who are nominees of any other person together with
that other person, persons in partnership and per-
sons interested in any shares or obligations of the
company which are subject to any trust or are part
20 of the estate of a deceased person shall respectively
be treated as a single person, and

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

25 (I) he then had control of 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
30 time of a power exercisable by him or at his
direction or with his consent,

35 (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, the powers
of a board of directors or of a governing director
of the company, power to nominate a majority
of the directors or a governing director thereof,
40 power to veto the appointment of a director
thereof, or 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
45 "dividend" shall be deemed to include interest
on any debentures of the company, or

50 (IV) he then had an interest in the shares in or the
debentures of the company, or in both, of an
aggregate nominal value representing one-half or
more of the aggregate nominal value of the
shares and debentures of the company;

"private non-trading company" means a company whose income in
the twelve months preceding the valuation date consisted wholly or
mainly of investment income, that is to say, income, which, if the
55 company were an individual, would not be earned income within the
meaning of section 2 of the Income Tax Act, 1967, and whose prop-
erty on that date consisted wholly or mainly of property from which
that investment income is derived, and, for the purposes of this
definition, income from real property in the State shall, in the case
60 of a company which is not a company to which subsection (1) (b)
refers, be deemed to be investment income. 1967, No. 6.

(4) (a) In this section—

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

“relative” means—

- (i) a husband or wife, or
- (ii) lineal ancestor, lineal descendant, uncle, aunt, brother, sister, descendant of a brother or sister, or the wife or husband of any of those persons;

“share”, in relation to a company, includes any interest whatsoever in the company which is analogous to a share in the company.

(b) For the purposes of this section a company which is controlled by any one or more of the individual and relatives of the individual shall be regarded as being itself a relative of the individual.

(5) This section shall not apply to a private non-trading company of which a body corporate which is not a private non-trading company has control and, for the purposes of this subsection, where a body corporate (in this subsection referred to as the first body corporate) has control of a second body corporate and the second body corporate has control of a private non-trading company, the first body corporate shall be deemed to have control of the private non-trading company and if a third body corporate has control of the first body corporate, the third body corporate shall be deemed to have control of the private non-trading company, and so on.

Exemption of certain property.

7.—(1) Tax shall not be payable in respect of the following property and such property shall not be taxable wealth—

- (a) (i) a dwelling-house, or part of a dwelling-house, to which, on the relevant valuation date, an individual is beneficially entitled in possession and which is occupied by him as his only or principal residence, and
- (ii) land which that individual has for his own occupation and enjoyment with that residence, as its garden or grounds, up to an area (exclusive of the site of the dwelling-house) of one acre :

Provided that—

(I) in the case of a dwelling-house, or part of a dwelling-house, part of which is used mainly for the purposes of a trade, business, profession or vocation or is let, this paragraph shall not apply to the part used for those purposes or which is so let, and

(II) in a case where more than one dwelling-house falls to be included in the taxable wealth of an individual under section 4, this paragraph shall apply to one dwelling-house only;

(b) furniture and household effects, being the normal contents of a dwelling-house, or part of a dwelling-house, to which paragraph (a) applies;

(c) livestock to which a person who is a farmer within the meaning of section 10 is beneficially entitled in possession;

(d) bloodstock;

(e) the right to receive any benefit or any annuity or periodic payment—

- (i) under any scheme for the provision of superannuation benefits on retirement established by or under any enactment or instrument made under any enactment;
- 5 (ii) under any sponsored superannuation scheme within the meaning of section 235 (9) of the Income Tax Act, 1967, or under a trust scheme or part of a trust scheme approved by the Commissioners under section 235 or 235A of that Act;
- (iii) under the Social Welfare Acts, 1952 to 1974;
- 10 (iv) under a contract approved by the Commissioners for the purposes of granting relief for the purposes of section 236 of the Income Tax Act, 1967, in respect of the premiums payable in respect thereof;
- (v) which is disregarded as income for the purposes of the Income Tax Acts under the provisions of section 19 of the Finance Act, 1973; 1973, No. 19
- (f) property of schemes referred to in *subparagraphs* (i) and (ii) of *paragraph* (e);
- 20 (g) property that is comprised in a discretionary trust, or is in the beneficial ownership of a private non-trading company, being a trust or company that was established or incorporated exclusively for charitable purposes or for the purpose of holding property of a scheme referred to in *subparagraph* (i) or (ii) of *paragraph* (e) or property 25 the subject of a trust created under a registered unit trust scheme within the meaning of the Unit Trusts Act, 1972 and is, on the relevant valuation date, carried on exclusively for those purposes or that purpose; 1972, No 17.
- 30 (h) any security which falls to be included in the taxable wealth of an assessable person on the relevant valuation date in a case where any property whatsoever of the person situate outside the State would not be chargeable to tax on that date; in this paragraph "security" means any security, stock, debenture, debenture stock, certificate of charge or other form of security issued, whether before or after the passing of this Act, with a condition that it be exempt from taxation when in the beneficial ownership of persons neither domiciled nor ordinarily resident in the State and includes units of a unit trust scheme within the meaning of section 60 of the Finance Act, 1973, and any stock or other form of security to which section 92 of that Act applies;
- 35 (i) pictures, prints, books, manuscripts, works of art, jewellery, scientific collections or other things not held for the purposes of trading—
- 40 (i) which, on a claim being made to the Commissioners, appear to them to be of national, scientific, historic or artistic interest,
- 50 (ii) which are kept permanently in the State except for such temporary absences outside the State as are approved of by the Commissioners, and
- 55 (iii) in respect of which reasonable facilities for viewing are allowed to members of the public or to recognised bodies or to associations of persons;
- (j) gardens situate in the State—
- (i) which, on a claim being made to the Commissioners, appear to them to be of national, scientific, historic or artistic interest, and
- 60 (ii) in respect of which reasonable facilities for viewing are allowed to members of the public or to recognised bodies or to associations of persons;

