

## SCHEDULE 6

### EXEMPT TRANSFERS

#### PART I

##### DESCRIPTION

###### *Transfers between spouses*

- 1 (1) Subject to the provisions of Part II of this Schedule and the following provisions of this paragraph, a transfer of value is an exempt transfer to the extent that the value of the estate of the transferor's spouse is increased.
- (2) If, immediately before the transfer, the transferor but not the transferor's spouse is domiciled in the United Kingdom the transfer is exempt to the extent only that the increase in the value of the spouse's estate does not exceed £15,000 less any increase previously taken into account for the purposes of the exemption conferred by this paragraph.
- (3) Where the transfer is made on death and the whole or part of the value of any property which devolved on or was given to the spouse (within the meaning of section 121 of and Schedule 26 to the Finance Act 1972) would have been included under section 22(5) of this Act had it not fallen to be disregarded under section 121 of that Act, the value that would have been so included shall reduce the £15,000 mentioned in sub-paragraph (2) above.
- (4) In its application to Northern Ireland, sub-paragraph (3) above shall have effect as if for the references to section 121 of and Schedule 26 to the Finance Act 1972 there were substituted references to Article 5 of and Schedule 2 to the Finance (Northern Ireland) Order 1972.

###### *Values not exceeding £1,000*

- 2 (1) Transfers of value made by a transferor in any one year are exempt to the extent that the values transferred by them (calculated as values on which no tax is payable) do not exceed £1,000.
- (2) Where those values (if any) fall short of £1,000, the amount by which they so fall short shall, in relation to the next following year, be added to the £1,000 mentioned in sub-paragraph (1) above ; and where they exceed £1,000 the excess—
- (a) shall, as between transfers made on different days, be attributed, so far as possible, to a later rather than an earlier transfer; and
- (b) shall, as between transfers made on the same day, be attributed to them in proportion to the values transferred by them.
- (3) In this paragraph " year " means the period beginning with 27th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April.
- 3 (1) In relation to the period beginning with 27th March 1974 and ending with 5th April 1974 and the period of twelve months ending with 5th April 1975, paragraph 2 above shall have effect as if for the references to £1,000 there were substituted references to whichever of the following is the greater—

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- (a) £1,000, and
  - (b) the aggregate value of gifts made by the transferor in that period and qualifying for small gifts relief from estate duty.
- (2) For the purposes of this paragraph a gift qualifying for small gifts relief from estate duty is a gift which would by virtue of section 59(2) of the Finance (1909-10) Act 1910 or section 33 of the Finance Act 1949 or section 6 of the Finance Act (Northern Ireland) 1949 have been excluded from the property passing on the donor's death for the purposes of estate duty if he had died immediately after making the gift.

*Small gifts to same person*

- 4 (1) Transfers of value made by a transferor in any one year by outright gifts to any one person are exempt to the extent that the values transferred by them (calculated as values on which no tax is chargeable) do not exceed £100.
- (2) In this paragraph " year " has the same meaning as in paragraph 2 above.

*Normal expenditure out of income*

- 5 (1) A transfer of value is an exempt transfer if, or to the extent that, it is shown—
- (a) that it was made as part of the normal expenditure of the transferor ; and
  - (b) that (taking one year with another) it was made out of his income ; and
  - (c) that, after allowing for all transfers of value forming part of his normal expenditure, the transferor was left with sufficient income to maintain his usual standard of living.
- (2) A payment of a premium on a policy of insurance on the transferor's life, or a gift of money or money's worth applied, directly or indirectly, in payment of such a premium, shall not for the purposes of this paragraph be regarded as part of his normal expenditure if, when the insurance was made, or at any earlier or later time, an annuity was purchased on his life, unless it is shown that the purchase of the annuity and the making or any variation of the insurance or of any prior insurance for which the first-mentioned insurance was directly or indirectly substituted, were not associated operations.
- (3) Where a purchased life annuity (within the meaning of section 230 of the Taxes Act) was purchased after 12th November 1974 then, in relation to transfers of value made after 5th April 1975, so much of the annuity as is, for the purposes of the provisions of the Tax Acts relating to income tax on annuities and other annual payments, treated as the capital element contained in the annuity, shall not be regarded as part of the transferor's income for the purposes of this paragraph.

