



# Finance Act 1975

## 1975 CHAPTER 7

### PART III

#### CAPITAL TRANSFER TAX

##### *Main charging provisions*

#### **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

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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

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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.