(k) trees or underwood growing on land in the State and in the same beneficial ownership as the land;

(l) shares in a private non-trading company where, in accordance with *section 6*, all the property, wheresoever situate, to which the company is beneficially entitled in possession is included in the taxable wealth of that company on the relevant valuation date or would be so included but for the provisions of this section.

(2) Notwithstanding anything contained in *subsection (1)*, such particulars and information in relation to the property referred to in that subsection shall be furnished to the Commissioners as would be required if such property formed part of the taxable wealth of the assessable person.

Market value of property.

8.—(1) In this Act, subject to the other provisions thereof, the market value of any property 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 valuation date 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 fix the price of the property according to the market price on the relevant valuation date and 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.

Market value of shares in private trading companies.

9.—(1) Where there are included in the taxable wealth of an assessable person on a valuation date shares in a private trading company which is a company controlled by that assessable person on that date, the market value of each share 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) (a) In this section a reference to a company controlled by an assessable person is a reference to a company that—

(i) if the person is an individual, is under the control of any one or more of the following, that is to say, the individual, the relatives of the individual, nominees of the individual or nominees of relatives of the individual,

(ii) if the person is a discretionary trust, is under the control of any one or more of the following, that is to say, the trustees of the trust, the principal objects of the trust within the meaning of *section 5 (4)*, the relatives of those objects, the nominees of those objects or the nominees of relatives of those objects,

(iii) if the person is a private non-trading company, is under the control of that private non-trading com-

pany or of persons having control of that private non-trading company.

5 (b) For the purposes of this section a company which is controlled by any one or more of the individual and relatives of the individual shall be regarded as being itself a relative of the individual.

(c) (i) In this section—

“company”, “nominee” and “share” have the meanings respectively assigned to them by *section 6*;

10 “control” means control for the purposes of *section 6* and cognate words shall be construed accordingly;

15 “private trading company” means a company within the meaning of *section 6* which is not a private non-trading company.

20 (ii) For the purposes of *subparagraph (i)* references in this section and in *section 6* to a relative shall be construed as references to a person who is the spouse or a minor child of the person in relation to whom the expression is used.

25 (3) For the purposes of this section a company shall be deemed to be a company controlled by an assessable person on a valuation date if it is a company controlled by that person on that date or if it was a company so controlled at any time in the period of twelve months prior to that date and, having ceased to be so controlled on that date, again becomes so controlled at any time in the period of twelve months subsequent to that date.

30 10.—(1) (a) Subject to *subsections (2) and (3)*, the net market value of property to which this subsection applies shall be ascertained—

Net market value of productive property.

35 (i) by deducting from the market value of the property an amount equal to 50 per cent. of the market value of the property or a sum of £100,000 whichever is the lesser, and

40 (ii) by deducting from the balance then remaining a proportion of any debts and incumbrances outstanding on the relevant valuation date which were incurred in connection with that property and the business carried on in connection therewith, or were incurred in the acquisition of that property, and which, in ascertaining the net market value of property under *section 11 (1)*, are deductible from the market value of the property, being the proportion which the said balance bears to the market value of the property.

45 (b) This subsection applies to—

50 (i) agricultural property and farm machinery which are comprised in the taxable wealth of an individual who is a farmer,

(ii) fishing boats which are comprised in the taxable wealth of an individual, or

(iii) hotel premises which are comprised in the taxable wealth of an individual.

55 (2) (a) Where, in the case of agricultural property to which *subsection (1)* applies and which is situated within one mile of an urban area, it is shown to the satisfaction of the Commissioners that the market value of that property is enhanced by its high potential for development, the

market value thereof, for the purpose of that subsection, shall be ascertained by adding 25 per cent. to the agricultural value of that property on that date.

(b) For the purposes of this subsection—

- (i) agricultural property shall be deemed to have a high 5 potential for development if it is shown to the satisfaction of the Commissioners that it will probably be used for the purpose of providing sites for houses or factories within five years of the relevant valuation date; 10
- (ii) the agricultural value of any agricultural property shall be taken to be the market value which it would have if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property. 15

(c) In this subsection “urban area” means an area which is either a county or other borough, an urban district, a town or a village.

