

FINANCE ACT 2012

EXPLANATORY NOTES

INTRODUCTION

Section 209 Schedule 33: Gifts to Charities Etc

Details of the Schedule

Consequential amendments

14. Paragraph 2 of the Schedule provides for consequential amendment to IHTA as a result of new Schedule 1A.
15. [Paragraph 3](#) amends the cross reference in section 7 of IHTA (which specifies the rates of tax charged) to take into account the new Schedule 1A.
16. [Paragraph 4](#) inserts a new subsection (2ZA) in section 33 of IHTA to provide that new Schedule 1A is disregarded when considering the rate of tax to be applied to a charge under section 32 or 32A (where conditional exemption no longer applies). The effect of the amendment is that the lower rate of IHT would not apply to any deferred tax even if the 10 per cent test was satisfied originally.
17. [Paragraph 5](#) correspondingly amends subsection (3) of section 78 of IHTA (conditionally exempt occasions involving settled property) by inserting a cross reference to the new subsection (2ZA) and subsection (2A) in section 33. The effect of the amendment is to ensure that new Schedule 1A is disregarded and the appropriate rate of tax is charged when the charge arises under section 78.
18. [Paragraph 6](#) inserts a new subsection (2) in section 128 of IHTA which similarly provides that new Schedule 1A is disregarded when considering the rate of charge under section 128 (where woodlands relief no longer applies). The effect of the amendment is that the lower rate of tax would not apply to the deferred tax, even if the 10 per cent test was satisfied originally.
19. [Paragraph 7](#) inserts a new section 141A of IHTA which specifies how the relief under section 141 of IHTA (relief for successive charges) should be applied where the later transfer, or part of it, qualifies for the lower rate of IHT.
 - New subsection 141A(1) provides that the section applies where the later transfer, or part of it, qualifies for the lower rate.
 - New subsection 141A(2) provides that the relief is to be apportioned between the components of the estate as set out in the section.
 - New subsection 141A(3) provides that where a component of the estate qualifies for the lower rate, the relief due under section 141(3) that is attributable to that component is to be calculated by reference to new subsection (4).
 - New subsection 141A(4) provides that the relief due to the estate as a whole must be divided between the components by reference to tax that is payable by each component (rather than by reference to the capital value of the components as would otherwise be the case).

*These notes refer to the Finance Act 2012 (c.14)
which received Royal Assent on 17 July 2012*

- New subsection 141A(5) provides for merged components to be treated as one component for the purposes of this calculation.
 - New subsection 141A(6) provides that any relief not applied against components that qualify for the lower rate is to be applied against components that do not qualify for the lower rate.
 - New subsection 141A(7) provides interpretation.
20. [Paragraph 8](#) inserts a new paragraph 14(2A) into IHTA. The new sub-paragraph provides that, when the settlor is dead, new Schedule 1A is disregarded in calculating the “second rate” of tax to be applied to a charge under paragraph 8 of Schedule 4. (A paragraph 8 charge arises where the favourable IHT treatment of property, under a maintenance fund direction under paragraph 1 of Schedule 4, ceases to apply). The effect of the amendment is that the lower rate of IHT would not apply to any tax now chargeable even if the 10 per cent test was satisfied originally.
21. [Paragraph 9](#) inserts new subsections 142(3A) and (3B) into IHTA (alteration of dispositions taking effect on death). The effect of the amendment is that where property is redirected to a charity or registered club by means of an Instrument of Variation (IoV) the variation is not to be treated as being made by the deceased unless the persons executing the IoV show that the ‘appropriate person’ (charity, registered club or, if the property is held on trust, trustees) has been notified of the IoV. This applies whether or not the redirection is sufficient for any part of the estate to qualify for the reduced rate.
22. [Paragraph 10](#) applies the new provisions in Schedule 1A and the consequential amendments to IHTA to deaths on or after 6 April 2012.