



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART III

SETTLED PROPERTY

CHAPTER II

INTERESTS IN POSSESSION AND REVERSIONARY INTERESTS

49 Treatment of interests in possession

- (1) A person beneficially entitled to an interest in possession in settled property shall be treated for the purposes of this Act as beneficially entitled to the property in which the interest subsists.
- (2) Where a person becomes entitled to an interest in possession in settled property as a result of a disposition for a consideration in money or money's worth, any question whether and to what extent the giving of the consideration is a transfer of value or chargeable transfer shall be determined without regard to subsection (1) above.

50 Interests in part, etc.

- (1) Where the person referred to in section 49(1) above is entitled to part only of the income (if any) of the property, the interest shall be taken to subsist in such part only of the property as bears to the whole the same proportion as the part of the income to which he is entitled bears to the whole of the income.
- (2) Where the part of the income of any property to which a person is entitled is a specified amount (or the whole less a specified amount) in any period, his interest in the property shall be taken, subject to subsection (3) below, to subsist in such part (or in the whole less such part) of the property as produces that amount in that period.
- (3) The Treasury may from time to time by order prescribe a higher and a lower rate for the purposes of this section; and where tax is chargeable in accordance with subsection (2)

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above by reference to the value of the part of a property which produces a specified amount or by reference to the value of the remainder (but not where chargeable transfers are made simultaneously and tax is chargeable by reference to the value of that part as well as by reference to the value of the remainder) the value of the part producing that specified amount—

- (a) shall, if tax is chargeable by reference to the value of that part, be taken to be not less than it would be if the property produced income at the higher rate so prescribed, and
- (b) shall, if tax is chargeable by reference to the value of the remainder, be taken to be not more than it would be if the property produced income at the lower rate so prescribed;

but the value to be taken by virtue of paragraph (a) above as the value of part of a property shall not exceed the value of the whole of the property.

- (4) The power to make orders under subsection (3) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where the person referred to in section 49(1) above is not entitled to any income of the property but is entitled, jointly or in common with one or more other persons, to the use and enjoyment of the property, his interest shall be taken to subsist in such part of the property as corresponds to the proportion which the annual value of his interest bears to the aggregate of the annual values of his interest and that or those of the other or others.
- (6) Where, under section 43(3) above, a lease of property is to be treated as a settlement, the lessee's interest in the property shall be taken to subsist in the whole of the property less such part of it as corresponds to the proportion which the value of the lessor's interest (as determined under Part VI of this Act) bears to the value of the property.

51 Disposal of interest in possession

- (1) Where a person beneficially entitled to an interest in possession in settled property disposes of his interest the disposal—
 - (a) is not a transfer of value, but
 - (b) shall be treated for the purposes of this Chapter as the coming to an end of his interest;
 and tax shall be charged accordingly under section 52 below.
- (2) Where a disposition satisfying the conditions of section 11 above is a disposal of an interest in possession in settled property, the interest shall not by virtue of subsection (1) above be treated as coming to an end.
- (3) References in this section to any property or to an interest in any property include references to part of any property or interest

52 Charge on termination of interest in possession

- (1) Where at any time during the life of a person beneficially entitled to an interest in possession in settled property his interest comes to an end, tax shall be charged, subject to section 53 below, as if at that time he had made a transfer of value and the value transferred had been equal to the value of the property in which his interest subsisted.

- (2) If the interest comes to an end by being disposed of by the person beneficially entitled to it and the disposal is for a consideration in money or money's worth, tax shall be chargeable under this section as if the value of the property in which the interest subsisted were reduced by the amount of the consideration ; but in determining that amount the value of a reversionary interest in the property or of any interest in other property comprised in the same settlement shall be left out of account.
- (3) Where a transaction is made between the trustees of the settlement and a person who is, or is connected with,—
- (a) the person beneficially entitled to an interest in the property, or
 - (b) a person beneficially entitled to any other interest in that property or to any interest in any other property comprised in the settlement, or
 - (c) a person for whose benefit any of the settled property may be applied,
- and, as a result of the transaction, the value of the first-mentioned property is less than it would be but for the transaction, a corresponding part of the interest shall be deemed for the purposes of this section to come to an end, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.
- (4) References in this section or section 53 below to any property or to an interest in any property include references to part of any property or interest; and—
- (a) the tax chargeable under this section on the coming to an end of part of an interest shall be charged as if the value of the property (or part) in which the interest subsisted were a corresponding part of the whole; and
 - (b) if the value of the property (or part) to which or to an interest in which a person becomes entitled as mentioned in subsection (2) of section 53 below is less than the value on which tax would be chargeable apart from that subsection, tax shall be chargeable on a value equal to the difference.