(3) The net market value of property in the State which is used directly in the provision of employment in the State (other than property to which *subsection (1)* applies) and of property consisting of stock or shares of a trading company comprised in the taxable wealth of an assessable person shall be ascertained— 20

(a) by deducting from the market value of such property an amount equal to 20 per cent. of the market value of such property, and 25

(b) by deducting from the balance then remaining an amount equal to 80 per cent. of the debts and incumbrances outstanding on the relevant valuation date which were incurred in connection with the property and the business, if any, carried on in connection therewith or incurred in the acquisition of such property and which, in ascertaining the net market value of property under *section 11 (1)*, are deductible from the market value of the property: 30 35

Provided that this subsection shall apply to property to which *subsection (1)* applies which is comprised in the taxable wealth of an individual in any case where the net market value thereof, if ascertained in accordance with this subsection, would be less than the net market value as ascertained in accordance with that subsection: 40

Provided also that, in the case of property consisting of stock or shares in a trading company whose assets on the relevant valuation date consist wholly or mainly of premises registered in the register of hotels, kept by Bord Fáilte under section 24 of the Tourist Traffic Act, 1939, and the assets of the business carried on therein, this subsection shall, in respect of the valuation date falling in the year 1975 and the two valuation dates next following that valuation date, have effect as if “30 per cent.” were substituted for “20 per cent.” in *paragraph (a)*, and “70 per cent.” were substituted for “80 per cent.” in *paragraph (b)*. 45 50

(4) In this section—

“agricultural property” means agricultural land, pasture and woodland situate in the State 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 but does not include property in respect of which, by virtue of *section 7 (1) (a)*, tax is not payable; 55

“farmer” means an individual who is domiciled and ordinarily resident in the State and as respects whose taxable wealth not less than 75 per cent of the market value of the property comprised therein at the valuation date consists of agricultural property, farm machinery, 60

livestock and bloodstock thereon, and, for the purposes of this definition—

(a) livestock and bloodstock shall be treated as taxable wealth notwithstanding *section 7*, and

5 (b) no deduction shall be made from the market value of property for any debts or incumbrances;

“fishing boat” means a vessel of whatever size and in whatever way propelled which is employed wholly in commercial sea fishing;

10 “hotel premises” means so much of premises, registered in the register of hotels kept by Bord Fáilte under *section 24* of the Tourist Traffic Act, 1939, as consists of bedroom accommodation;

15 “trading company” means a company which is incorporated under the laws of the State, or a company which maintains a register of members in the State, and which is not a private non-trading company.

20 **11.—(1)** The net market value of property (other than property to which *section 10* applies) comprised in the taxable wealth of an assessable person shall be ascertained by deducting from the market value of the property any debts and incumbrances due by the assessable person and outstanding on the valuation date but no deduction shall be made for—

Net market value of other property.

25 (a) debts incurred by the person or incumbrances created by the person unless such debts or incumbrances were incurred or created by that person *bona fide* for full consideration in money or money's worth;

30 (b) debts or incumbrances which were incurred or created by the person in the acquisition of property in respect of which, by virtue of *section 7*, tax is not payable:

Provided that this paragraph shall not apply to debts or incumbrances incurred in the acquisition prior to the 5th day of April, 1975 of shares in private non-trading companies to which *section 7 (1) (l)* refers;

35 (c) debts or incumbrances in respect of which the assessable person has a right of reimbursement from any other source unless such reimbursement cannot be obtained;

40 (d) debts or incumbrances which are payable at some future date or in respect of which payment is contingent on the happening of some future event, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth;

(e) contingencies affecting the property and

(f) debts or incumbrances payment of or discharge of which is not enforceable at law.

45 (2) In the case of an assessable person in respect of whose property (if any) situate outside the State, tax is not payable, allowance shall not be made under this section for debts or incumbrances due by the assessable person to a person or persons resident outside the State (unless they are required, by contract, to be paid in the State or are charged on the taxable wealth of that assessable person

50 situate in the State) except to the extent to which it is shown, to the satisfaction of the Commissioners, that all the property situate outside the State is insufficient for their payment.

55 (3) Where the taxable wealth of an individual includes, by virtue of *section 4*, the property of the wife or minor child of that individual, allowance shall be made under this section only for such debts or incumbrances of the wife or minor child as would be allowable if the wife or minor child were an assessable person who is an individual.

60 (4) A deduction shall not be made under this section for any debt or incumbrance a part of which has been deducted under *section 10*.

Values agreed
or determined.

