



Finance Act 1966

1966 CHAPTER 18

PART V

ESTATE DUTY AND CAPITAL GAINS

40 Estate duty: interests limited to cease on death.

- (1) In the case of a death after 3rd May 1966 the provisions of this section shall apply in determining for the purposes of section 2(1)(b) of the Finance Act 1894 whether an interest in property ceased on the death of the deceased and the extent to which a benefit accrued or arose by the cesser of that interest.
- (2) If the deceased had immediately before his death an interest in the property limited to cease on his death, then in determining the questions in subsection (1) above as regards that interest, any other interest in that property belonging to the deceased at his death shall be treated as if it belonged to someone other than the deceased.
- (3) If immediately before the death of the deceased a number of persons were, as beneficiaries under a discretionary trust, together entitled to an interest in the property limited to cease on the death and the deceased was then one of those persons, or at some earlier time had been a beneficiary under that discretionary trust, then, in determining the questions in subsection (1) above as regards that interest, any other interest in the property which, whether as arising from the same trusts or otherwise, belongs to those who immediately before the death were the beneficiaries under the discretionary trust shall be treated as being held by persons other than those beneficiaries, and other than the deceased.
- (4) For the purposes—
 - (a) of this section, and
 - (b) so far as they relate to estate duty leviable on a death after 3rd May 1966, of section 43 of the Finance Act 1940 and section 28 of the Finance Act 1958 (disposition or determination of interest limited to cease on death, and purchase of interest in expectancy in property subject to an interest limited to cease on death),

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an interest including an interest limited to cease on death shall be treated as two separate interests one of which is the interest limited to cease on death, and for the purposes of this subsection the following interests shall be deemed to include an interest limited to cease on a death—

- (i) an interest enjoyed under two or more titles one of which confers an interest limited to cease on a death,
- (ii) an interest so related to a death that it cannot terminate before the death, and
- (iii) an interest so related to a death that, except in contingencies not related to the death, it cannot terminate before the death:

Provided that where an interest belongs to persons as beneficiaries under a discretionary trust which throughout the subsistence of that trust was such that it could not terminate before the death of the survivor of two or more persons, estate duty shall only be payable by virtue of this section in respect of the cesser of the interest on the death of that survivor.

- (5) It is hereby declared that this section has effect for the purposes of estate duty not only as respects the question whether property is deemed to pass on a death but also as respects the questions—
 - (a) whether, in any circumstances specified in section 43 of the Finance Act 1940, property would have passed on a death or would have been deemed to be included to a particular extent in property passing on a death, and
 - (b) whether (as under section 28(12) of the Finance Act 1958 which relates to the purchases of interests in expectancy) in specified circumstances estate duty would have been chargeable by reason of the coming to an end of an interest in property.
- (6) In this section " discretionary trust " includes a trust under which the disposition of any of the trust income is at the discretion of the trustees or of any other person.

41 Restriction of exemption from estate duty for certain government securities.

- (1) This section has effect as respects securities which the Treasury issue or have issued before or after the passing of this Act subject to any condition authorised by section 47 of the Finance (No. 2) Act 1915 or section 22 of the Finance (No. 2) Act 1931 for an exemption from taxation so long as the securities are in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom, and this section is enacted for the purpose of preventing that exemption from enuring for the benefit of, or of the estate of, a person domiciled or ordinarily resident in the United Kingdom.
- (2) Where in respect of any government securities any such exemption applies apart from this section to estate duty leviable on the death after 3rd May 1966 of a person who immediately before the death was domiciled or ordinarily resident in the United Kingdom, then, subject to the exceptions provided by the following provisions of this section.—
 - (a) if the exemption is subject to a condition relating to any law directed to preventing avoidance of taxation by persons domiciled, resident or ordinarily resident in the United Kingdom, the said exemption shall not apply to that estate duty, and
 - (b) if the exemption is not subject to any such condition, there shall be deemed for purposes of estate duty on the death to be included in the property passing at the death a sum equal to the value upon which, but for the exemption,

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estate duty would have been payable, and any sum so deemed to pass shall for the purposes of aggregation and of determining the persons accountable for duty be treated as having been property to which the deceased was absolutely entitled at his death,

but so far as the duty imposed by paragraph (b) above has not been paid by the deceased's personal representatives accountability for the duty shall be imposed on any person who, if the exemption had not applied to the duty, would have been accountable for it under the enactments relating to estate duty; and any payment made by the personal representatives shall for the purposes of this subsection be regarded as a payment of the duty imposed by paragraph (b) above only so far as there is no other estate duty leviable on the death for which they are accountable and which has not been paid.

