



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART VI

VALUATION

CHAPTER III

SALE OF SHARES ETC. FROM DECEASED'S ESTATE

178 Preliminary

(1) In this Chapter—

" the appropriate person ", in relation to any qualifying investments comprised in a person's estate immediately before his death, means the person liable for capital transfer tax attributable to the value of those investments or, if there is more than one such person, and one of them is in fact paying the tax, that person;

" the loss on sale " means the amount determined in accordance with section 179(1) below ;

" qualifying investments " means (subject to subsection (2) below) shares or securities which at the date of the death in question are quoted on a recognised stock exchange, holdings in a unit trust which at that date is an authorised unit trust (as defined in section 358 of the Taxes Act) and shares in any common investment fund established under section 1 of the Administration of Justice Act 1965 ;

" relevant proportion", in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under section 180 below;

" sale value ", in relation to any qualifying investments, means their value for the purposes of section 179(1)(b) below;

" value on death ", in relation to any qualifying investments, means their value for the purposes of section 179(1)(a) below.

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- (2) Shares or securities which are comprised in a person's estate immediately before his death and in respect of which quotation on a recognised stock exchange is suspended at that time shall be qualifying investments for the purposes of this Chapter if they are again quoted on a recognised stock exchange when they are sold as mentioned in section 179(1) below or exchanged as mentioned in section 184 below.
- (3) Any reference in this Chapter to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under section 179(1) below in determining the loss on sale.
- (4) For the purposes of this Chapter—
 - (a) the personal representatives of the deceased, and
 - (b) the trustees of a settlement,
 shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).
- (5) In any case where, for the purposes of this Chapter, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall be taken of expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.

179 The relief

- (1) On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this Chapter the amount (if any) by which—
 - (a) the aggregate of the values which, apart from this Chapter, would be the values for the purposes of tax of all the qualifying investments comprised in a person's estate immediately before his death which are sold by the appropriate person within the period of twelve months immediately following the date of the death exceeds
 - (b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale.
- (2) Subject to the following provisions of this Chapter, in determining the tax chargeable on the death in question, the value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.
- (3) A claim made by the appropriate person under this Chapter shall specify the capacity in which he makes the claim, and the reference in subsection (1) above to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

180 Effect of purchases

- (1) If a claim is made under this Chapter and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale made as mentioned in section 179(1)(a) above, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim, the loss on sale of the investments to which the claim relates shall be treated for the purposes of section 179(2) above as reduced by the proportion which the aggregate

of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in section 179(1)(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).

- (2) If a claim is made under this Chapter by any person in a capacity other than that of personal representative or trustee—
 - (a) subsection (1) above shall have effect in his case as if for the words " in the same capacity as that in which he makes the claim" there were substituted the words " otherwise than in the capacity of personal representative or trustee ", and
 - (b) no account shall be taken under that subsection of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.
- (3) For the purposes of subsection (2) above, two investments, not being investments in an authorised unit trust or common investment fund, shall not be treated as of the same description if they are separately quoted on a recognised stock exchange, and an investment in one authorised unit trust or common investment fund shall not be treated as of the same description as an investment in another authorised unit trust or common investment fund.

181 Capital receipts

- (1) For the purposes of section 179(1)(b) above, if—
 - (a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments comprised in the deceased's estate immediately before his death, and
 - (b) those investments are sold by him within that period,
the price for which those investments were sold or, as the case may be, the best consideration referred to in section 179(1)(b) shall be taken to be increased by an amount equal to the capital payment or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.
- (2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this section as a capital payment attributable to those investments.
- (3) In this section " capital payment", in relation to any investment, does not include the price paid on the sale of the investment but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

182 Payment of calls

For the purposes of section 179(1)(a) above, if—

- (a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person pays an amount in pursuance of a call in respect of any qualifying

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investments comprised in the deceased's estate immediately before his death,
and

(b) those investments are sold by the appropriate person within that period,
the value on death of those investments shall be the aggregate of the amount so paid
and their value as determined apart from this Chapter.

183 Changes in holdings

(1) This section applies in any case where, within the period of twelve months immediately following the date of the death in question, there occurs in relation to any qualifying investments comprised in the deceased's estate immediately before his death (in this section referred to as " the original holding ") a transaction to which section 78 of the Capital Gains Tax Act 1979 applies, that is to say—

- (a) a reorganisation, within the meaning of section 77(1) of that Act; or
- (b) the conversion of securities within the meaning of section 82 of that Act; or
- (c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that section 85 of that Act applies; or
- (d) the issue by a company of shares or debentures under such an arrangement as is referred to in section 86 of that Act;

or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which section 78 of that Act applies by virtue of section 93 of that Act.

