



Finance Act 2012

2012 CHAPTER 14

PART 8

OTHER TAXES

Inheritance tax

210 Settled property: effect of certain arrangements

- (1) IHTA 1984 is amended as follows.
- (2) In section 48 (settled property: excluded property)—
 - (a) in subsection (1), after paragraph (c) insert “or,
 - (d) in a case where paragraphs (a), (b) and (d) of section 74A(1) are satisfied—
 - (i) it is a reversionary interest, in the relevant settled property, to which the individual is beneficially entitled, and
 - (ii) the individual has or is able to acquire (directly or indirectly) another interest in that relevant settled property.

Terms used in paragraph (d) have the same meaning as in section 74A.”

- (b) in subsection (3), for “subsection (3B)” substitute “subsections (3B) and (3D)”, and
 - (c) after subsection (3C) insert—

“(3D) Where paragraphs (a) to (d) of section 74A(1) are satisfied, subsection (3)(a) above does not apply at the time they are first satisfied or any later time to make the relevant settled property (within the meaning of section 74A) excluded property.”
- (3) After section 74 insert—

Status: This is the original version (as it was originally enacted).

“74A Arrangements involving acquisition of interest in settled property etc

- (1) This section applies where—
 - (a) one or more persons enter into arrangements,
 - (b) in the course of the arrangements—
 - (i) an individual (“the individual”) domiciled in the United Kingdom acquires or becomes able to acquire (directly or indirectly) an interest in property comprised in a settlement (“the relevant settled property”), and
 - (ii) consideration in money or money’s worth is given by one or more of the persons mentioned in paragraph (a) (whether or not in connection with the acquisition of that interest or the individual becoming able to acquire it),
 - (c) there is a relevant reduction in the value of the individual’s estate, and
 - (d) condition A or condition B is met.
- (2) Condition A is that—
 - (a) the settlor was not domiciled in the United Kingdom at the time the settlement was made, and
 - (b) the relevant settled property is situated outside the United Kingdom at any time during the course of the arrangements.
- (3) Condition B is that—
 - (a) the settlor was not an individual or a close company at the time the settlement was made, and
 - (b) condition A is not met.
- (4) Subsection (6) applies if all or a part of a relevant reduction (“amount A”) is attributable to the value of the individual’s section 49(1) property being less than it would have been in the absence of the arrangements.
- (5) “The individual’s section 49(1) property” means settled property to which the individual is treated as beneficially entitled under section 49(1) by reason of the individual being beneficially entitled to an interest in possession in the property.
- (6) Where this subsection applies—
 - (a) a part of that interest in possession is deemed, for the purposes of section 52, to come to an end at the relevant time, and
 - (b) that section applies in relation to the coming to an end of that part as if the reference in subsection (4)(a) of that section to a corresponding part of the whole value of the property in which the interest in possession subsists were a reference to amount A.
- (7) Subsection (8) applies to so much (if any) of a relevant reduction as is not amount A (“amount B”).
- (8) Tax is to be charged as if the individual had made a transfer of value at the relevant time and the value transferred by it had been equal to amount B.

74B Section 74A: supplementary provision

- (1) A transfer of value arising by virtue of section 74A is to be taken to be a transfer which is not a potentially exempt transfer.
- (2) For the purposes of section 74A—
 - (a) when determining the value transferred by a transfer of value arising by virtue of that section, no account is to be taken of section 3(2),
 - (b) nothing in section 10(1) applies to prevent such a transfer, and
 - (c) nothing in sections 102 to 102C of the Finance Act 1986 applies in relation to such a transfer.
- (3) Where, ignoring this subsection, a transfer of value would arise by virtue of section 74A (“the current transfer”), the value transferred by a relevant related transfer is to be treated as reducing the value transferred by the current transfer.

But this subsection does not apply if and to the extent that the relevant related transfer has already been applied to reduce another transfer of value arising by virtue of that section.

- (4) “Relevant related transfer” means—
 - (a) where the arrangements consist of a series of operations, any transfer of value constituted by one or more of those operations which occur before or at the same time as the current transfer, other than a transfer of value arising by virtue of section 74A, and
 - (b) where the arrangements consist of a single operation, any transfer of value which arises from that operation, other than a transfer of value arising by virtue of section 74A.
- (5) Section 268(3) does not apply to a transfer of value arising by virtue of section 74A.
- (6) Where—
 - (a) a transfer of value has arisen by virtue of section 74A,
 - (b) in the course of the arrangements the individual acquires an interest in possession in settled property, and
 - (c) section 5(1B) applies to the interest in possession so that it forms part of the individual’s estate,this Act has effect as if that transfer of value had never arisen.

74C Interpretation of sections 74A and 74B

- (1) Subsections (2) to (4) have effect for the purposes of sections 74A and 74B.
- (2) An individual has an interest in property comprised in a settlement if—
 - (a) the property, or any derived property, is or will or may become payable to, or applicable for the benefit of—
 - (i) the individual,
 - (ii) the individual’s spouse or civil partner, or
 - (iii) a close company in relation to which the individual or the individual’s spouse or civil partner is a participator or a company which is a 51% subsidiary of such a close company,

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- in any circumstances whatsoever, or
- (b) a person within sub-paragraph (i), (ii) or (iii) of paragraph (a) enjoys a benefit deriving (directly or indirectly) from the property or any derived property.
- (3) A “relevant reduction” in the value of the individual’s estate occurs—
- (a) if and when the value of the individual’s estate first becomes less than it would have been in the absence of the arrangements, and
- (b) on each subsequent occasion when the value of that estate becomes less than it would have been in the absence of the arrangements and that difference in value is greater than the sum of any previous relevant reductions.
- (4) The amount of a relevant reduction is—
- (a) in the case of a reduction within subsection (3)(a), the difference between the value of the estate and its value in the absence of the arrangements, and
- (b) in the case of a reduction within subsection (3)(b), the amount by which the difference in value mentioned in that provision exceeds the sum of any previous relevant reductions.
- (5) In sections 74A and 74B and this section—
- “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations;
- “close company” has the meaning given in section 102;
- “derived property”, in relation to any property, means—
- (a) income from that property,
- (b) property directly or indirectly representing—
- (i) proceeds of that property, or
- (ii) proceeds of income from that property, or
- (c) income from property which is derived property by virtue of paragraph (b);
- “operation” includes an omission;
- “participator” has the meaning given in section 102;
- “the relevant time” means—
- (a) the time the relevant reduction occurs, or
- (b) if later, the time section 74A first applied;
- “51% subsidiary” has the same meaning as in the Corporation Tax Acts (see Chapter 3 of Part 24 of the Corporation Tax Act 2010).”
- (4) In section 201 (liability for tax: settled property), after subsection (4) insert—
- “(4A) Where—
- (a) a charge to tax arises under or by virtue of section 74A, or
- (b) in a case where paragraphs (a) to (d) of section 74A are satisfied, a charge to tax arises under section 64 or 65 in respect of the relevant settled property (within the meaning of section 74A),
- subsection (1) of this section has effect as if the persons listed in that subsection included the individual mentioned in section 74A(1)(b)(i).”

- (5) The amendments made by this section are treated as having come into force on 20 June 2012 and have effect in relation to arrangements entered into on or after that day.