- (3) Subsection (2) above shall not apply where it is shown to the satisfaction of the Commissioners of Inland Revenue, or on an appeal under section 10 of the Finance Act 1894 of the court entertaining the appeal, that the circumstances in which, apart from this section, the exemption applies in respect of any government securities were not brought about for the purpose, or for purposes which include the purpose, of obtaining the benefit of the exemption directly or indirectly for, or for the estate of, a person domiciled or ordinarily resident in the United Kingdom, or for a company to which section 56 of the Finance Act 1940 (closely controlled companies) applies and in which a person domiciled or ordinarily resident in the United Kingdom has an interest; and where the circumstances in which the exemption so applies in respect of any government securities were not brought about by the deceased subsection (2) above shall not apply so as by virtue of paragraph (b) of that subsection to make the personal representatives accountable for duty or to increase the amount of duty beyond what would have been due had there been no exemption.
- (4) Subsection (2) above shall not apply in respect of any government securities if no person who would be accountable for estate duty leviable on the death on the government securities on the assumption that the exemption did not apply in respect of those government securities is a person domiciled or ordinarily resident in the United Kingdom or a company to which the said section 56 of the Finance Act 1940 applies.
- (5) If a donee or other person being, on the assumption in subsection (4) above, contingently accountable for estate duty pre-deceases the deceased, that subsection shall apply, so far as it relates to that donee or other person, by reference to him and not by reference to his personal representatives or successors in title, and according to where he was domiciled or ordinarily resident at his death.
- (6) If the persons who would, on the assumption in subsection (4) above, be so accountable consist of or include trustees under a settlement created before the death, whether or not subsisting at the death, subsection (4) above shall not have effect but subsection (2) above shall not apply in respect of the government securities if and to the extent that it is shown to the satisfaction of the Commissioners of Inland Revenue, or on an appeal under section 10 of the Finance Act 1894 of the court entertaining the appeal, that the burden of the duty, having regard to interests subsisting immediately after the death, would be borne by any person who is neither domiciled nor ordinarily resident in the United Kingdom, and for the purposes of this subsection interests in income, interests in capital, interests in possession and interests in reversion shall all be taken into account.
- (7) If interests under a trust subsisting at the death fall to be taken into account under subsection (6) above, and all interests in the trust other than reversionary interests

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are interests contingent on the exercise of the discretion of any of the trustees or of any other person, subsection (2) above shall not be displaced by subsection (6) if any of the persons interested in the trust is domiciled or ordinarily resident in the United Kingdom.

- (8) Subsection (6), and not subsection (4), above shall apply if the persons who would, on the assumption in subsection (4) above be so accountable consist of or include a company to which the said section 56 of the Finance Act 1940 applies, and the assumptions made in the said section 56(1) as to the company holding its assets in trust shall be made for the purposes of subsection (6) above, taking the interests in the company as they subsisted immediately before the death ; and similarly where under subsection (6), with or without this subsection, the burden falling on any person who is a company to which the said section 56 applies is in question, the same assumptions shall be made as respects the company.
- (9) Nothing in subsections (4) to (8) above shall prevent subsection (2) above from applying in respect of any government securities settled under a settlement revocable in whole or in part at any time after the death of the deceased person at the instance of any person.
- (10) Section 8(4) of the Finance Act 1894 (which, where an executor is not accountable for estate duty, renders the beneficiaries and others accountable therefor) shall apply as if the words referring to the executor not being accountable were omitted both for the purposes of accountability for estate duty leviable by virtue of this section and also for the purposes of this section as it relates to the persons who would be accountable for estate duty on the assumptions in subsections (2), (4) and (6) of this section.
- (11) For the purposes of this section—
- (a) the reference in subsection (3) of this section to a company to which section 56 of the Finance Act 1940 applies, and in which a person domiciled or ordinarily resident in the United Kingdom has an interest, shall be determined on the assumptions made in the said section 56(1) as to the company holding its assets in trust,
 - (b) the reference in subsection (7) of this section to interests contingent on the exercise of a discretion include references to interests, whether in capital or income, which are affected by the exercise of a discretion in favour of some person other than the person entitled to the interest.