*Gifts in consideration of marriage*

- 6 (1) Transfers of value made by gifts in consideration of marriage are exempt to the extent that the values transferred by such transfers made by any one transferor in respect of any one marriage (calculated as values on which no tax is payable) do not exceed—
- (a) in the case of gifts within sub-paragraph (2) below by a parent of a party to the marriage, £5,000 ;
  - (b) in the case of other gifts within sub-paragraph (2) below, £2,500 ; and
  - (c) in any other case £1,000 ;
- any excess being attributed to the transfers in proportion to the values transferred.

- (2) A gift is within this sub-paragraph if—
- (a) it is an outright gift to a child or remoter descendant of the transferor, or
  - (b) the transferor is a parent or remoter ancestor of either party to the marriage, and either the gift is an outright gift to the other party to the marriage or the property comprised in the gift is settled by the gift, or
  - (c) the transferor is a party to the marriage, and either the gift is an outright gift to the other party to the marriage or the property comprised in the gift is settled by the gift;
- and in this paragraph " child" includes an illegitimate child, an adopted child and a step-child and " parent", " descendant" and " ancestor " shall be construed accordingly.
- (3) A disposition shall not be treated for the purposes of this paragraph as a gift made in consideration of marriage—
- (a) in the case of an outright gift, if or in so far as it is a gift to a person other than a party to the marriage;
  - (b) in the case of any other disposition, if the persons who are or may become entitled to any benefit under the disposition include any person other than—
    - (i) the parties to the marriage, issue of the marriage, or a wife or husband of any such issue ;
    - (ii) persons becoming entitled on the failure of trusts for any such issue under which trust property would (subject only to any power of appointment to a person falling within sub-paragraph (i) or (iii) of this paragraph) vest indefeasibly on the attainment of a specified age or either on the attainment of such an age or on some earlier event, or persons becoming entitled (subject as aforesaid) on the failure of any limitation in tail;
    - (iii) a subsequent wife or husband of a party to the marriage, or any issue, or the wife or husband of any issue, of a subsequent marriage of either party;
    - (iv) persons becoming entitled under such trusts, subsisting under the law of England or of Northern Ireland, as are specified in section 33(1) of the Trustee Act 1925 3 or section 34(1) of the Trustee Act (Northern Ireland) I 1958 (protective trusts), the principal beneficiary being a person falling within sub-paragraph (i) or (iii) of this paragraph, or under such trusts, modified by the enlargement, as respects any period during which there is no such issue as aforesaid in existence, of the class of potential beneficiaries specified in paragraph (ii) of the said section 33(1) or paragraph (b) of the said section 34(1);
    - (v) persons becoming entitled under trusts subsisting under the law of Scotland and corresponding with such trusts as are mentioned in sub-paragraph (iv) above ;
    - (vi) as respects a reasonable amount of remuneration, the trustees of the settlement.
- (4) References in sub-paragraph (3) above to issue shall apply as if any person legitimated by a marriage, or adopted by the husband and wife jointly, were included among the issue of that marriage.

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- 7 In relation to marriages before the passing of this Act paragraph 6 above shall have effect with the substitution of a reference to £5,000 for the reference in sub-paragraph (1) to £2,500.

*Interpretation of paragraphs 2 to 7*

- 8 Section 51(2) of this Act does not apply to the interpretation of paragraphs 2 to 7 above.

*Transfers in course of trade, etc.*

- 9 A transfer of value made in the carrying on of a trade, profession or vocation is an exempt transfer if it is allowable as a deduction in computing the profits or gains of that trade, profession or vocation for the purposes of income tax (or would be so allowable if those profits or gains were sufficient and fell to be so computed).

