



Finance Act 1981

1981 CHAPTER 35

PART V

CAPITAL TRANSFER TAX

92 Reduction of lifetime rates

- (1) For the second Table in section 37(3) of the Finance Act 1975 there shall be substituted the Table in Schedule 13 to this Act.
- (2) Subsection (1) above applies to chargeable transfers made on or after 10th March 1981.
- (3) Where the rate of tax applicable to a capital distribution made on or after 10th March 1981 falls to be determined under sub-paragraph (2) of paragraph 7 of Schedule 5 to the Finance Act 1975 by reference to a relevant transfer made before that date, the amount of tax referred to in paragraph (a) of that sub-paragraph shall be calculated as if the new Table had applied to that transfer.
- (4) Where tax is chargeable under section 78 of the Finance Act 1976 (works of art etc.) by reason of a chargeable event occurring on or after 10th March 1981 and the rate or rates at which it is charged fall to be determined under the provisions of section 79(1)(b)(ii) or 81(4)(b) of that Act by reference to a death which occurred, or a settlement which ceased to exist, before that date, those provisions shall have effect as if the new Table had been in force at the time of the death or when the settlement ceased to exist.
- (5) Where tax is chargeable under section 89 of the Finance Act 1980 (maintenance funds) on any occasion on or after 10th March 1981 and the rate or rates at which it is charged fall to be determined under the provisions of Schedule 16 to that Act by reference to a death which occurred, or a settlement which ceased to exist, before that date, those provisions shall apply as if the new Table had been in force at the time of the death or when the settlement ceased to exist.
- (6) Any question whether any, and if so what, tax is repayable or ceases to be payable by virtue of subsection (1)(a) of section 87 of the Finance Act 1976 (mutual transfers) in a case where—
 - (a) the donor's transfer was before 10th March 1981, and

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(b) the donee's transfer is on or after that date, shall be determined as if the new Table had been in force at the time of the donor's transfer; but this subsection shall not be construed as affecting the amount of tax which, under subsection (3) of that section, falls to be taken into account in calculating the cancelled value.

- (7) In subsection (2) above the reference to a chargeable transfer made on or after 10th March 1981 does not include a reference to a chargeable transfer which by virtue of section 114(2) of the Finance Act 1976 as originally enacted (transfers reported la(e)) is treated as made on or after that date but was in fact made before it.

93 Ten-year cumulation period

- (1) In section 37(1)(b) of the Finance Act 1975 (rate of tax on second or subsequent transfer of value to be calculated by reference to the values previously transferred by chargeable transfers made by the same transferor) for the words " previously transferred by chargeable transfers made by that transferor " there shall be substituted the words " transferred by chargeable transfers made by that transferor in the period of ten years ending with the date of the transfer ".

- (2) In subsection (1)(b) of section 86 of the Finance Act 1976 (mutual transfers: exemption for donee's gift) for the word " subsequently " there shall be substituted the words " , within the period of ten years beginning with the date of the donor's transfer, ".

- (3) In subsection (1)(b) of section 87 of the Finance Act 1976 (mutual transfers: relief for donor's gift) after the words " any chargeable transfer made by the donor after the claim " there shall be inserted the words " and within the period of ten years beginning with the date of the donor's transfer ".

- (4) For subsections (2) and (3) of section 114 of the Finance Act 1976 (transfers reported la(e)) there shall be substituted—

“(2) Where the earlier transfer is made in the period of ten years ending with the date of the later transfer there shall be charged on the value transferred by the earlier transfer, in addition to any tax chargeable on it apart from this section, an amount of tax equal to the difference, if any, between—

- (a) the tax which, having regard to the earlier transfer, was properly chargeable on the value transferred by the later transfer; and
- (b) the payment accepted by the Board in full satisfaction of the tax chargeable on that value;

and any such difference shall not be chargeable on the value transferred by the later transfer.

- (3) Where in the period mentioned in subsection (2) above there have been two or more earlier transfers the reference in paragraph (a) of that subsection to the earlier transfer shall be construed as a reference to both or all of those transfers, but the amount of tax chargeable under that subsection in respect of each of them shall, subject to subsection (3A) below, be reduced in the proportion which the value transferred by it bears to the aggregate of the values transferred by it and the other or others.

