

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Finance (No. 2) Act 1987, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 96.

INHERITANCE TAX: INTERESTS IN POSSESSION

1 After section 54 of the ^{M1}Inheritance Tax Act 1984 (in this Schedule referred to as “the 1984 Act”) there shall be inserted the following sections—

“54A Special rate of charge where settled property affected by potentially exempt transfer.

(1) If the circumstances fall within subsection (2) below, this section applies to any chargeable transfer made—

- (a) under section 52 above, on the coming to an end of an interest in possession in settled property during the life of the person beneficially entitled to it, or
- (b) on the death of a person beneficially entitled to an interest in possession in settled property;

and in the following provisions of this section the interest in possession mentioned in paragraph (a) or paragraph (b) above is referred to as “the relevant interest”.

(2) The circumstances referred to in subsection (1) above are—

- (a) that the whole or part of the value transferred by the transfer is attributable to property in which the relevant interest subsisted and which became settled property in which there subsisted an interest in possession (whether the relevant interest or any previous interest) on the making by the settlor of a potentially exempt transfer at any time on or after 17th March 1987 and within the period of seven years ending with the date of the chargeable transfer; and
- (b) that the settlor is alive at the time when the relevant interest comes to an end; and
- (c) that, on the coming to an end of the relevant interest, any of the property in which that interest subsisted becomes settled property in which no qualifying interest in possession (as defined in section 59 below) subsists, other than property to which section 71 below applies; and
- (d) that, within six months of the coming to an end of the relevant interest, any of the property in which that interest subsisted has neither—
 - (i) become settled property in which a qualifying interest in possession subsists or to which section 71 below applies, nor
 - (ii) become property to which an individual is beneficially entitled.

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- (3) In the following provisions of this section “the special rate property”, in relation to a chargeable transfer to which this section applies, means the property in which the relevant interest subsisted or, in a case where—
- (a) any part of that property does not fall within subsection (2)(a) above, or
 - (b) any part of that property does not become settled property of the kind mentioned in subsection (2)(c) above,
- so much of that property as appears to the Board or, on appeal, to the Special Commissioners to be just and reasonable.
- (4) Where this section applies to a chargeable transfer (in this section referred to as “the relevant transfer”), the tax chargeable on the value transferred by the transfer shall be whichever is the greater of the tax that would have been chargeable apart from this section and the tax determined in accordance with subsection (5) below.
- (5) The tax determined in accordance with this subsection is the aggregate of—
- (a) the tax that would be chargeable on a chargeable transfer of the description specified in subsection (6) below, and
 - (b) so much (if any) of the tax that would, apart from this section, have been chargeable on the value transferred by the relevant transfer as is attributable to the value of property other than the special rate property.
- (6) The chargeable transfer postulated in subsection (5)(a) above is one—
- (a) the value transferred by which is equal to the value transferred by the relevant transfer or, where only part of that value is attributable to the special rate property, that part of that value;
 - (b) which is made at the time of the relevant transfer by a transferor who has in the preceding seven years made chargeable transfers having an aggregate value equal to the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of seven years ending with the date of the potentially exempt transfer; and
 - (c) for which the applicable rate or rates are one-half of the rate or rates referred to in section 7(1) above.
- (7) This section has effect subject to section 54B below.

54B Provisions supplementary to section 54A.

- (1) The death of the settlor, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax determined in accordance with subsection (5) of that section is greater than the tax that would be chargeable apart from that section.
- (2) The death of the person who was beneficially entitled to the relevant interest, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax that would be chargeable apart from that section is greater than the tax determined in accordance with subsection (5) of that section.

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- (3) Where the tax chargeable on the value transferred by a chargeable transfer to which section 54A above applies falls to be determined in accordance with subsection (5) of that section, the amount referred to in paragraph (a) of that subsection shall be treated for the purposes of this Act as tax attributable to the value of the property in which the relevant interest subsisted.
- (4) Subsection (5) below shall apply if—
- (a) during the period of seven years preceding the date on which a chargeable transfer to which section 54A above applies (“the current transfer”) is made, there has been another chargeable transfer to which that section applied, and
 - (b) the person who is for the purposes of the current transfer the settlor mentioned in subsection (2)(a) of that section is the settlor for the purposes of the other transfer (whether or not the settlements are the same);
- and in subsections (5) and (6) below the other transfer is referred to as the “previous transfer”.
- (5) Where this subsection applies, the appropriate amount in relation to the previous transfer (or, if there has been more than one previous transfer, the aggregate of the appropriate amounts in relation to each) shall, for the purposes of calculating the tax chargeable on the current transfer, be taken to be the value transferred by a chargeable transfer made by the settlor immediately before the potentially exempt transfer was made.
- (6) In subsection (5) above “the appropriate amount”, in relation to a previous transfer, means so much of the value transferred by the previous transfer as was attributable to the value of property which was the special rate property in relation to that transfer.
- (7) In this section—
- “the relevant interest” has the meaning given by subsection (1) of section 54A above; and
 - “the special rate property” has the meaning given by subsection (3) of that section.”.

Marginal Citations

M1 1984 c. 51.

- 2 In section 56 of the 1984 Act (exclusion of certain exemptions) in subsection (5) after the word “disposition” there shall be inserted “for such consideration”.
- 3 (1) Section 201 of the 1984 Act (liability for tax relating to settled property) shall be amended as follows.
- (2) In subsection (2) after the word “death” there shall be inserted “but is not a potentially exempt transfer”.
 - (3) After subsection (3) there shall be inserted the following subsection—
 - “(3A) Subsection (1)(d) above shall not apply in relation to the tax chargeable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer in a case where the settlement was made before 17th

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March 1987 if the trustees were resident in the United Kingdom when the settlement was made, but have not been resident there at any time between 16th March 1987 and the death of the transferor.”

- 4 (1) Section 216 of the 1984 Act (delivery of accounts) shall be amended as follows.
- (2) In subsection (1) after paragraph (bc) there shall be inserted the following paragraph—
- “(bd) is liable under section 201(1)(b), (c) or (d) above for tax on the value transferred by a potentially exempt transfer which is made under section 52 above and which proves to be a chargeable transfer, or would be so liable if tax were chargeable on that value, or”
- (3) In subsection (6)(aa) of that section after the words “subsection (1)(bb)” there shall be inserted “or (bd)”.
- 5 In section 265 of the 1984 Act (chargeable transfers affecting more than one property) after the words “subject to” there shall be inserted “section 54B(3) above and to”.

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