



Inheritance Tax Act 1984

1984 CHAPTER 51

PART VI

VALUATION

CHAPTER II

ESTATE ON DEATH

171 Changes occurring on death.

- (1) In determining the value of a person's estate immediately before his death changes in the value of his estate which have occurred by reason of the death and fall within subsection (2) below shall be taken into account as if they had occurred before the death.
- (2) A change falls within this subsection if it is an addition to the property comprised in the estate or an increase or decrease of the value of any property so comprised, other than a decrease resulting from such an alteration as is mentioned in section 98(1) above; but the termination on the death of any interest or the passing of any interest by survivorship does not fall within this subsection.

172 Funeral expenses.

In determining the value of a person's estate immediately before his death, allowance shall be made for reasonable funeral expenses.

173 Expenses incurred abroad.

In determining the value of a person's estate immediately before his death, an allowance against the value of property situated outside the United Kingdom shall be made for any expense incurred in administering or realising the property which is

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shown to be attributable to the situation of the property, but the allowance shall not exceed 5 per cent of the value of the property.

174 Income tax and unpaid [^{F1}inheritance tax.]

- (1) In determining the value of a person's estate immediately before his death, allowance shall be made for—
- (a) any liability for income tax in respect of an offshore income gain, within the meaning of [^{F2}regulations [^{F3}under section 354(1) of the Taxation (International and Other Provisions) Act 2010], arising on a disposal which is deemed, under such regulations (see regulation 34 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)), to occur on the death]; and
 - (b) any liability to income tax arising under [^{F4}[^{F5}Chapter 8 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (deeply discounted securities)] on a transfer which is treated as taking place by virtue of [^{F6}section 437(2) of that Act].]
- (2) Where in determining the value of a person's estate immediately before his death a liability for [^{F1}inheritance tax] is taken into account, then, if that tax or any part of it is not in the event paid out of the estate, the value of the estate immediately before his death shall be treated as increased by an amount equal to that tax or so much of it as is not so paid.

Textual Amendments

- F1** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.
- F2** Words in s. 174(1)(a) substituted (1.12.2009 with effect as mentioned in reg. 1(2) of the amending S.I.) by [The Offshore Funds \(Tax\) Regulations 2009 \(S.I. 2009/3001\)](#), **reg. 125** (with [Sch. 1](#))
- F3** Words in s. 174(1)(a) substituted (1.4.2010 with effect as mentioned in s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\)](#), s. 374, **Sch. 8 para. 162** (with [Sch. 9 paras. 1-9, 22](#))
- F4** Words in s. 174(1)(b) substituted (29.4.1996 with effect as mentioned in s. 105, [Sch. 14 para. 2\(2\)](#) of the amending Act) by [1996 c. 8, s. 104](#), **Sch. 14 para. 2(1)**
- F5** Words in s. 174(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883, **Sch. 1 para. 396(a)** (with [Sch. 2](#))
- F6** Words in s. 174(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), ss. 882, 883, **Sch. 1 para. 396(b)** (with [Sch. 2](#))

175 Liability to make future payments, etc.

Where in determining the value of a person's estate immediately before his death a liability to make payments or transfer assets under such a disposition as is mentioned in section 262 below is taken into account, the liability shall be computed as if the amount or value of the payments or assets were reduced by the chargeable portion (as defined in that section).

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[^{F7}175A Discharge of liabilities after death

- (1) In determining the value of a person's estate immediately before death, a liability may be taken into account to the extent that—
 - (a) it is discharged on or after death, out of the estate or from excluded property owned by the person immediately before death, in money or money's worth, and
 - (b) it is not otherwise prevented, under any provision of this Act, from being taken into account.
- (2) Where the whole or any part of a liability is not discharged in accordance with paragraph (a) of subsection (1), the liability or (as the case may be) the part may only be taken into account for the purpose mentioned in that subsection to the extent that—
 - (a) there is a real commercial reason for the liability or the part not being discharged,
 - (b) securing a tax advantage is not the main purpose, or one of the main purposes, of leaving the liability or part undischarged, and
 - (c) the liability or the part is not otherwise prevented, under any provision of this Act, from being taken into account.
- (3) For the purposes of subsection (2)(a) there is a real commercial reason for a liability, or part of a liability, not being discharged where it is shown that—
 - (a) the liability is to a person dealing at arm's length, or
 - (b) if the liability were to a person dealing at arm's length, that person would not require the liability to be discharged.
- (4) Where, by virtue of this section, a liability is not taken into account in determining the value of a person's estate immediately before death, the liability is also not to be taken into account in determining the extent to which the estate of any spouse or civil partner of the person is increased for the purposes of section 18.
- (5) In subsection (2)(b) “tax advantage” means—
 - (a) a relief from tax or increased relief from tax,
 - (b) a repayment of tax or increased repayment of tax,
 - (c) the avoidance, reduction or delay of a charge to tax or an assessment to tax, or
 - (d) the avoidance of a possible assessment to tax or determination in respect of tax.
- (6) In subsection (5) “tax” includes income tax and capital gains tax.
- (7) Where the liability is discharged as mentioned in subsection (1)(a) only in part—
 - (a) any part of the liability that is attributable as mentioned in section 162A(1) or (5) is, so far as possible, taken to be discharged first,
 - ^{F8}(aa) [any part of the liability that is attributable as mentioned in section 162AA(1) is, so far as possible, taken to be discharged only after any part of the liability within paragraph (a) is discharged,]
 - (b) any part of the liability that is attributable as mentioned in section 162B(1) (b), (3)(b) or (5)(c) is, so far as possible, taken to be discharged only after any [^{F9}parts] of the liability within paragraph [^{F10}(a) or (aa) are] is discharged, and
 - (c) the liability so far as it is not attributable as mentioned in [^{F11}any of paragraphs (a) to (b)] is, so far as possible, taken to be discharged only after any parts of the liability within [^{F12}any] of those paragraphs are discharged.]

