



# Capital Transfer Tax Act 1984

## 1984 CHAPTER 51

### PART I

#### GENERAL

##### *Main charges and definitions*

#### **1 Charge on transfers**

Capital transfer tax shall be charged on the value transferred by a chargeable transfer.

#### **2 Chargeable transfers and exempt transfers**

- (1) A chargeable transfer is a transfer of value which is made by an individual but is not (by virtue of Part II of this Act or any other enactment) an exempt transfer.
- (2) A transfer of value made by an individual 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.
- (3) Except where the context otherwise requires, references in this Act to chargeable transfers, to their making or to the values transferred by them shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), to their occurrence or to the amounts on which tax is then chargeable.

#### **3 Transfers of value**

- (1) Subject to the following provisions of this Part of this Act, a transfer of value is a 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.

- (2) For the purposes of subsection (1) 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.
- (3) Where the value of a person's estate is diminished and that of another person's estate, or of settled property in which no interest in possession subsists, is increased by the first-mentioned person's omission to exercise a right, he shall be treated for the purposes of this section as having made a disposition at the time (or latest time) when he could have exercised the right, unless it is shown that the omission was not deliberate.
- (4) Except as otherwise provided, references in this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person; and "transferor" shall be construed accordingly.

#### **4 Transfers on death**

- (1) On the death of any person 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.
- (2) 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.

#### **5 Meaning of estate**

- (1) For the purposes of this Act a person's estate is the aggregate of all the property to which he is beneficially entitled, except that the estate of a person immediately before his death does not include excluded property.
- (2) A person who has a general power which enables him, or would if he were sui juris enable him, to dispose of any property other than settled property, or to charge money on any property other than settled property, shall be treated as beneficially entitled to the property or money; and for this purpose "general power" means a power or authority enabling the person by whom it is exercisable to appoint or dispose of property as he thinks fit.
- (3) In determining the value of a person's estate at any time his liabilities at that time shall be taken into account, except as otherwise provided by this Act.
- (4) The liabilities to be taken into account in determining the value of a transferor's estate immediately after a transfer of value include his liability for capital transfer tax on the value transferred but not his liability (if any) for any other tax or duty resulting from the transfer.
- (5) Except in the case of a liability imposed by law, a liability incurred by a transferor shall be taken into account only to the extent that it was incurred for a consideration in money or money's worth.

#### **6 Excluded property**

- (1) Property situated outside the United Kingdom is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.

- (2) Where securities have been issued by the Treasury subject to a condition authorised by section 22 of the Finance (No. 2) Act 1931 (or section 47 of the Finance (No. 2) Act 1915) for exemption from taxation so long as the securities are in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom, the securities are excluded property if they are in the beneficial ownership of such a person.
- (3) Where the person beneficially entitled to the rights conferred by any of the following, namely—
  - (a) war savings certificates;
  - (b) national savings certificates (including Ulster savings certificates);
  - (c) premium savings bonds;
  - (d) deposits with the National Savings Bank or with a trustee savings bank;
  - (e) a certified contractual savings scheme within the meaning of section 415 of the Taxes Act;is domiciled in the Channel Islands or the Isle of Man, the rights are excluded property.
- (4) Property to which this subsection applies by virtue of section 155(1) below is excluded property.

### *Rates*

## **7 Rates**

- (1) The tax charged on the value transferred by a chargeable transfer made by any transferor shall be charged at the following rate or rates, that is to say—
  - (a) if the transfer is the first chargeable transfer made by that transferor in the period of ten years ending with the date of the transfer, at the rate or rates applicable to that value under the appropriate Table in Schedule 1 to this Act;
  - (b) in any other case, at the rate or rates applicable under that Table to such part of the aggregate of—
    - (i) that value, and
    - (ii) the values transferred by previous chargeable transfers made by him in that period,as is the highest part of that aggregate and is equal to that value.
- (2) Except as otherwise provided, the first Table in Schedule 1 to this Act is the appropriate Table for a transfer made on or at any time within three years of the death of the transferor, and the second Table in that Schedule is the appropriate Table for any other transfer.
- (3) In each of the Tables in Schedule 1 to this Act any rate shown in the third column is that applicable to such portion of the value concerned as exceeds the lower limit shown in the first column but does not exceed the upper limit (if any) shown in the second column