(2) Where this section applies, the holding of investments which, as the result of the transaction, constitutes a new holding within the meaning of section 77(1) of the Capital Gains Tax Act 1979 shall be treated for the purposes of this Chapter as being the same as the original holding; and references in the following provisions of this section to the new holding shall be construed accordingly.

(3) If the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of subsection (5) below, the value on death of the new holding shall be treated as the aggregate of—

- (a) the value on death of the original holding, and
- (b) an amount equal to that consideration,

and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.

(4) For the purposes of subsection (3) above, there shall not be treated as consideration given for the new holding or any part of it—

- (a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
- (b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

(5) If, within the period referred to in subsection (1) above, the appropriate person sells any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{V_s(H - S)}{(V_s + V_r)}$$

where—

V_s is the sale value of the investments,

V_r is the market value at the time of the sale of any investments remaining in the new holding after the sale,

H is the value on death of the new holding, and

S is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

- (6) For the purposes of subsection (5) above the market value of any investments at any time means the value which they would (apart from this Chapter) have for the purposes of this Act if they were comprised in the estate of a person who died at that time.

184 Exchanges

(1) If—

- (a) within the period of twelve months immediately following the date of the death in question, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments comprised in the deceased's estate immediately before his death, and
- (b) the market value of those investments is at the date of the exchange greater than their value on death,

then, regardless of the nature of the property taken in exchange, they shall be treated for the purposes of this Chapter as having been sold at the date of the exchange for a price equal to that market value.

- (2) This section shall not apply in any case where the exchange falls within section 183(1) above; and section 183(6) shall apply for the purposes of subsection (1) above as it applies for the purposes of section 183(5).

185 Acquisition of like investments

(1) If, at any time within the period of twelve months immediately following the date of the death in question, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—

- (a) investments comprised in the deceased's estate immediately before his death, and
- (b) investments acquired by the appropriate person, by purchase or otherwise, after the death but not in the circumstances in which section 183 above applies,

the investments so sold shall be apportioned for the purposes of this Chapter between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.

- (2) For the purposes of this section, if the appropriate person holds investments of any description in the capacity of personal representative or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.

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- (3) Section 180(3) above shall have effect for the purposes of this section as it has effect for the purposes of section 180(2).

186 Value of part of a fund

- (1) In any case where—
- (a) part only of a holding of qualifying investments is comprised in a person's estate, and
 - (b) investments included in that holding are sold by the appropriate person within the period of twelve months immediately following the date of the death,
- this Chapter shall apply as if the entirety of the holding were comprised in the estate and, if a claim is made in respect of the investments referred to in paragraph (b) above, the taxable fraction of the value of the investments to which the claim relates, as determined under this Chapter, shall be the value of that part of those investments which is comprised in the estate.
- (2) In subsection (1) above, "taxable fraction" means the fraction of which the numerator is the value, as determined apart from this Chapter, of the part of the holding referred to in paragraph (a) of that subsection and the denominator is the value, as so determined, of the entirety of that holding.

187 Attribution of values to specific investments

- (1) This section shall have effect in determining the value for the purposes of this Act (and, accordingly, the market value for the purposes of capital gains tax under section 153 of the Capital Gains Tax Act 1979) of any investment (in this section referred to as a "specific investment") which is included among the investments to which a claim relates.
- (2) Subject to the following provisions of this section, the value of a specific investment shall be its sale value.
- (3) Subject to the following provisions of this section, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by section 180 above—
- (a) if the value on death of a specific investment exceeds its sale price, the value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death ; and
 - (b) if the sale price of a specific investment exceeds its value on death, the value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.
- (4) For the purposes of subsections (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in section 182 above, shall be reduced by the amount so paid in respect of that investment.
- (5) In a case where, by virtue of subsection (3) of section 183 above, the value on death of the new holding, within the meaning of that section, includes an amount equal to the consideration referred to in that subsection, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of subsections (2) and (3) above, by an amount which bears to that consideration the like proportion as

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the value on death of the specific investment sold bears to the value on death of the whole of the new holding.

- (6) In subsection (3) above " sale price", in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale; and section 181 above shall apply for the purposes of this subsection as it applies for the purposes of section 179(1)(b).

188 Limitation of loss on sale

In any case where, apart from this section, the loss on sale of any investments—

- (a) in respect of which an amount has been paid in pursuance of a call as mentioned in section 182 above, or
- (b) which are sold as mentioned in section 183(5) above,

would exceed their value as determined apart from this Chapter, their sale value shall be treated for the purposes of sections 179(2) and 187 above as being of such an amount that the loss on sale would be equal to their value as so determined.

189 Date of sale or purchase

- (1) Subject to subsection (2) below, for the purposes of this Chapter where any investments are sold or purchased by the appropriate person the date on which they are sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase them.
- (2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of this Chapter, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.