- (3A) Where the earlier transfers mentioned in subsection (3) above include a settled transfer, that is to say, a transfer in the case of which an amount in full satisfaction of the tax chargeable in respect of it under subsection (2) above

has been paid to and accepted by the Board before the discovery of one or more of the other earlier transfers—

- (a) no further tax shall be chargeable under subsection (2) above in respect of the settled transfer in consequence of regard being had under paragraph (a) of that subsection to the subsequently discovered transfer or transfers;
- (b) the amount so paid and accepted shall reduce the amount chargeable under subsection (2) above in respect of the subsequently discovered transfer or transfers; and
- (c) if there are two or more subsequently discovered transfers, the value transferred by the settled transfer shall be disregarded in calculating under subsection (3) above the reduction in the amount of tax chargeable in respect of each of them.

(3B) Where the later transfer referred to in subsection (2) above is itself an earlier transfer in relation to another later transfer the references in paragraphs (a) and (b) of that subsection to tax chargeable on the value transferred by it are references to tax so chargeable apart from this section.”.

- (5) At the end of subsection (6) of the said section 114 there shall be inserted the words " and subsection (2)(b) above shall apply in relation to any such transfer as if the amount of the payment were nil ".

94 Exemptions

- (1) In paragraph 2 of Schedule 6 to the Finance Act 1975 (annual exemption for transfers not exceeding £2,000) for " £2,000" wherever it occurs there shall be substituted " £3,000 ".
- (2) In paragraph 4(1) of that Schedule (exemption for small gifts) for the words " to the extent that" there shall be substituted the word " if ".
- (3) Subject to subsection (5) below, and notwithstanding the provisions of paragraph 8 of that Schedule, references to transfers of value in paragraphs 2 and 6 (exemption for gifts in consideration of marriage) of that Schedule shall be construed as including references to events on the happening of which tax is chargeable under paragraph 4 of Schedule 5 to the Finance Act 1975 (termination of interest in possession in settled property) ; and references to the transferor and (in paragraph 6(3)) to a disposition shall be construed accordingly.
- (4) For the purpose of its application, by virtue of subsection (3) above, to the termination of interests in possession in settled property, the said paragraph 6 shall have effect as if—
 - (a) references to transfers of value made by gifts in consideration of marriage were references to the termination of such interests in consideration of marriage;
 - (b) references to outright gifts were references to cases where the property ceases on the termination to be settled property; and
 - (c) references to cases where the property is settled by the gift were references to cases where it remains settled property after the termination.
- (5) Subsection (3) above shall not apply to a transfer of value—

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- (a) unless the transferor has in accordance with subsection (6) below given to the trustees of the settlement a notice informing them of the availability of an exemption, and
 - (b) except to the extent specified in that notice.
- (6) A notice under subsection (5) above shall be in such form as may be prescribed by the Board and shall be given before the end of the period of six months beginning with the date of the transfer of value.
- (7) This section applies to any transfer of value made on or after 6th April 1981 ; but subsection (1) above does not affect the amount which under paragraph 2(2) of the said Schedule 6 may be carried forward to the year beginning on that date.

95 Interest-free instalments of tax

- (1) Paragraph 16(5) of Schedule 4 to the Finance Act 1975 (which imposes a limit of £250,000 on the value by reference to which tax may be paid by interest-free instalments) shall cease to have effect.
- (2) This section has effect in relation to chargeable transfers made on or after 10th March 1981.