*Gifts to charities*

- 10 (1) Subject to the provisions of Part II of this Schedule, transfers of value are exempt to the extent that the values transferred by them—
- (a) are attributable to property which is given to charities ; and
  - (b) so far as made on or within one year of the death of the transferor, do not exceed £100,000.
- (2) Notwithstanding anything in paragraph 6 of Schedule 5 to this Act, where property is given to a charity by the making of a distribution payment within the meaning of that paragraph, the distribution payment is not a capital distribution for the purposes of that Schedule.
- (3) For the purposes of this paragraph property is given to charities if it becomes the property of charities or is held on trust for charitable purposes only.
- (4) Where, in the case of a transfer of value made on death, the whole or part of the value of any property which was given (within the meaning of section 121 of and Schedule 26 to the Finance Act 1972) to charities would have been included under section 22(5) of this Act had it not fallen to be disregarded under section 121 of that Act, the value that would have been so included shall reduce the £100,000 mentioned in sub-paragraph (1) above.
- (5) In its application to Northern Ireland, sub-paragraph (4) above shall have effect as if for the references to section 121 of and Schedule 26 to the Finance Act 1972 there were substituted references to Article 5 of and Schedule 2 to the Finance (Northern Ireland) Order 1972.

*Gifts to political parties*

- 11 (1) Subject to the provisions of Part II of this Schedule, transfers of value are exempt to the extent that the values transferred by them—
- (a) are attributable to property which becomes the property of a political party qualifying for exemption under this paragraph ; and
  - (b) so far as made on or within one year of the death of the transferor, do not exceed £100,000.

- (2) A political party qualifies for exemption under this paragraph if, at the last general election preceding the transfer of value.—
- (a) two members of that party were elected to the House of Commons ; or
  - (b) one member of that party was elected to the House of Commons and not less than one hundred and fifty thousand votes were given to candidates who were members of that party.

*Gifts for national purposes etc.*

- 12 Subject to the provisions of Part II of this Schedule, a transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property which becomes the property of—

The National Gallery. The British Museum. The Royal Scottish Museum. The National Museum of Wales. The Ulster Museum. Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this paragraph by the Treasury. Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom. Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom. The National Trust for Places of Historic Interest or Natural Beauty. The National Trust for Scotland for Places of Historic Interest or Natural Beauty. The National Art Collections Fund. The Friends of the National Libraries. The Historic Churches Preservation Trust. The Nature Conservancy Council. Any local authority. Any Government department (including the National Debt Commissioners). Any university or university college in the United Kingdom.

*Gifts for public benefit*

- 13 (1) Subject to the provisions of Part II of this Schedule, a transfer of value is an exempt transfer to the extent that—
- (a) the value transferred by it is attributable to property within sub-paragraph (2) below which becomes property of a body not established or conducted for profit; and
  - (b) the Treasury so direct (whether before or after the time of the transfer).
- (2) Property is within this sub-paragraph if it is—
- (a) land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;
  - (b) a building for the preservation of which special steps should in the opinion of the Treasury be taken by reason of its outstanding historic or architectural or aesthetic interest and the cost of preserving it;
  - (c) land used as the grounds of a building within paragraph (b) above;
  - (d) an object which at the time of the transfer is ordinarily kept in, and which is given with, a building within paragraph (b) above;
  - (e) property given as a source of income for the upkeep of, property within any of the paragraphs of this sub-paragraph ;
  - (f) a picture, print, book, manuscript, work of art or scientific collection which in the opinion of the Treasury is of national or historic or scientific interest.
- (3) The Treasury shall not give a direction under sub-paragraph (1) above—

