

(2) Subject to subsection (4), any tax that, by virtue of subsection (1), is payable by a representative of a taxpayer is recoverable from the representative only to the extent of the assets of the taxpayer that are in the possession or under the control of the representative.

(3) A representative of a taxpayer who pays any tax owing by the taxpayer is entitled to recover the amount so paid from the taxpayer or to retain the amount so paid out of any moneys of the taxpayer that are in the representative's possession or under the representative's control.

(4) A representative is personally liable for the payment of any tax due by the representative in a representative capacity if, while the amount remains unpaid, the representative -

- (a) alienates, charges, or disposes of any moneys received or accrued in respect of which the tax is payable; or
- (b) disposes of or parts with any moneys or funds belonging to the taxpayer that are in the possession of the representative or which come to the representative after the tax is payable, if the tax could legally have been paid from or out of the moneys or funds.

(5) Nothing in this section relieves a person from performing any duty or obligation imposed by this Act on the person that the representative of the person has failed to perform.

(6) If there are two or more representatives of a person, the duties and obligations referred to in subsection (1) apply to all representatives but may be discharged by any of them.

227. Deceased individuals

(1) The executor of the estate of a deceased person is liable for any tax that the deceased would have become liable for in respect of income derived or transactions entered into before the deceased died.

(2) Section 64 applies to the income of a deceased estate.

228. Liability for tax payable by a company or partnership left with insufficient assets

(1) This section applies if -

- (a) an arrangement has been entered into with the effect

that a company or partnership is unable to satisfy a current or future tax liability of the company or partnership under this Act; and

- (b) a purpose of the arrangement is to have the effect specified in paragraph (a).

(2) Subject to subsection (3), if this section applies, a person who was a director or controlling shareholder of the company or a partner in the partnership, at the time the arrangement was entered into, is jointly and severally liable for the tax liability of the company or partnership.

(3) A director of a company or partner in a partnership is not liable under this section for the tax liability of a company or partnership if the Commissioner-General is satisfied that the director or partner derived no financial or other benefit from the arrangement and either -

- (a) the director or partner has, as soon as becoming aware of the arrangement, formally recorded with the company or partnership his or her dissent from the arrangement and notified the Commissioner-General in writing of the arrangement; or
- (b) the director or partner satisfies the Commissioner-General that, at the time the arrangement was entered into, the director or partner had no knowledge of, and could not reasonably have been expected to know of the arrangement.

(4) In this section -

"arrangement" means any contract, agreement, plan, or understanding whether express or implied and whether or not enforceable in legal proceedings;

"controlling shareholder", in relation to a company, means any person who beneficially holds, either alone or together with an associate or associates -

- (a) fifty per cent or more of the voting rights in the company;
- (b) fifty per cent or more of the rights to dividends; or
- (c) fifty per cent or more of the rights to capital; and

"director", in relation to a company, means any person occupying the position of director of the company, by whatever name called.