12.—(1) Where an accountable person has furnished all the information necessary to enable the Commissioners to ascertain the market value of real property or of shares which are not dealt in on a stock exchange comprised in the taxable wealth of an assessable person on a valuation date and, pursuant to an application in writing to the Commissioners in that behalf, the market value of such property on that valuation date is agreed on between the person and the Commissioners, the value so agreed on shall be treated for the purposes of this Act as the market value of such property in the hands of that assessable person on that valuation date and on the two valuation dates next following that valuation date: 5 10

Provided that the market value so agreed shall not be binding in any case where there is failure to disclose material facts in relation to any part of the taxable wealth of the assessable person or where at any time before the third of the valuation dates— 15

(a) in the case of real property, there is any change in the tenure under which the property is held, or let, or any change whatever, whether affecting that or any other property, which would materially increase or decrease the market value over and above any increase or decrease which might normally be expected if such change had not occurred, or 20

(b) in the case of such shares, there is any alteration in the capital or the ownership of the capital of the company concerned or of the rights of the shareholders *inter se* or there has been a material change in the assets of the company or in their market value over and above any such change which might normally be expected, 25

and, in such cases, the market value of the real property or of such shares may be ascertained again by the Commissioners for each of the relevant valuation dates. 30

(2) Where an accountable person has furnished all the information necessary to enable the Commissioners to ascertain the market value of any property on a valuation date and has paid the tax due on that date in respect of the property, that person may apply to the Commissioners not less than two years after the date of the assessment under this Act pursuant to which the said payment was made for a determination of the market value of such property or any part thereof on that valuation date and thereupon the Commissioners shall, as soon as may be, determine that value and the market value thus determined shall, for all the purposes of this Act, be the market value of the property concerned on that valuation date and shall, subject to the provisions of *section 23* or *24*, be final. 35 40

(3) Any agreement or determination made under this section in respect of any property comprised in the taxable wealth of an assessable person shall be binding only on that person and on all persons who are accountable persons in relation to tax payable by that assessable person as such. 45

Exclusions from
net market
value.

13.—For the purposes of the assessment of tax, there shall be excluded from the net market value of the property comprised in the taxable wealth of an individual on a valuation date— 50

(a) in the case of an individual whose wife is living with him on that date, a sum of £100,000,

(b) in the case of an individual who is a widower or widow on that date and whose spouse had been living with that individual immediately before the death of that spouse, a sum of £90,000, and 55

(c) in the case of an individual other than—

(i) an individual to whom *paragraph (a)* or *(b)* applies,

(ii) a married woman living with her husband, or 60

(iii) a minor child to whom the proviso to this section applies,

a sum of £70,000:

5 Provided that there shall also be so excluded a sum of £2,500 in respect of each minor child where the property, if any, of such minor child falls to be included in the taxable wealth of that individual under *section 4*.

14.—(1) The following persons shall be primarily accountable for the payment of tax— Accountable persons,

- 10 (a) if the assessable person is an individual (other than a person to whom *paragraph (b)* applies), the individual or his personal representative,
- (b) if the assessable person is a minor child or is a person of unsound mind having a guardian or a committee, the guardian or committee, as the case may be,
- 15 (c) if the assessable person is a discretionary trust, the trustee of that trust,
- (d) if the assessable person is a private non-trading company, the secretary of the company or the person who performs the duties of secretary.
- 20

(2) The following persons shall also be accountable for the payment of any amount of tax for which the persons referred to in *subsection (1)* are made primarily accountable—

- 25 (a) if the assessable person is an individual, every person whose property is included with that of the individual under *section 4* and every trustee, guardian, committee, personal representative, agent or other person in whom any property comprised in the taxable wealth of the individual on the relevant valuation date stands vested or by whom the property is managed or the income of the property is collected on that date or within one year thereafter and every person in whom the property becomes vested by alienation or other derivative title after that valuation date, other than by a sale for full consideration in money or money's worth,
- 30
- (b) if the assessable person is a discretionary trust, any person who derived directly or indirectly capital or income out of the property comprised in the trust during the year preceding the relevant valuation date or at any time thereafter and every trustee, guardian, committee, agent or other person in whom any property comprised in the taxable wealth of that trust on that date stands vested or by whom the property is managed or the income of the property is collected on that date or within one year thereafter and every person in whom the property becomes vested by alienation after that valuation date other than by a sale for full consideration in money or money's worth,
- 40
- 45 (c) if the assessable person is a private non-trading company, every director or shareholder and every trustee, guardian, committee, agent or other person in whom any property comprised in the taxable wealth of the company on the relevant valuation date stands vested or by whom the property is managed or the income of the property is collected on that date or within one year thereafter and every person in whom the property becomes vested by alienation after that valuation date other than by a sale for full consideration in money or money's worth:
- 50
- 55

60 Provided that none of those persons shall be liable for tax to an amount in excess of the market value of the property, or in excess of the income, as the case may be, vested in, collected or received by him or to which he is beneficially entitled in possession.