## **8 Indexation of rate bands**

- (1) If the retail prices index for the month of December in 1984 or any later year is higher than it was for the previous December, then, unless Parliament otherwise determines, section 7 above and Schedule 1 to this Act shall apply to chargeable transfers made

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on or after 6th April in the following year with the substitution of new Tables for the Tables applying (whether by virtue of this section or otherwise) to earlier chargeable transfers.

- (2) The new Tables shall differ from the Tables they replace in that for each of the amounts specified in the first and second columns there shall be substituted amounts arrived at by increasing the previous amounts by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £1,000, rounding it up to the nearest amount which is such a multiple.
- (3) The references in this section to the retail prices index are references to the general index of retail prices (for all items) published by the Department of Employment; and if that index is not published for a month of December those references shall be construed as references to any substituted index or index figures published by that Department.
- (4) The Treasury shall before 6th April 1985 and each subsequent 6th April make an order specifying the amounts which by virtue of this section will be treated, in relation to chargeable transfers on or after that date, as specified in the Tables in Schedule 1 to this Act; and any such order shall be made by statutory instrument.

## **9 Transitional provisions on reduction of tax**

The transitional provisions in Schedule 2 to this Act shall have effect in relation to any enactment by virtue of which tax is reduced by the substitution of new Tables in Schedule 1.

*Dispositions that are not transfers of value*

## **10 Dispositions not intended to confer gratuitous benefit**

- (1) 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.
- (2) Subsection (1) above shall 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.
- (3) In this section—
  - " disposition" includes anything treated as a disposition by virtue of section 3(3) above;
  - " transaction" includes a series of transactions and any associated operations.

## **11 Dispositions for maintenance of family**

- (1) A disposition is not a transfer of value if it is made by one party to a marriage in favour of the other party or of a child of either party and is—
  - (a) for the maintenance of the other party, or
  - (b) for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (2) A disposition is not a transfer of value if it is made in favour of a child who is not in the care of a parent of his and is for his maintenance, education or training for a period ending not later than the year in which—
  - (a) he attains the age of eighteen, or
  - (b) after attaining that age he ceases to undergo full-time education or training;but paragraph (b) above applies only if before attaining that age the child has for substantial periods been in the care of the person making the disposition.
- (3) A disposition is not a transfer of value if it is made in favour of a dependent relative of the person making the disposition and is a reasonable provision for his care or maintenance.
- (4) A disposition is not a transfer of value if it is made in favour of an illegitimate child of the person making the disposition and is for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.
- (6) In this section—
  - " child " includes a step-child and an adopted child and " parent " shall be construed accordingly ;
  - " dependent relative " means in relation to any person—
    - (a) a relative of his, or of his spouse, who is incapacitated by old age or infirmity from maintaining himself, or
    - (b) his mother or his spouse's mother, if she is widowed, or living apart from her husband, or a single woman in consequence of dissolution or annulment of marriage;
  - " marriage", in relation to a disposition made on the occasion of the dissolution or annulment of a marriage, and in relation to a disposition varying a disposition so made, includes a former marriage ;
  - " year" means period of twelve months ending with 5th April.

