



Finance Act 1965

1965 CHAPTER 25

PART III

CAPITAL GAINS.

Chargeable gains.

26 Estate duty.

- (1) In determining the value of an estate for the purposes of estate duty allowance shall be made for capital gains tax chargeable on chargeable gains accruing on the death in consequence of the provisions of section 24(1) (as well as of any amount of capital gains tax owed by the deceased).
- (2) In estimating the principal value of any settled property passing on a death, whether it continues to be settled property or not, an allowance shall be made for any capital gains tax chargeable in consequence of the death in respect of the settled property, so far as that tax falls to be paid out of the property so passing or to be borne by any person to whom the property so passes for any beneficial interest in possession.
- (3) Where the principal value of an asset passing on a death falls, for the purposes of estate duty leviable on the death, to be ascertained under section 7(5) of the Finance Act 1894 (under which the asset's principal value is to be what it would have fetched if sold in the open market) and for the purposes of—
 - (a) a conclusive assessment to capital gains tax chargeable in consequence of the death, or
 - (b) a conclusive decision on a claim for an allowable loss accruing in consequence of the death,the market value of the asset on the date of death has been fixed, the market value so fixed shall be taken to be the principal value of the asset for the purposes of the said section 7(5).
- (4) Subsection (3) of this section shall not apply where the way in which the principal value of an asset is to be ascertained under the said section 7(5) of the Finance Act

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1894 is modified by any provision in the enactments relating to estate duty which has no corresponding provision in this Part of this Act.

- (5) If in an appeal against an assessment to capital gains tax chargeable in consequence of a death, or in an appeal against a decision on a claim for an allowable loss accruing in consequence of a death, the value fixed for the purposes of the assessment, or of the decision on the claim, as the market value of an asset on the date of the death is being or can be questioned, any person who would be entitled to be a party to proceedings questioning that market value in connection with estate duty on the death shall be entitled to be a party to the appeal so far as the proceedings relate to that question.
- (6) For the purposes of this section an assessment to capital gains tax, and a decision on a claim for an allowable loss, is conclusive when it can no longer be varied either on appeal or by the decision of a court, but if, after it has become conclusive, an assessment to capital gains tax chargeable in consequence of the death is made which is based on a revision of the market value fixed by the assessment or decision which has become conclusive, subsection (3) of this section shall apply by reference to that revised market value, instead of the market value fixed by the assessment or decision which has become conclusive, unless, before the making of the second-mentioned assessment, a certificate has been issued under section 11 of the Finance Act 1894 discharging from any further claim for estate duty leviable on the death the asset in question, or the Board are precluded for any other reason from re-opening the question of the value for estate duty purposes of that asset.
- (7) In this section references to an appeal against an assessment or against a decision on a claim include references to proceedings on a case stated by the Commissioners or other person hearing the appeal.
- (8) In this section references to capital gains tax chargeable in consequence of a death are references to capital gains tax chargeable on gains—
- (a) accruing on the disposal of assets deemed under this Part of this Act to be disposed of by the deceased on his death, or
 - (b) accruing to a trustee on the disposal of settled property deemed to be effected in accordance with section 25(3) of this Act,
- and a corresponding construction shall be given to references to allowable losses accruing in consequence of a death.
- (9) In this section references to capital gains tax chargeable in consequence of a death also include references—
- (a) to capital gains tax chargeable on gains accruing to a trustee on a disposal of settled property deemed to be effected in accordance with section 25(4) of this Act on the termination of a life interest on a death, or
 - (b) to capital gains tax on gains which would have so accrued but for the provisions of subsection (6) of the said section 25 by virtue of which the said subsection (4), instead of applying on the termination of the life interest, is to apply at the end of fifteen years from the occasion on which it last applied:

Provided that the allowance to be made under subsection (2) of this section in a case under paragraph (b) above shall be the amount of the capital gains tax which would have been so chargeable discounted at a yearly rate of interest of five per cent. for the period from the date of termination of the life interest to the end of the said fifteen year period.

- (10) This section shall be construed as one with Part I of the Finance Act 1894.