(3) Any accountable person referred to in *subsection (2)* who is authorised or required to pay tax in respect of any property comprised in the taxable wealth of an assessable person shall be entitled to reimbursement for any amount paid by him in respect of tax from the person primarily accountable for such amount and the person primarily accountable for the tax shall himself be entitled to reimbursement as follows— 5

(a) if he is an individual and if his taxable wealth includes, by virtue of *section 4 (1)*, property of another person, from the person for the proportion of the amount of tax referable to the person's taxable wealth ascertained in accordance with *section 4 (2)*; 10

(b) if he is the personal representative, guardian or committee of an individual, from the estate or assets of that individual; 15

(c) if he is a trustee of a discretionary trust or a person who is, by virtue of *subsection (2)* or (3) of *section 5*, deemed to be beneficially entitled in possession to property, from the trust property;

(d) if he is the secretary of a private non-trading company or the person who performs the duties of secretary, from the assets of the company. 20

(4) Any accountable person who is authorised or required to pay tax in respect of an interest which is a limited interest shall be entitled to reimbursement from the property in which the limited interest subsists or on which it is charged or secured or on which it is entitled to be so charged or secured and he 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 and any other accountable person who is entitled to reimbursement under *subsection (3)* shall have a similar power in relation to any property in respect of which he is authorised or required to pay tax. 25 30 35

(5) The tax assessed or any part thereof shall be recoverable from any one or more of the persons accountable for the payment of the tax.

(6) An accountable person in possession of information relevant to the taxable wealth of an assessable person shall disclose to the Commissioners or such officer as the Commissioners may appoint such information within his possession or power as they may require in writing for the ascertainment of liability to, or the collection of, tax and shall make such disclosure within such time, not being less than 30 days, as may be specified in the requirement and any such person shall at all reasonable times make available for inspection by the Commissioners all books, accounts, documents or records in his possession or power which contain information which they may require for the ascertainment of liability to, or the collection of, tax and the Commissioners may take copies of, or extracts from, any books, accounts, documents or records made available for inspection. 40 45 50

Delivery of returns.

15.—(1) A person who is primarily accountable for the payment of tax by virtue of *section 14 (1)* shall, within three months after every valuation date, deliver to the Commissioners on a form provided by them a return of all the property comprised in the taxable wealth of the assessable person stating the market value thereof on that date and shall, if required in writing by the Commissioners, deliver to them within such time, not being less than 30 days, as may be specified in the requirement a statement verifying such particulars, together with such evidence, statements and 55 60

documents, as they may require relating to that property or to any property which they have reason to believe to form part of the taxable wealth of such assessable person:

5 Provided that, in any case where the assessable person is an individual, the person primarily accountable need not, unless he is required in writing by the Commissioners to do so, deliver a return as aforesaid where the net market value of the property comprised in his taxable wealth does not exceed 75 per cent. of the amount of the exclusion to which he is entitled under *section 13* :

10 Provided also that the reference in this subsection to three months after every valuation date shall, in relation to the valuation date in the year 1975, be construed as a reference to the period ending on the 5th day of October, 1975.

(2) A person who is accountable for the payment of tax by virtue of *section 14 (2)* shall, if he is required in writing by the Commissioners to do so, deliver to the Commissioners, within such time, not being less than 30 days, as may be specified in the requirement, on a form provided by them a return of all the property in respect of which he is accountable comprised in the taxable wealth of the assessable person concerned stating the market value thereof on that date and shall, if he is so required by the Commissioners, so deliver to them a statement verifying such particulars, together with such evidence, statements and documents as they may require relating to that property.

25 **16.—(1)** The Commissioners may make an assessment of tax payable upon the net market value of the property comprised in the taxable wealth of an assessable person on the relevant valuation date on the basis of the return delivered pursuant to *section 15*. Assessment
of tax.

(2) An assessment of tax may be reviewed by the Commissioners at any time and, where any amendment of an assessment is necessary as a result of the review, whether in respect of the taxable wealth already assessed to tax or in respect of any additional taxable wealth, the Commissioners may—

35 (a) to the best of their knowledge, information and belief, make an amended assessment of the tax due and payable upon the net market value of the taxable wealth of the assessable person concerned, or any part thereof, or

40 (b) require any accountable person to deliver to them, within such time, not being less than 30 days, as may be specified in the requirement, an additional return on a form provided by the Commissioners of all the property (or any part thereof) comprised in the taxable wealth of the assessable person together with a statement verifying such particulars and also such evidence, statements and documents as they require relating to any property therein, or to any property which they have reason to believe to form part of the taxable wealth of the assessable person, and may make an amended assessment of the amount of tax due and payable on the basis of the additional return:

50 Provided that, where any accountable person who has delivered a return or 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 to enable an amended assessment to be made.