96 Relief for agricultural property

- (1) Schedule 14 to this Act shall have effect for reducing, in the cases there mentioned—
- (a) the value transferred by a transfer of value ; and
 - (b) the amount of a distribution payment or capital distribution.
- (2) In sub-paragraph (1)(a) of paragraph 16 of Schedule 4 to the Finance Act 1975 (property in respect of which tax may be paid by interest-free instalments) after the words " to the value of any shares, securities, business or interest in a business " there shall be inserted the words " or to value 'treated as reduced under Schedule 14 to the Finance Act 1981 " ; and in sub-paragraph (2) of that paragraph after the word " below " there shall be inserted the words " (not being tax attributable to value treated as reduced under the said Schedule 14) " .
- (3) Part I of Schedule 8 to the Finance Act 1975 (which is superseded by Schedule 14 to this Act) shall cease to have effect; and—
- (a) in paragraph 1 of Schedule 9 to that Act (relief for woodlands) for the words " Schedule 8 to this Act " there shall be substituted the words " Schedule 14 to the Finance Act 1981 " ;
 - (b) in section 86(6) of the Finance Act 1976 (mutual transfers) for the words " and that Schedule " there shall be substituted the words " or Schedule 14 to the Finance Act 1981 and those Schedules " ;
 - (c) in section 87(5A) of the Finance Act 1976 after the words " Finance Act 1975 " there shall be inserted the words " or Schedule 14 to the Finance Act 1981 " ;
 - (d) in paragraph 10 of Schedule 10 to the Finance Act 1976 (business relief) for the words " Schedule 8 to the Finance Act 1975 " and " paragraph 1(2A) thereof " there shall be substituted respectively the words " Schedule 14 to the Finance Act 1981 " and " paragraph 8(3) thereof " ; and
 - (e) in paragraphs 1 and 3 of Schedule 4 to the Capital Gains Tax Act 1979 (relief for business assets) for the words " Schedule 8 to the Finance Act 1975 " wherever they occur there shall be substituted the words " Schedule 14 to the

Finance Act 1981 " and after the word " reduction " there shall be inserted the words " at the rate of 50 per cent. ".

- (4) This section has effect in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981, and subsection (3)(e) has effect in relation to disposals on or after that date.

97 Grant of tenancies of agricultural property

- (1) The grant of a tenancy of agricultural property in the United Kingdom, the Channel Islands or the Isle of Man for use for agricultural purposes shall not be a transfer of value by the grantor if he makes it for full consideration in money or money's worth.
- (2) In subsection (1) above " agricultural property " has the same meaning as in Schedule 14 to this Act.
- (3) This section applies to grants before as well as after the passing of this Act.

98 Scottish agricultural leases: fixed terms

Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant in an unexpired portion of a lease for a fixed term of agricultural property in Scotland and either he had been tenant of the said property continuously for a period of at least two years immediately preceding his death or he had become tenant of the said property by succession there shall be left out of account in determining the value transferred on the death any value associated with any prospect of renewal of the lease by tacit relocation.

99 Scottish agricultural leases: tacit relocation

- (1) Schedule 15 to this Act shall have effect for giving relief where the value transferred by a chargeable transfer made on death is determined by reference to the value of an agricultural tenancy in Scotland and the conditions mentioned in that Schedule are satisfied.
- (2) The Finance Act 1975 shall be amended as follows—
- (a) in section 26, after subsection (2), there shall be added the following subsection—
- “(2A) No person other than the person referred to in sub-paragraph (2) of paragraph 3 of Schedule 15 to the Finance Act 1981 shall be liable for any tax which is chargeable under that paragraph.”;
- (b) in Schedule 4, in paragraph 2(7), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ; "
- (c) in Schedule 4, in paragraph 12(4), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ";
- (d) in Schedule 4, in paragraph 19(1)(c), after " to this Act" there shall be inserted " or paragraph 3 of Schedule 15 to the Finance Act 1981 ".
- (3) Schedule 15 to the Finance Act 1980 shall be amended by inserting after paragraph 4 the following new paragraph—
- “(4A) Where the value of an interest in an agricultural tenancy has been left out of account under Schedule 15 to the Finance Act 1981 in determining

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the value transferred by the chargeable transfer made on a death before a reduction and tax is chargeable under paragraph 3 of that Schedule on a disposal of the said interest after that reduction (or after that and one or more subsequent reductions) the rate or rates mentioned in paragraph 4 of that Schedule shall be determined as if the first of the Tables in section 37(3) of the Finance Act 1975 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.”.