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Textual Amendments

- F7** S. 175A inserted (with effect in accordance with Sch. 36 para. 5 of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 36 para. 4](#)
- F8** S. 175A(7)(aa) inserted (with effect in accordance with Sch. 25 para. 3(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 3\(7\)\(a\)](#)
- F9** Word in s. 175A(7)(b) substituted (with effect in accordance with Sch. 25 para. 3(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 3\(7\)\(b\)\(i\)](#)
- F10** Words in s. 175A(7)(b) substituted (with effect in accordance with Sch. 25 para. 3(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 3\(7\)\(b\)\(ii\)](#)
- F11** Words in s. 175A(7)(c) substituted (with effect in accordance with Sch. 25 para. 3(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 3\(7\)\(c\)\(i\)](#)
- F12** Word in s. 175A(7)(c) substituted (with effect in accordance with Sch. 25 para. 3(8) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 3\(7\)\(c\)\(ii\)](#)

176 Related property etc.—sales.

- (1) This section has effect where, within three years after the death of any person, there is a qualifying sale of any property (“the property concerned”) comprised in his estate immediately before his death and valued for the purposes of this Act—
 - (a) in accordance with section 161 above, or
 - (b) in conjunction with property which was also comprised in the estate but has not at any time since the death been vested in the vendors.
- (2) If a claim is made for relief under this section the value of the property concerned immediately before the death shall be taken to be what it would have been if it had not been determined as mentioned in subsection (1) above.
- (3) For the purposes of subsection (1) above a sale is a qualifying sale if—
 - (a) the vendors are the persons in whom the property concerned vested immediately after the death or the deceased’s personal representatives; and
 - (b) it is at arm’s length for a price freely negotiated at the time of the sale and is not made in conjunction with a sale of any of the related property taken into account as mentioned in subsection (1)(a) above or any of the property mentioned in subsection (1)(b) above; and
 - (c) no person concerned as vendor (or as having an interest in the proceeds of sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase); and
 - (d) neither the vendors nor any other person having an interest in the proceeds of sale obtain in connection with the sale a right to acquire the property sold or any interest in or created out of it.
- (4) Subsection (2) above shall not apply unless the price obtained on the sale, with any adjustment needed to take account of any difference in circumstances at the date of the sale and at the date of the death, is less than the value which, apart from this section and apart from Chapter IV of this Part of this Act, would be the value of the property concerned determined as mentioned in subsection (1) above.
- (5) Where the property concerned consists of shares in or securities of a close company, subsection (2) above shall not apply if at any time between the death and the qualifying sale the value of the shares or securities is reduced by more than 5 per cent as a result

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of an alteration in the company's share or loan capital or in any rights attaching to shares in or securities of the company; and for the purposes of this subsection—

“alteration” includes extinguishment, and

“close company” has the same meaning as in Part IV of this Act.

177 Scottish agricultural leases.

- (1) 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 then, subject to subsection (3) below, there shall be left out of account in determining that value any value associated with any prospect of renewal of the lease by tacit relocation.
- (2) Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant of agricultural property in Scotland, being an interest which is—
 - (a) held by virtue of tacit relocation, and
 - (b) acquired on the death by a new tenant,then, subject to subsection (3) below, the value of the interest shall be left out of account in determining the value of that estate.
- (3) Subsections (1) and (2) above shall not apply unless the deceased had been tenant of the property in question continuously for a period of at least two years immediately preceding his death or had become tenant by succession.
- (4) The value to be left out of account by virtue of subsection (2) above shall not include the value of any rights to compensation in respect of tenant's improvements.

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