## **12 Dispositions allowable for income tax, or conferring retirement benefits**

- (1) A disposition made by any person is not a transfer of value if it is allowable in computing that person's profits or gains for the purposes of income tax or corporation tax or would be so allowable if those profits or gains were sufficient and fell to be so computed.
- (2) Without prejudice to subsection (1) above, a disposition made by any person is not a transfer of value if—

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- (a) it is a contribution to a retirement benefits scheme which is approved by the Board for the purposes of Chapter II of Part II of the Finance Act 1970 (occupational pension schemes) and provides benefits in respect of service which is or includes service as an employee (as defined in that Chapter) of that person; or
- (b) it is made so as to provide—
  - (i) benefits on or after retirement for a person not connected with him who is or has been in his employ, or
  - (ii) benefits on or after the death of such a person for his widow or dependants,
 and does not result in the recipient receiving benefits which, having regard to their form and amount, are greater than what could be provided under a scheme approved as aforesaid.
- (3) Where a person makes dispositions of the kinds described in both paragraph (a) and paragraph (b) of subsection (2) above in respect of service by the same person, they shall be regarded as satisfying the conditions of that subsection only to the extent to which the benefits they provide do not exceed what could be provided by a disposition of the kind described in either of those paragraphs.
- (4) For the purposes of subsection (2)(b) above, the right to occupy a dwelling rent-free or at a rent less than might be expected to be obtained in a transaction at arm's length between persons not connected with each other shall be regarded as equivalent to a pension at a rate equal to the rent or additional rent that might be expected to be obtained in such a transaction.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.

### **13 Dispositions by close companies for benefit of employees**

- (1) A disposition of property made to trustees by a close company whereby the property is to be held on trusts of the description specified in section 86(1) below is not a transfer of value if the persons for whose benefit the trusts permit the property to be applied include all or most of either—
  - (a) the persons employed by or holding office with the company, or
  - (b) the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (2) Subsection (1) above shall not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of—
  - (a) a person who is a participator in the company making the disposition, or
  - (b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for this section would have been a transfer of value, or
  - (c) any other person who has been a participator in any such company as is mentioned in paragraph (a) or (b) above at any time after, or during the ten years before, the disposition made by that company, or
  - (d) any person who is connected with any person within paragraph (a), (b) or (c) above.

- (3) The participators in a company who are referred to in subsection (2) above do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets.
- (4) In determining whether the trusts permit property to be applied as mentioned in subsection (2) above, no account shall be taken—
- (a) of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident, or
  - (b) if the trusts are those of a profit sharing scheme approved under the Finance Act 1978, of any power to appropriate shares in pursuance of the scheme.
- (5) In this section—
- "close company" and "participator" have the same meanings as in Part IV of this Act;
  - "ordinary shares" means shares which carry either—
    - (a) a right to dividends not restricted to dividends at a fixed rate, or
    - (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above ;
  - "subsidiary" has the same meaning as in the Companies Act 1948;
- and references in subsections (2) and (3) above to a participator in a company shall, in the case of a company which is not a close company, be construed as references to a person who would be a participator in the company if it were a close company.

#### **14 Waiver of remuneration**

- (1) Subject to subsection (2) below, the waiver or repayment of an amount of remuneration is not a transfer of value if, apart from the waiver or repayment, that amount would be assessable to income tax under Schedule E.
- (2) Where, apart from the waiver or repayment, the amount of the remuneration would be allowable as a deduction in computing for the purposes of income tax or corporation tax the profits or gains or losses of the person by whom it is payable or paid, this section shall apply only if, by reason of the waiver or repayment, it is not so allowed or is otherwise brought into charge in computing those profits or gains or losses.

#### **15 Waiver of dividends**

A person who waives any dividend on shares of a company within twelve months before any right to the dividend has accrued does not by reason of the waiver make a transfer of value.

#### **16 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 is not a transfer of value by the grantor if he makes it for full consideration in money or money's worth.

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- (2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

**17 Changes in distribution of deceased's estate, etc.**

None of the following is a transfer of value—

- (a) a variation or disclaimer to which section 142(1) below applies;
- (b) a transfer to which section 143 below applies ;
- (c) an election by a surviving spouse under section 47A of the Administration of Estates Act 1925 ;
- (d) the renunciation of a claim to legitim within the period mentioned in section 147(6) below.