42 Gifts inter vivos, etc.: relief from estate duty and other tax.

- (1) If any property comprised in a gift inter vivos, and not settled by the gift, is deemed for the purposes of estate duty to pass on a death and capital gains tax or corporation tax is chargeable on a chargeable gain accruing on a disposal by the donee or his personal representatives of an asset which is for the time being comprised in the gift, and which has not been settled by the donee, being a disposal—
- (a) effected before the death, and
 - (b) if the principal value of the property is to be ascertained at an earlier time, effected at or before that earlier time,

the principal value of the property for the purposes of estate duty on the death shall be reduced by the amount of that tax, and that reduction shall be made before any reduction of that value under section 64 of the Finance Act 1960 (graduation of charge by reference to period between gift and death).

- (2) If any property ceasing to be settled property is by virtue of subsection (8) proviso or subsection (12) proviso of section 38 of the Finance Act 1957 to be treated as comprised in a gift inter vivos deemed for purposes of estate duty to pass on a death, or as the case may be as comprised in property in which an interest within section 43 of the Finance Act 1940 subsisted, and capital gains tax is chargeable on a chargeable gain accruing on the disposal under section 25(3) of the Finance Act 1965 deemed to be effected by the trustee of the settlement on the occasion of the property ceasing to be settled property, the principal value of the property for the purposes of estate duty on the death shall be reduced by the amount of that tax, and that reduction shall be made before any reduction of that value under section 64 of the Finance Act 1960.
- (3) Where—
- (a) an asset comprised in a gift inter vivos is deemed for purposes of estate duty (including estate duty in Northern Ireland) to pass on a death, and at the time of the death the asset is owned by the donee or is property settled by the gift, or property which by virtue of section 38(9) of the Finance Act 1957 is treated for the purposes of that section as property settled by the gift, and
 - (b) the principal value of the asset for the purposes of estate duty on the death (without any reduction under subsection (1) above and without any reduction under section 64 of the Finance Act 1960) exceeds the sums within paragraphs (a) and (b) of paragraph 4(1) of Schedule 6 to the Finance Act 1965 which, if the donee had disposed of the asset at the time of the death, would have been allowable in computing the amount accruing on that disposal,
- a part of any estate duty payable in respect of that asset on the death shall be treated for the purposes of Part III of the Finance Act 1965 as if it were an amount of expenditure incurred by the donee on the asset and falling within the said paragraph 4(1)(b); and that part shall be the proportion of the duty which the said excess bears to the said principal value.
- (4) References in this section to any amount of capital gains tax or corporation tax are references to the amount which would not have been payable if the relevant asset had not been disposed of, and, if any part of the chargeable gain accruing on a disposal within subsection (1) or subsection (2) of this section is not chargeable to capital gains tax or corporation tax in the year of assessment or accounting period in which it accrues because of relief for losses accruing in that or any earlier year or accounting period, the amount of tax in respect of that part of the chargeable gain shall be the tax which would have been charged on that part of the gain if it had been the only gain accruing in the year or accounting period and had all been chargeable.
- (5) This section has effect as respects capital gains tax for the year 1965-66 and later years of assessment and applies in relation to deaths and disposals at any time before or after the passing of this Act.

43 Capital gains.

Schedule 10 to this Act (Part I of which contains amendments of the enactments relating to chargeable gains, including amendments relating to life interests in settled property, the transfer of a business on retirement, compulsory acquisitions of parts of holdings of land and insolvents' assets, and Part II of which contains a corresponding provision for insolvents' assets subject to tax on short-term capital gains) shall have effect.