



Finance Act 1975

1975 CHAPTER 7

PART III

CAPITAL TRANSFER TAX

Other charges

39 Close companies

- (1) Subject to the following provisions of this section, where a close company makes a transfer of value, tax shall be charged as if each individual to whom an amount is apportioned under this section had made a transfer of value of such amount as after deduction of tax (if any) would be equal to the amount so apportioned, less the amount (if any) by which the value of his estate is more than it would be but for the company's transfer; but for this purpose his estate shall be treated as not including any rights or interests in the company.
- (2) For the purposes of subsection (1) above the value transferred by the company's transfer of value shall be apportioned among the participators according to their respective rights and interests in the company immediately before the transfer, and any amount so apportioned to a close company shall be further apportioned among its participators, and so on; but—
 - (a) so much of that value as is attributable to any payment or transfer of assets to any person which falls to be taken into account in computing that person's profits or gains or losses for the purposes of income tax or corporation tax shall not be apportioned; and
 - (b) if any amount which would otherwise be apportioned to an individual who is domiciled outside the United Kingdom is attributable to the value of any property outside the United Kingdom, that amount shall not be apportioned.
- (3) The persons liable for the tax chargeable under subsection (1) above shall be the company and, so far as it remains unpaid after it ought to have been paid, the persons to whom any amounts have been apportioned under this section and any individual

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(whether such a person or not) the value of whose estate is increased by the company's transfer ; but—

- (a) a person to whom not more than 5 per cent, of the value transferred is apportioned shall not as such be liable for any of the tax ; and
 - (b) each of the other persons to whom any part of that value has been apportioned shall be so liable only for such part of the tax as corresponds to that part of that value; and
 - (c) a person shall not as a person the value of whose estate is increased be liable for a greater amount than the amount of the increase.
- (4) Notwithstanding section 51(2) of this Act, tax chargeable under subsection (1) above shall be left out of account in determining with respect to any time after the company's transfer what previous transfers of value have been made by a person falling within subsection (3)(a) above.
- (5) Where there is at any time an alteration in so much of a close company's share or loan capital as does not consist of shares or securities quoted on a recognised stock exchange or an alteration in any rights attaching to shares in or debentures of a close company which are not so quoted, the alteration shall be treated as having been made by a disposition made at that time by the participators, whether or not it would fall to be so treated apart from this subsection.
- (6) In this section—
- " alteration " includes extinguishment;
 - " close company " means a company within the meaning of the Corporation Tax Acts which is, or would, if resident in the United Kingdom, be a close company for the purposes of those Acts;
 - " participator ", in relation to any company, means any person who is (or would be if the company were resident in the United Kingdom) a participator in relation to that company for the purposes of Chapter III of Part XI of the Taxes Act, other than a person who would be such a participator by reason only of being a loan creditor.
- (7) In determining for the purposes of this section whether a disposition made by a close company is a transfer of value or what value is transferred by such a transfer section 41 of this Act shall be disregarded.
- (8) References in this section to a person's rights and interests in a company include rights and interests in the assets of the company available for distribution among the participators in the event of a winding up or in any other circumstances.
- (9) This section has effect subject to paragraph 24 of Schedule 5 to this Act.

40 Tax chargeable in certain cases of future payments, etc.

- (1) Where a disposition made for a consideration in money or money's worth is a transfer of value and any payments made or assets transferred by the transferor in pursuance of the disposition are made or transferred more than one year after the disposition is made, tax (if any) shall be charged as if—
- (a) any payment made or asset transferred in pursuance of the disposition were made or transferred in pursuance of a separate disposition made, without consideration, at the time the payment is made or the asset is transferred ; and

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- (b) the amount of the payment made or the value of the asset transferred in pursuance of each of those separate dispositions were the chargeable portion of the payment or asset.
- (2) For the purposes of this section the chargeable portion of any payment made or any asset transferred at any time shall be such portion of its value at that time as is found by applying to it the fraction of which—
- (a) the numerator is the value actually transferred by the disposition first mentioned in subsection (1) above (calculated as if no tax were payable on it); and
 - (b) the denominator is the value, at the time of that disposition, of the aggregate of the payments made or to be made and assets transferred or to be transferred by the transferor in pursuance of it.

41 Free loans etc.

- (1) Where a person, otherwise than in a transaction at arm's length between persons not connected with each other, allows another the use of money or other property without consideration in money or money's worth or for a consideration less than could reasonably be expected in such a transaction, he shall be treated as making a transfer of value in every chargeable period in which he allows that use; and—
- (a) the value transferred thereby shall be the difference between the amount of the consideration (if any) for that period and that of the consideration that might be so expected; and
 - (b) the transfer shall be treated as being made at the end of the chargeable period or, if earlier, at the time when that use comes to an end ; and
 - (c) the transfer shall be treated as made out of the transferor's income.
- (2) In this section " chargeable period ", in relation to any use, means the period beginning when the use is begun and ending with 5th April next following, and every subsequent period of twelve months ending with 5th April, but no period beginning before 6th April 1976 shall be a chargeable period.

42 Annuity purchased in conjunction with life policy

- (1) Where—
- (a) a policy of life insurance is issued in respect of an insurance made on or after 27th March 1974 or is on or after that date varied or substituted for an earlier policy; and
 - (b) at the time the insurance is made or at any earlier or later date an annuity on the life of the insured is purchased; and
 - (c) the benefit of the policy is vested in a person other than the person who purchased the annuity;

then, unless it is shown that the purchase of the annuity and the making of the insurance (or, as the case may be, the substitution or variation) were not associated operations, the person who purchased the annuity shall be treated as having made a transfer of value by a disposition made at the time the benefit of the policy became so vested (to the exclusion of any transfer of value which, apart from this section, he might have made as a result of the vesting or of the purchase and the vesting being associated operations).

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- (2) The value transferred by that transfer of value shall be equal to whichever of the following is less, namely.—
- (a) the aggregate of—
 - (i) the value of the consideration given for the annuity; and
 - (ii) any premium paid or other consideration given under the policy on or before the transfer; and
 - (b) the value of the greatest benefit capable of being conferred at any time by the policy, calculated as if that time were the date of the transfer.
- (3) The preceding provisions of this section shall apply, with the necessary modifications, where a contract for an annuity payable on a person's death is on or after 27th March 1974 made or varied or substituted for or replaced by such a contract or a policy of life insurance as they apply where a policy of life insurance is issued, varied or substituted as mentioned in subsection (1) above.