60 (3) In any case in which—

(a) a return is not delivered by an accountable person to the Commissioners within three months after the relevant valuation date,

- (b) an additional return required by or under *subsection (2) (b)* to be delivered is not delivered within the appropriate time specified in the said *subsection (2) (b)*, or
- (c) a return or an additional return is unsatisfactory to them,

it shall be lawful for the Commissioners to make an assessment of tax payable upon the net market value of the property comprised in the taxable wealth or any part thereof on the relevant valuation date of such amount or further amount as, to the best of their knowledge, information and belief, ought to be charged, levied and paid:

Provided that the Commissioners may withdraw an assessment made under this subsection and make an assessment of the amount of tax payable on the basis of a return or an additional return which, in their opinion, represents reasonable compliance with their requirements and which is delivered to the Commissioners within 30 days after the date of the assessment made by the Commissioners in pursuance of this subsection.

(4) The making of an amended assessment shall not prejudice the right of the Commissioners to make further amended assessments of the amount of tax payable or to require delivery from the accountable person concerned of further additional returns, and the provisions of this section shall apply to such returns.

(5) Nothing done or suffered by reason or in consequence of any assessment made under this section shall prejudice the determination of any issue which may arise in the course of a further assessment or assessments.

(6) The Commissioners may, if they are satisfied that it is necessary to do so, extend any time limit specified in *section 14* or *15* or in this section.

(7) Any amount of tax assessed under this section shall be due and payable to the Commissioners.

Signing of returns.

17.—(1) A return or additional return required to be delivered under this Act shall be signed—

- (a) if the assessable person is an individual (other than a person to whom *paragraph (b)* applies), by the individual or his personal representative,
- (b) if the assessable person is a minor child or a person of unsound mind having a guardian or committee, by the guardian or committee, as the case may be,
- (c) if the assessable person is a discretionary trust, by the trustee of that trust,
- (d) if the assessable person is a private non-trading company, by the secretary of the company or the person who performs the duties of secretary, or
- (e) if it is delivered by any other person, by that person,

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 the declaration aforesaid 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, if so accepted, shall be deemed to be duly delivered to the Commissioners under this Act.

18.—(1) Tax shall be due and payable on the valuation date.

Payment of
tax and interest
on tax.

5 (2) Simple interest at the rate of 1.5 per cent. per month or part of a month, without any deduction of income tax, shall be payable upon tax from the valuation date upon which it becomes due and payable until the date of payment and shall be chargeable and recoverable in the same manner as if it were part of the tax :

10 Provided that interest shall not be payable unless the total amount thereof exceeds £5.

(3) Notwithstanding the foregoing, interest shall not be payable upon tax which is paid within three months of the valuation date upon which it becomes due and payable and, where tax and interest 15 thereon (if any) are paid within 30 days of the date of the assessment thereof, interest shall not run for the period from the date of the assessment to the date of payment :

Provided that interest shall not be payable upon tax which is paid before the 5th day of December, 1975.

20 (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

25 (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 foregoing, payments on account of tax due on a valuation date may be made at any time after that date, whereupon interest on so much of the payment on account as is referable to tax shall cease to run.

30 (6) All sums due under the provisions of this Act shall be paid to the Accountant-General, Revenue Commissioners, Dublin, 2.

19.—(1) Tax due in respect of the taxable wealth of an assessable person shall, subject to the provisions of this section, be and remain a charge on any real property comprised in the taxable wealth of 35 the person and shall also be a charge on the personal property comprised in the taxable wealth of the person while the personal property remains in the ownership or control of the person or of any trustee or other person on his behalf.

Tax to be a
charge on
property.

40 (2) Real property comprised in the taxable wealth of an assessable person shall not, as against a *bona fide* purchaser for full consideration in money or money's worth or a mortgagee, remain charged with or liable to the payment of tax of any amount after the expiration of six years from the valuation date upon which that amount of tax fell due.

45 (3) Notwithstanding *subsection (1)*, where there is a *bona fide* sale for full consideration in money or money's worth or a mortgage of real property comprised in the taxable wealth of an assessable person, that property shall not remain charged with tax as against the purchaser or mortgagee unless the amount of the consideration 50 or mortgage debt exceeds £50,000 or the amount of the consideration or mortgage debt, together with the amount of the consideration or mortgage debt for any other such sale or mortgage effected

between the same parties within two years prior to the date of that sale or mortgage, exceeds in the aggregate £50,000.

Receipts and certificates.

20.—(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 tax in respect of any property comprised in any return, additional return or assessment, give a certificate to the person, in such form as they think fit, of the amount of 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 property, if they are satisfied that any amount of tax charged on that property and payable on any valuation date has been or will be paid (or that no amount of tax is charged on the property), give a certificate to the person, in such form as they think fit, to that effect and the certificate shall discharge the property from liability for tax (if any) payable on that valuation date, and the certificate shall, in the case of a *bona fide* purchaser of any real property comprised in the property aforesaid for full consideration in money or money's worth without notice, exonerate the real property from liability for tax (if any) payable on that date notwithstanding any suppression or misstatement in the return, additional return or assessment on the basis of which the amount may have been assessed and notwithstanding any insufficiency of such assessment.

Relief in certain cases.

