Finance Act 1975

1975 CHAPTER 7

PART III

CAPITAL TRANSFER TAX

Main charging provisions

19 Capital transfer tax

(1) A tax, to be known as capital transfer tax, shall be charged on the value transferred by a chargeable transfer.

(2) Schedule 4 to this Act shall have effect with respect to the administration and collection of the tax.

20 Transfers and chargeable transfers

(1) The following provisions of this section shall have effect, subject to the other provisions of this Part of this Act, for determining for the purposes of capital transfer tax what is a chargeable transfer and what value is transferred by a chargeable transfer.

(2) Subject to subsections (3) and (4) below, a transfer of value is any disposition made by a person (" the transferor") as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer.

(3) For the purposes of subsection (2) above no account shall be taken of the value of excluded property which ceases to form part of a person's estate as a result of a disposition.

(4) A disposition is not a transfer of value if it is shown that it was not intended, and was not made in a transaction intended, to confer any gratuitous benefit on any person and either—

(a) that it was made in a transaction at arm's length between persons not connected with each other, or

(b) that it was such as might be expected to be made in a transaction at arm's length between persons not connected with each other;

but this subsection does not apply to a disposition by which a reversionary interest is acquired in the circumstances mentioned in section 23(3) of this Act and does not apply to a sale of shares or debentures not quoted on a recognised stock exchange unless it is shown that the sale was at a price freely negotiated at the time of the sale or at a price such as might be expected to have been freely negotiated at the time of the sale.

In this subsection " transaction " includes a series of transactions and any associated operations.

(5) A chargeable transfer is any transfer of value made by an individual after 26th March 1974 other than an exempt transfer.

(6) A transfer of value made by an individual after that date and exempt only to a limited extent—

(a) is, if all the value transferred by it is within the limit, an exempt transfer ; and

(b) is, if that value is partly within and partly outside the limit, a chargeable transfer of so much of that value as is outside the limit as well as an exempt transfer of so much of that value as is within the limit.

(7) For the purposes of this section, where the value of a person's estate is diminished and that of another person's estate is increased by the first-mentioned person's omission to exercise a right he shall be treated as having made a disposition at the time, or the latest time, when he could have exercised the right, unless it is shown that the omission was not deliberate.

21 Settled property

Schedule 5 to this Act shall have effect with respect to settled property.

22 Transfer on death

(1) On the death of any person after the passing of this Act tax shall be charged as if, immediately before his death, he had made a transfer of value and the value transferred by it had been equal to the value of his estate immediately before his death, but subject to the following provisions of this section.

(2) Where the deceased was entitled to an interest in possession in settled property which on his death but during the life of the settlor reverted to the settlor, then, unless the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth, the value of the settled property shall be left out of account in determining for the purposes of this Part of this Act the value of the deceased's estate immediately before his death.

(3) Where the deceased was entitled to an interest in possession in settled property and on his death the settlor's spouse became beneficially entitled to that property, then if—

(a) the settlor's spouse was at the time of the death domiciled in the United Kingdom and resident (within the meaning of the Income Tax Acts) in the United Kingdom in the year of assessment in which the death occurred; and

(b) neither the settlor nor the settlor's spouse had acquired a reversionary interest in the property for a consideration in money or money's worth ;

the value of the settled property shall be left out of account in determining for the purposes of this Part of this Act the value of the deceased's estate immediately before his death.

(4) Where one party to a marriage has died before 13th November 1974 and the other party dies after the passing of this Act, then, in determining for the purposes of this Part of this Act the value of the other party's estate immediately before his death, there shall be left out of account the value of any property which, if estate duty were chargeable on that death, would be excluded from the charge by section 5(2) of the Finance Act 1894 (relief on death of surviving spouse).

(5) Where a person who dies after the passing of this Act—

(a) had, before 27th March 1974 but not more than seven years before his death, made a gift inter vivos of any property; or

(b) had, before 27th March 1974 but not at any time there after, a beneficial interest in possession in any property comprised in a settlement;

and by reason thereof any property would, had estate duty been chargeable on his death, have been included by virtue of section 2(1)(c) or 2(1)(b)(i) of the Finance Act 1894 in the property passing on his death, then, in determining for the purposes of capital transfer tax the value of his estate immediately before his death, there shall be included the value which for the purposes of estate duty chargeable on his death would have been the principal value of the property so included (or, in a case where, under paragraph 3 of Part II of Schedule 17 to the Finance Act 1969 the duty chargeable on the property would have been charged on a reduced value, that reduced value).

(6) Where estate duty on the whole or part of the value of any property which would have been included as mentioned in subsection (5) above would, by virtue of section 23 of the Finance Act 1925 or section 28 of the Finance Act 1954, have been chargeable at 55 per cent, of the estate rate, the tax chargeable on that value or part by virtue of subsection (5) above shall be charged at 55 per cent, of the rate represented by the fraction of which—

(a) the numerator is the amount of tax which (apart from this subsection) would be chargeable on the value of the deceased's estate immediately before his death; and

(b) the denominator is that value.

(7) Where any part of the property which would have been included as mentioned in subsection (5) above would, by virtue of section 40(2)(c) of the Finance Act 1969, have formed an estate by itself, the tax chargeable under this section shall be the aggregate of—

(a) the tax that would have been so chargeable if that part had not been so included ; and

(b) the tax (if any) that would have been so chargeable if that part only had formed the estate of the deceased and the deceased had made no previous chargeable transfers;

but in a case where (by reason of an excess over £25,000) the part referred to in paragraph (b) above would have been a fraction only of any property, the tax that would have been chargeable as mentioned in that paragraph shall be taken to be the like fraction of the tax that would have been so chargeable if the remainder of that property had also been included in the estate of the deceased.

(8) Where the estate duty would have been estate duty under the law of Northern Ireland—

(a) subsection (5) above shall have effect with the substitution of a reference to four years for the reference in paragraph (a) to seven years, and of a reference to Schedule 1 to the Finance Act (Northern Ireland) 1969 for the reference to Schedule 17 to the Finance Act 1969; and

(b) subsection (6) shall have effect with the substitution of references to section 3 of the Finance (No. 2) Act (Northern Ireland) 1947 and section 3 of the Finance Act (Northern Ireland) 1954 for the references to section 23 of the Finance Act 1925 and section 28 of the Finance Act 1954 ; and

(c) subsection (7) shall have effect with the substitution of a reference to section 7(2)(c) of the Finance Act (Northern Ireland) 1969 for the reference to section 40(2)(c) of the Finance Act 1969.

(9) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.