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- (a) in relation to land within sub-paragraph (2)(a) above, unless in their opinion the body whose property it becomes is an appropriate one to be responsible for the preservation of its character;
  - (b) in relation to property within sub-paragraph (2)(b) or (f) above, unless in their opinion the body whose property it becomes is an appropriate one to be responsible for its preservation ;
  - (c) in relation to property within sub-paragraph (2)(e) above, if or to the extent that, in the opinion of the Treasury, the property will produce more income than is needed (with a reasonable margin) for the upkeep of the other property in question.
- (4) Before giving a direction under sub-paragraph (1) above in relation to any property (other than property within sub-paragraph (2)(e) above) the Treasury may require such undertakings to be entered into, including undertakings restricting the use or disposal of the property, as they think appropriate for securing the preservation of the property or its character and reasonable access to it for the public.
- (5) Any undertaking entered into by virtue of sub-paragraph (4) above may be varied from time to time by agreement between the Treasury and the person bound by the undertaking, and the Treasury may require further undertakings to be entered into as a condition for agreeing to any such variation or consenting to anything for which their consent is required by any undertaking.
- (6) The obligations imposed by any undertaking entered into by virtue of this paragraph shall be enforceable for the public benefit by injunction (or, in Scotland, by interdict or by petition under section 91 of the Court of Session Act 1868), and any purported disposition of property in contravention of an undertaking shall be void, as if the obligation had been imposed by Act of Parliament.
- (7) Property is given with other property for the purposes of this paragraph if the value transferred by a transfer of value is attributable to both and both become the property of the same body.
- (8) In this paragraph " national interest" includes interest within any part of the United Kingdom.

*Gifts made before 10th December 1974 and not relevant to estate duty*

- 14 A transfer of value made by any person before 10th December 1974 is exempt to the extent that the value transferred thereby is attributable to the value of any property which, if the transferor had died immediately after the transfer, would not have been treated for the purposes of estate duty as passing on his death.

## PART II

### EXCEPTIONS

- 15 (1) Paragraphs 1 and 10 to 13 above do not apply in relation to any property if the testamentary or other disposition by which it is given takes effect on the termination after the transfer of value of any interest or period ; but paragraph 1 above is not excluded by virtue of this sub-paragraph by reason only that the property is given to a spouse only if he survives the other spouse for a specified period.

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- (2) Paragraphs 1 and 10 to 13 above do not apply in relation to any property if the testamentary or other disposition by which it is given depends on a condition which is not satisfied within twelve months after the transfer.
- (3) Paragraphs 10 to 13 above do not apply in relation to any property if—
- (a) the testamentary or other disposition by which it is given is defeasible ; or
  - (b) the property is an interest in other property and that interest is less than the donor's or the property is given subject to an interest reserved or created by the donor or is given for a limited period ; or
  - (c) the property or any part of it may become applicable for purposes other than charitable purposes or those of a body mentioned in paragraph 11, 12 or 13 above ;
- except that paragraph (b) above shall not prevent paragraph 12 above from applying in relation to property consisting of the benefit of an agreement restricting the use of land.
- (4) For the purposes of sub-paragraph (3) above—
- (a) any question whether any interest is less than the donor's or whether property is given subject to an interest shall be decided as at a time twelve months after the transfer of value ; and
  - (b) any disposition which has not been defeated at that time and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.
- (5) For the purposes of this paragraph property is given to any person or body if it becomes the property of or is held on trust for that person or body, and " donor " shall be construed accordingly.

### **PART III**

#### **SUPPLEMENTARY PROVISIONS**

##### *Preliminary*

- 16 Where any one or more of paragraphs 1 and 10 to 13 above apply in relation to a transfer of value but the transfer is not wholly exempt—
- (a) any question as to the extent to which it is exempt or, where it is exempt up to a limit, how an excess over the limit is to be attributed to the gifts concerned shall be determined in accordance with paragraphs 17 to 21 below ; and
  - (b) the relief resulting from those paragraphs shall, notwithstanding the terms of any disposition, be allocated in accordance with paragraph 22 below.