21.—(1) In any case in which an assessable person who is an individual and who is domiciled and ordinarily resident in the State shows, to the satisfaction of the Commissioners, that the combined total of the amount of tax paid in respect of his taxable wealth on a valuation date and the amount paid in respect of his income tax liability for the year ending on that valuation date exceeds 80 per cent. of his total income for that year, the Commissioners shall repay to that individual, his nominee or personal representative the amount by which the combined total exceeds that percentage:

Provided, however, that the amount of tax repaid shall not exceed 50 per cent. of the amount of tax which, but for the provisions of this section, would be payable by the assessable person on that valuation date.

(2) Tax shall not be paid more than once on the same property on the relevant valuation date and the same property shall not be included more than once in taxable wealth on that date.

(3) In this section—

“total income” means total income, within the meaning of the Income Tax Acts, of that individual and of the persons whose property, if any, falls to be included in the taxable wealth of that individual under *section 4*;

“income tax liability” means the liability to income tax of the total income.

Overpayment of tax.

22.—(1) Where it is proved to the satisfaction of the Commissioners that the amount of tax or interest paid in respect of the taxable wealth of an assessable person on a valuation date exceeds the amount which that person was liable to pay, they shall repay the excess to the person who paid the excess, his nominee or personal representative or, at the option of the Commissioners, the excess, or such part of it as is required for that purpose, may be retained by them and set off against any liability of the assessable person in respect of tax or interest due and payable by the person who paid the excess at the time the repayment falls to be made, in respect of the taxable wealth of the assessable person on any other valuation date.

(2) Where, under this section, any amount falls to be repaid or retained, there shall be added to such amount simple interest at the rate of 1.5 per cent. of the amount to be repaid or retained for each month or part of a month from the date of the payment of the excess giving rise to the repayment or from a date which is three months after the relevant valuation date, whichever is the later, to the date of the repayment or retention as the case may be :

Provided that the reference in this subsection to a date which is three months after the relevant valuation date, shall, in relation to the valuation date in the year 1975, be construed as a reference to the 5th day of December, 1975.

(3) The provisions of this section shall not apply to any amount repayable under section 21.

23.—(1) If a person is aggrieved by a 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 shall apply accordingly with any necessary modifications.

Appeals in relation to value of real property. 1910, c. 8.

(2) A determination by virtue of the said section 33, on an appeal under this section, of the market value of any real property, or a share in any such property, on a valuation date, shall be binding on all accountable persons for the purposes of tax in respect of the value of that property or share comprised in the taxable wealth of the relevant assessable person on that date.

24.—(1) In this section—

Appeals in other cases.

“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 this section.

(2) (a) Subject to the provisions of this Act, an accountable person who has delivered to the Commissioners a return or an additional return for the purposes of the 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.

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

(3) 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.

(4) An appeal under this section against an assessment shall not be proceeded with or entertained by the Appeal Commissioners unless an amount equal to 75 per cent. of the amount of the assessment is paid to the Commissioners by or on behalf of the appellant:

Provided that this subsection shall not apply where the appellant is aggrieved by the assessment on the ground that he is not an accountable person in respect of tax to which the assessment relates.

(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; 5
- (iii) the determination of an appeal by agreement between the appellant and an officer appointed by the Commissioners in that behalf; 10
- (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; 15
- (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; 20
- (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; 25
- (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; 30 35
- (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 10 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. 40 45
- (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: 50

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, 55

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

- 5 (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.
- 10 (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.
- 15 (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
- 20 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.

25 (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.

30 (8) Every person accountable for the payment of any tax on the taxable wealth on a valuation date of an assessable person and every person entitled to reimbursement for the payment of that tax shall be bound by a determination on appeal under this section against an assessment of tax on the taxable wealth of that person on that date.

35 (9) Where the Commissioners make an assessment of tax under subsections (2) (a) or (3) of section 16, the accountable person from whom it is sought to recover the amount so assessed shall have the same right of appeal under this section as he would have if the assessment had been made on a return or an additional return

40 delivered by him and, in any case where the assessment was sent to his solicitor, accountant or other agent, the period of 30 days referred to in subsection (3) shall be extended if the accountable person proves to the satisfaction of the Commissioners that he had, at the date of the assessment, withdrawn the authority of such solicitor, accountant

45 or other agent to act on his behalf.

25.—Every sum due to the Commissioners in respect of tax or interest thereon and also every penalty incurred in connection with tax or interest thereon shall be deemed to be a debt due by an accountable person or 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, 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. 1890, c. 21. Recovery of tax.

26.—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 tax. Evidence in proceedings for recovery of tax. 1926, No. 35.

27.—(1) (a) A person who contravenes *section 14 (6) or 15* or fails to comply with a requirement under *section 16 (2) (b)* shall be liable to a penalty of £1,000.

(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 £50 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 having such custody or possession shall be liable to a penalty of £1,000.