100 Business property used by beneficiary under settlement

- (1) Schedule 10 to the Finance Act 1976 (relief for business property) shall have effect with the following amendments in relation to transfers of value, distribution payments and capital distributions made on or after 10th March 1981.
- (2) In paragraph 2(1A)(c) (cases attracting relief at 30 per cent.) after the words " paragraph 3(1)(c) " there shall be inserted " or (d) ".
- (3) In paragraph 3(1) (which describes the property eligible for relief) after paragraph (c) there shall be added “and
 - (d) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by the transferor and was settled property in which he was then beneficially entitled to an interest in possession”.
- (4) In paragraph 3(6)—
 - (a) after the words " sub-paragraph (1)(c)" there shall be inserted " or (d) "; and
 - (b) for the words from " transferor's interest" to " may be " there shall be substituted the words " business or the transferor's interest in it is, or ".

101 Relief for successive charges

- (1) Where the value of a person's estate was increased by a chargeable transfer ("the first transfer") made not more than five years before—
 - (a) his death, or
 - (b) a chargeable transfer which is made by him otherwise than on his death and as to which the conditions specified in subsection (2) below are satisfied,

the tax chargeable on the value transferred by the transfer made on his death or, as the case may be, referred to in paragraph (b) above (" the later transfer ") shall be reduced by an amount calculated in accordance with subsection (3) below.
- (2) The conditions referred to in subsection (1)(b) above are—
 - (a) that the value transferred by the later transfer falls to be determined by reference to the value of settled property in which there subsists an interest in possession to which the transferor is entitled ;
 - (b) that the value transferred by the first transfer also fell to be determined by reference to the value of that property; and
 - (c) that the first transfer either was or included the making of the settlement or was made after the making of the settlement.
- (3) The amount referred to in subsection (1) above is a percentage of the tax charged on so much of the value transferred by the first transfer as is attributable to the increase mentioned in that subsection ; and the percentage is—

- (a) 100 per cent, if the period beginning with the date of the first transfer and ending with the date of the later does not exceed one year ;
 - (b) 80 per cent, if it exceeds one year but does not exceed two years ;
 - (c) 60 per cent, if it exceeds two years but does not exceed three years;
 - (d) 40 per cent, if it exceeds three years but does not exceed four years; and
 - (e) 20 per cent, if it exceeds four years.
- (4) Where in relation to the first transfer there is more than one later transfer, the reduction provided for by this section shall be given only in respect of the earliest of them, unless the reduction represents less than the whole of the tax charged as mentioned in subsection (3) above; and in that case a reduction may be made in respect of subsequent transfers (in chronological order) until reductions representing the whole of that tax have been made.
- (5) For the purposes of subsection (4) above, a reduction made in accordance with paragraph (a) of subsection (3) above represents an equivalent amount of tax, a reduction made in accordance with paragraph (b) represents the amount of tax of which it is 80 per cent., and so on.
- (6) In determining for the purposes of this section whether or to what extent the value of the transferor's estate was increased by a chargeable transfer, there shall be disregarded any excluded property consisting of a reversionary interest to which he became entitled on the occasion of or before the chargeable transfer.
- (7) Where—
- (a) the value of the transferor's estate was increased in consequence of—
 - (i) a gift inter vivos, or
 - (ii) a disposition or determination of a beneficial interest in possession in property comprised in a settlement, and
 - (b) tax under section 22(5) of the Finance Act 1975 was by reason of the gift or interest payable on a subsequent death,
- this section shall apply as if the increase had been by the chargeable transfer made on the occasion of the death.
- (8) In the Finance Act 1975, section 30 and paragraph 5 of Schedule 5 (which are superseded by this section) shall cease to have effect.
- (9) This section has effect where the later transfer is made on or after 10th March 1981.

102 Settled property: extension of transitional relief

- (1) For the references to 1st April 1982 (substituted by section 23 of the Finance (No. 2) Act 1979) in
- (a) paragraph 12(6) of Schedule 5 to the Finance Act 1975 (earliest date for ten-year periodic charge on settlements without interests in possession), and
 - (b) paragraph 14(2) of that Schedule (earliest date at which capital distribution bears tax at full rate),
- there shall be substituted references to 1st April 1983.
- (2) Where—

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- (a) under paragraph 12(6) of the said Schedule 5 the first relevant anniversary in relation to a settlement would apart from this subsection fall during the year ending with 31st March 1984, and
- (b) during that year there is a payment or transfer of assets out of the property comprised in the settlement which could not have been made except as the result of some proceedings before a court,

the first relevant anniversary shall be taken to be 1st April 1984 (but without affecting the dates of later relevant anniversaries or the dates on which capital distributions are treated as made under paragraph 12(2) of that Schedule).