##### *Abatement not attributable to tax*

- 17 Where a gift would be abated owing to an insufficiency of assets and without regard to any tax chargeable, the gift shall be treated for the purposes of the following provisions of this Part of this Schedule as so abated.

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*Abatement for tax—specific gifts*

- 18 Where the value attributable, in accordance with paragraph 19 below, to specific gifts exceeds the value transferred the gifts shall be treated as reduced to the extent necessary to reduce their value to that of the value transferred ; and the reduction shall be made in the order in which, under the terms of the relevant disposition or any rule of law, it would fall to be made on a distribution of assets.

*Attribution of value to specific gifts*

- 19 (1) Such part of the value transferred shall be attributable to a specific gift as corresponds to the value of the gift; but if or to the extent that the gift—
- (a) is not a gift with respect to which the transfer is exempt or is outside the limit up to which the transfer is exempt; and
  - (b) does not bear its own tax ;
- the amount corresponding to the value of the gift shall be taken to be such amount as, after deduction of tax at the assumed rate specified in sub-paragraph (3) below, would be equal to the value of the gift.
- (2) Where any question arises as to which of two or more specific gifts are outside the limit up to which a transfer is exempt or as to the extent to which a specific gift is outside that limit—
- (a) the excess shall be attributed to gifts not bearing their own tax before being attributed to gifts bearing their own tax; and
  - (b) subject to paragraph (a) above, the excess shall be attributed to the gifts in proportion to their values.
- (3) For the purposes of this paragraph—
- (a) the assumed rate is the rate found by dividing the assumed amount of tax by the value transferred ; and
  - (b) the assumed amount of tax is the amount of tax found by applying the rate or rates applicable under section 37 of this Act to the value transferred without regard to paragraphs 1 and 10 to 13 above.
- (4) For the purposes of this paragraph, any liability of the transferor which is not to be taken into account under paragraph 1(3) of Schedule 10 to this Act shall be treated as a specific gift.

*Attribution of value to residuary gifts*

- 20 Such part only of the value transferred shall be attributed to gifts of residue or shares in residue as is not attributed under paragraph 19 above to specific gifts.

*Gifts made separately out of different funds*

- 21 Where gifts taking effect on a transfer of value take effect separately out of different funds the preceding provisions of this Part of this Schedule shall be applied separately to the gifts taking effect out of each of those funds, with the necessary adjustments of the values and amounts referred to in those provisions.

#### *Allocation of relief*

- 22 (1) The reduction referred to in the following provisions of this paragraph is the reduction in tax resulting from paragraphs 1 and 10 to 13 above, after allowing for the reduction in the effective rate at which tax is chargeable.
- (2) The reduction shall reduce tax attributable to gifts bearing their own tax before reducing tax attributable to other gifts and, subject thereto, shall reduce the tax attributable to different gifts in proportion to their value.
- (3) Subject to sub-paragraph (4) below, the reduction shall reduce only tax falling on a gift with respect to which the transfer of value is exempt and, if it is so exempt only up to a limit, shall not reduce tax falling on so much of the gift as is outside the limit; and in particular, where such a gift is a gift of a share in residue or in any property, the reduction shall not reduce the tax falling on so much of the residue or that property as is not such a gift or is outside that limit.
- (4) The reduction may reduce tax attributable to specific gifts with regard to which the transfer is exempt or to so much of such gifts as is within the limit up to which it is exempt, notwithstanding that it falls on residue.

#### *Interpretation*

- 23 (1) In this Part of this Schedule— " gift", in relation to any transfer of value, means the benefit of any disposition or rule of law by which, on the making of the transfer, any property becomes (or would but for any abatement become) the property of any person or applicable for any purpose and " given " shall be construed accordingly; " specific gift" means any gift other than a gift of residue or of a share in residue.
- (2) For the purposes of this Part of this Schedule a gift bears its own tax if the tax attributable to it falls on the person who becomes entitled to the property given or (as the case may be) is payable out of property applicable for the purposes for which the property given becomes applicable.