(3) Where an accountable person fraudulently or negligently—

(a) delivers any incorrect return or additional return, 20

(b) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any property comprised in the taxable wealth of an assessable person,

(c) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any claim for any allowance, deduction, exemption or relief, or 25

(d) makes or furnishes any incorrect statement, declaration, evidence or valuation in connection with any other matter,

whereby the amount of tax payable in respect of the taxable wealth of an assessable person is less than it would have been if that return, statement, declaration, evidence or valuation had been correct, he shall be liable to a penalty of—

(i) £2,000, and

(ii) the amount, or in the case of fraud, twice the amount, of the difference specified in *subsection (5)*. 35

(4) Where any such 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. 40

(5) The difference referred to in *subsection (3)* is the difference between— 45

(a) the amount of tax payable in respect of the taxable wealth of the assessable person for the valuation dates 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 by him had been correct. 50

(6) For the purposes 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 and consent. 55

(7) Any person who assists in or induces the delivery, making or furnishing for any purposes of tax of any return, additional return, statement, declaration, evidence or valuation which he knows to be incorrect shall be liable to a penalty of £500.

5 (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 section as if the penalty were a penalty under the Income Tax Acts.

15 28.—(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 tax payable under the laws of the State and any tax of a similar character imposed under the laws of that territory, 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.

Agreements
for relief from
double taxation.

20 (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.

25 (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.

30 (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.

35 (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.

40 (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.

45 29.—Where any return, additional return, assessment or other document relating to tax, has been lost or destroyed, or has been so defaced or damaged as to be illegible or otherwise useless, the Commissioners may, notwithstanding anything in any enactment to the contrary, do all such acts and things as they might have done, and all acts and things done under or in pursuance of this section shall be as valid and effectual for all purposes as they would have been if the assessment had not been made, or the return, additional return or other document had not been delivered or furnished, or required to be delivered or furnished:

Loss of
documents.

50 Provided that where any accountable person who is charged with tax in pursuance of or by virtue of any act or thing done under or in pursuance of this section proves to the satisfaction of the Commissioners that tax has already been paid in respect of the subject matter, relief shall be given either by abatement from the charge or by repayment, as the case may require, to the extent to which the liability of that accountable person has been discharged by the payments so made.

Extension of
certain Acts.
1927, No. 27.

30.—(1) Section 1 of the Provisional Collection of Taxes Act, 1927, is hereby amended by the insertion of “and wealth 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 “wealth tax” before “stamp 5 duties”.

Regulations.

31.—(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 15 thereunder.

Care and
management.

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

(2) The Commissioners may authorise any of their officers to perform any act and discharge any function authorised by this Act to be performed or discharged by the Commissioners.

Short title.

33.—This Act may be cited as the Wealth Tax Act, 1975.

BILL

BILL

Enacted by the Parliament of India

(No. 10 of 1972)

As to the effect of the Bill on the operation of the law relating to the levy and collection of wealth tax, the provisions of the Bill shall have effect as if they had been enacted on the date of the commencement of this Act.

Act to amend the Income Tax Act, 1961, in relation to the levy and collection of wealth tax, and to amend the law relating to the levy and collection of wealth tax.

Section 1. Short title and commencement.

Section 1. Short title and commencement.

Section 2. Amendment of section 27B of the Income Tax Act, 1961.

Section 2. Amendment of section 27B of the Income Tax Act, 1961.

Section 3. Amendment of section 27C of the Income Tax Act, 1961.

Section 3. Amendment of section 27C of the Income Tax Act, 1961.

Section 4. Amendment of section 27D of the Income Tax Act, 1961.

Section 4. Amendment of section 27D of the Income Tax Act, 1961.

Section 5. Amendment of section 27E of the Income Tax Act, 1961.

Section 5. Amendment of section 27E of the Income Tax Act, 1961.

Section 6. Amendment of section 27F of the Income Tax Act, 1961.

Section 6. Amendment of section 27F of the Income Tax Act, 1961.

Section 7. Amendment of section 27G of the Income Tax Act, 1961.

Section 7. Amendment of section 27G of the Income Tax Act, 1961.

BILLE

*(mar a leasaíodh i gCoiste)
dá ngairtear*

Acht do mhuirearú agus d'fhorchur dleacht ioncaim intíre, ar a dtabharfar cáin rachmais, ar rachmas áirithe, do leasú an dlí a bhaineann le hioncaim intíre agus do dhéanamh tuilleadh forálacha maidir le hairgeadas.

An tAire Airgeadais a thíolaic

*Ordaíodh ag Dáil Éireann a chlóbhualadh,
17 Iúil, 1975*

BAILE ÁTHA CLIATH:
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais, An Stuaire, Ard-Oifig an Phoist, Baile Átha Cliath, nó trí aon díoltóir leabhar.

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BILL

*(as amended in Committee)
entitled*

An Act to charge and impose on certain wealth a duty of inland revenue to be known as wealth tax, to amend the law relating to inland revenue and to make further provisions in connection with finance.

Presented by the Minister for Finance

*Ordered by Dáil Éireann to be printed
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