



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 2

#### INHERITANCE TAX

##### *Settlements*

#### **11 Calculation of rate of inheritance tax on settled property**

Schedule 1 contains provision about calculating the rate at which inheritance tax is charged under Chapter 3 of Part 3 of IHTA 1984.

#### **12 Exemption from ten-yearly charge for heritage property**

(1) Section 79 of IHTA 1984 (exemption from ten-yearly charge) is amended as follows.

(2) In subsection (3)—

- (a) for “then, if” substitute “ subsection (3A) below applies if ”,
- (b) in paragraph (a), for “has, on a claim made for the purpose, been” substitute “ is, on a claim made for the purpose, ”,
- (c) after that paragraph insert—
  - “(aa) that claim is made during the period beginning with the date of a ten-year anniversary of the settlement (“the relevant ten-year anniversary”) and ending—
    - (i) two years after that date, or
    - (ii) on such later date as the Board may allow,”
- (d) in paragraph (b)—
  - (i) for “that section has been given” substitute “ section 31 is given ”, and
  - (ii) for “have been given” substitute “ are given ”, and
- (e) omit the words from “section 64” to the end.

(3) After that subsection insert—

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- “(3A) Tax is not chargeable under section 64 above in relation to the property by reference to the relevant ten-year anniversary concerned or any subsequent ten-year anniversaries; but on the first occurrence of an event which, if there had been a conditionally exempt transfer of the property immediately before that relevant ten-year anniversary, would be a chargeable event with respect to the property—
- (a) there is a charge to tax under this subsection, and
  - (b) on any ten-year anniversary falling after that event, tax is chargeable under section 64 above in relation to the property.”
- (4) In subsection (4), for the words from “subsection (3)” to “mentioned” substitute “ subsection (3A) above in respect of property if, after the occasion mentioned in subsection (3) above and before the occurrence mentioned in subsection (3A) ”.
- (5) In subsections (5), (5A), (6), (8)(a) and (9A)(a) for “subsection (3)” substitute “ subsection (3A) ”.
- (6) In subsection (7A), in paragraph (c), for the words from “day” to “section” substitute “ relevant ten-year anniversary ”.
- (7) In subsection (8)—
- (a) in paragraph (a), for the words from “on the first” to the end substitute “ by reference to the relevant ten-year anniversary of the settlement ”, and
  - (b) in paragraph (c), omit “, and the claim was made and the undertaking was given.”.
- (8) Accordingly, in that Act—
- (a) in section 207 (liability: conditional exemption), in subsection (3), for “section 79(3)” substitute “ section 79(3A) ”,
  - (b) in section 233 (interest on unpaid tax), in subsection (1)(c), for “79(3)” substitute “ 79(3A) ”,
  - (c) in section 237 (imposition of charge), in subsection (3B)(a), for “or 79(3)” substitute “ or 79(3A) ”, and
  - (d) in Schedule 4 (maintenance funds for historic buildings), in paragraph 3(2)(c), for “or 79(3)” substitute “ or 79(3A) ”.
- (9) The amendments made by this section have effect in relation to occasions on which tax would (ignoring the effect of the amendments) fall to be charged under section 64 of IHTA 1984 on or after the day on which this Act is passed.

### **13 Settlements with initial interest in possession**

- (1) In section 80 of IHTA 1984 (initial interest of settlor or spouse or civil partner), for “an interest in possession”, in each place it appears, substitute “ a qualifying interest in possession ”.
- (2) The amendments made by this section come into force on the day after the day on which this Act is passed subject to the saving provision in subsections (3) to (7).
- (3) Subsections (4) to (7) apply where—
  - (a) the occasion first referred to in subsection (1) of section 80 of IHTA 1984 occurred before 22 March 2006,

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- (b) on that occasion the settlor, or the settlor's spouse or civil partner, became beneficially entitled to an interest in possession in property which, as a result of that subsection, was treated as not becoming comprised in a settlement for the purposes of Chapter 3 of Part 3 of IHTA 1984 on that occasion, and
  - (c) at all times in the relevant period that property, or some particular part of it, has been property in which the settlor, or the settlor's spouse or civil partner, has been beneficially entitled to an interest in possession,
- and in subsections (4) to (7) “the protected property” means that property or, as the case may be, that particular part of it.
- (4) The amendments made by subsection (1) do not have effect in relation to any particular part of the protected property for so long as the subsisting interest in possession continues to subsist in that part (but see subsections (5) and (6) for what happens afterwards).
  - (5) As from immediately before the time when the subsisting interest in possession comes to an end so far as subsisting in any particular part of the protected property (whether or not it also comes to an end at the same time so far as subsisting in some or all of the rest of the protected property), section 80(1) of IHTA 1984 has effect in relation to that part as if the second appearance of “an interest in possession” were “a qualifying interest in possession”.
  - (6) If (ignoring this subsection), subsection (5) would have the consequence that a particular part of the protected property is treated as becoming comprised in a separate settlement at a time earlier than the time at which the subsisting interest in possession comes to an end so far as subsisting in that part, that part is to be treated as becoming comprised in a separate settlement at that later time.
  - (7) In this section—
    - (a) “the relevant period” means the period beginning with the occasion first mentioned in section 80(1) of IHTA 1984 and ending with the day on which this Act is passed,
    - (b) “qualifying interest in possession” has the same meaning as in section 80(1) of IHTA 1984,
    - (c) “subsisting interest in possession”, in relation to a part of the protected property, means the interest in possession which subsisted in that part immediately before the end of the relevant period, and
    - (d) the reference in subsection (3)(c) to the spouse or civil partner of a settlor includes a reference to the widow or widower or surviving civil partner of the settlor.

#### **14 Distributions etc from property settled by will**

- (1) In section 144 of IHTA 1984 (distributions etc from property settled by will), in subsection (1)(b), after “section” insert “ 65(4), ”.
- (2) The amendment made by this section has effect in cases where the testator's death occurs on or after 10 December 2014.

**Changes to legislation:**

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