53 Exceptions from charge under section 52

- (1) Tax shall not be chargeable under section 52 above if the settled property is excluded property.
- (2) Tax shall not be chargeable under section 52 above (except in the case mentioned in subsection (4)(b) of that section) if the person whose interest in the property comes to an end becomes on the same occasion beneficially entitled to the property or to another interest in possession in the property.
- (3) Tax shall not be chargeable under section 52 above if the interest comes to an end during the settlor's life and on the same occasion the property in which the interest subsisted reverts to the settlor.
- (4) Tax shall not be chargeable under section 52 above if on the occasion when the interest comes to an end—
- (a) the settlor's spouse, or
 - (b) where the settlor has died less than two years earlier, the settlor's widow or widower,
- becomes beneficially entitled to the settled property and is domiciled in the United Kingdom.
- (5) Subsections (3) and (4) above shall not apply in any case where—

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- (a) the settlor or the spouse (or in a case within subsection (4)(b), the widow or widower) of the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth, or
 - (b) their application depends upon a reversionary interest having been transferred into a settlement on or after 10th March 1981.
- (6) For the purposes of subsection (5) above a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that interest or of other property.
- (7) Where the acquisition of the interest was before 12th April 1978, subsection (5)(a) above shall have effect, so far as it relates to subsection (3) above, with the omission of the reference to the spouse of the settlor.
- (8) Subsection (6) above shall not apply where the person concerned became entitled to the interest before 12th April 1978.

54 Exceptions from charge on death

- (1) Where a person is entitled to an interest in possession in settled property which on his death, but during the settlor's life, reverts to the settlor, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.
- (2) Where on the death of a person entitled to an interest in possession in settled property—
- (a) the settlor's spouse, or
 - (b) if the settlor has died less than two years earlier, the settlor's widow or widower,
- becomes beneficially entitled to the settled property and is domiciled in the United Kingdom, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.
- (3) Subsections (5) and (6) of section 53 above shall apply in relation to subsections (1) and (2) above as they apply in relation to section 53(3) and (4).
- (4) 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.

55 Reversionary interest acquired by beneficiary

- (1) Notwithstanding section 5(1) above, where a person entitled to an interest (whether in possession or not) in any settled property acquires a reversionary interest expectant (whether immediately or not) on that interest, the reversionary interest is not part of his estate for the purposes of this Act.
- (2) Section 10(1) above shall not apply to a disposition by which a reversionary interest is acquired in the circumstances mentioned in subsection (1) above.

56 Exclusion of certain exemptions

- (1) Sections 18 and 23 to 27 above shall not apply in relation to property which is given in consideration of the transfer of a reversionary interest if, by virtue of section 55(1) above, that interest does not form part of the estate of the person acquiring it.
- (2) Where a person acquires a reversionary interest in any settled property for a consideration in money or money's worth, section 18 above shall not apply in relation to the property when it becomes the property of that person on the termination of the interest on which the reversionary interest is expectant
- (3) Sections 23 to 27 above shall not apply in relation to any property if—
 - (a) the property is an interest in possession in settled property and the settlement does not come to an end in relation to that settled property on the making of the transfer of value, or
 - (b) immediately before the time when it becomes the property of the exempt body it is comprised in a settlement and, at or before that time, an interest under the settlement is or has been acquired for a consideration in money or money's worth by that or another exempt body.
- (4) In subsection (3)(b) above " exempt body" means a charity, political party or other body within sections 23 to 26 above or the trustees of a settlement in relation to which a direction under paragraph 1 of Schedule 4 to this Act has effect; and for the purposes of subsection (3)(b) there shall be disregarded any acquisition from a charity, political party or body within sections 23 to 25.
- (5) For the purposes of subsections (2) and (3) above, a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition (whether to him or another) of that interest or of other property.
- (6) Nothing in this section shall apply to a transfer of value if or to the extent that it is a disposition whereby the use of money or other property is allowed by one person to another.
- (7) Subsection (2) above shall not apply where the acquisition of the reversionary interest was before 16th April 1976; and where the acquisition was on or after that date but before 12th April 1978 that subsection shall have effect—
 - (a) with the substitution for the words " section 18 above " of the words "sections 18 and 23 to 26 above ", and
 - (b) with the insertion after the word " person " in both places where it occurs of the words " or body ".
- (8) Subsection (3)(b) above shall not apply where the acquisition of the interest was before 12th April 1978 ; and subsection (5) above shall not apply where the person concerned became entitled to the interest before that date.

57 Application of certain exemptions

- (1) Subject to subsection (3) below, references to transfers of value in sections 19 and 22 above shall be construed as including references to events on the happening of which tax is chargeable under section 52 above, and references to the transferor and (in section 22(3) and (4)) to a disposition shall be construed accordingly.

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- (2) For the purposes of its application, by virtue of subsection (1) above, to the termination of interests in possession in settled property, section 22 above 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.
- (3) Subsection (1) above shall not apply to a transfer of value—
- (a) unless the transferor has in accordance with subsection (4) below given to the trustees of the settlement a notice Morning them of the availability of an exemption, and
 - (b) except to the extent specified in that notice.
- (4) A notice under subsection (3) 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.
- (5) Section 27 above shall apply where the value transferred by a transfer of value is attributable to property which immediately after the transfer remains comprised in a settlement as it applies where property becomes comprised in a settlement by virtue of the transfer.