- (3) Where a capital distribution made during the year ending with 31st March 1984 out of the property comprised in a settlement could not have been made except as the result of some proceedings before, a court, paragraph 14 of the said Schedule 5 shall have effect in relation to it as if it had been made on 31st March 1983.
- (4) Subsection (1)(a) above does not affect tax chargeable by virtue of sub-paragraph (2) of paragraph 12 of the said Schedule 5 (annual charge where trustees are non-resident) in respect of any year ending before 1st January 1981 ; but where in the case of any settlement tax has been charged by virtue of that sub-paragraph in respect of one or more years in a period that would have ended with a relevant anniversary but for that subsection, tax shall not be chargeable by virtue of that sub-paragraph in respect of the first year or years (up to a corresponding number) in respect of which tax would be so chargeable in the period ending with the date that becomes the first relevant anniversary by virtue of that subsection.

103 Trusts for the disabled

In relation to property transferred into settlement on or after 10th March 1981, Schedule 5 to the Finance Act 1975 shall have effect with the substitution for paragraph 19 of the following paragraph—

- “19 (1) This paragraph applies to settled property held on trusts under which, during the life of a disabled person, no interest in possession in the settled property subsists and which secure that not less than half of the settled property which is applied during his life is applied for his benefit.
- (2) For the purposes of capital transfer tax the person mentioned in sub-paragraph (1) above shall be treated as beneficially entitled to an interest in possession in the settled property.
- (3) The trusts on which settled property is held shall not be treated as falling outside sub-paragraph (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the Trustee Act (Northern Ireland) 1958 (powers of advancement).
- (4) The reference in sub-paragraph (1) above to a disabled person is, in relation to any settled property, a reference to a person who when the property was transferred into settlement was—
- (c) incapable, by reason of mental disorder within the meaning of the Mental Health Act 1959, of administering his property or managing his affairs ; or
 - (b) in receipt of an attendance allowance under section 35 of the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975.”

104 Reversionary interests

(1) Subsections (2) and (3) of section 22 of the Finance Act 1975 (relief from charge on death for settled property to which the settlor or his spouse becomes entitled) and sub-paragraphs (5) and (6) of paragraph 4 of Schedule 5 to that Act (corresponding relief on termination of interests in possession) shall not apply in any case where their application depends upon a reversionary interest having been transferred into a settlement on or after 10th March 1981.

(2) In Schedule 6 to the Finance Act 1975 (exempt transfers) in paragraph 15 (exceptions) after sub-paragraph (2) there shall be inserted—

“(2A) Paragraphs 1 and 10 to 13 above do not apply in relation to property which is given in consideration of the transfer of a reversionary interest if, by virtue of section 23(3) above, that interest does not form part of the estate of the person acquiring it.”

and in section 84(8) of the Finance Act 1976 after "(2)" there shall be inserted "(2A)".

This subsection has effect in relation to transfers of value made on or after 10th March 1981.

(3) In section 24(3)(aa) of the Finance Act 1975 (reversionary interest not excluded property if the settlor or his spouse is beneficially entitled to it) after the word " is " there shall be inserted the words " or has been ".

This subsection shall be deemed to have come into force on 10th March 1981 but shall not apply in relation to a reversionary interest if the person entitled to it acquired it before that date or if it is an interest under a settlement made before 16th April 1976.

105 Related property

(1) Paragraph 7(2)(b) of Schedule 10 to the Finance Act 1975 (valuation by reference to property in discretionary settlements made before 27th March 1974) shall cease to have effect.

(2) This section applies to transfers of value made on or after 10th March 1981.

106 Free loans

(1) Sections 115 and 116 of the Finance Act 1976 (free loans etc.) shall cease to have effect.

(2) This section applies where the disposition under subsection (1) of section 115 would in accordance with subsection (2) of that section be treated as made on or after 6th April 1981.