



# Finance (No. 2) Act 2015

## 2015 CHAPTER 33

### PART 2

#### INHERITANCE TAX

##### *Rate bands*

#### **9 Increased nil-rate band where home inherited by descendants**

- (1) IHTA 1984 is amended as follows.
- (2) In section 7(1) (rates at which inheritance tax charged on the value transferred by a chargeable transfer) after “Subject to subsections (2), (4) and (5) below and to” insert “section 8D and”.
- (3) In section 8A(2) (test for whether person has unused nil-rate band on death), in the definition of M (maximum amount transferable at 0%), after “were sufficient but” insert “that the maximum amount chargeable at nil per cent. under section 8D(2) is equal to the person’s residence nil-rate amount and”.
- (4) After section 8C insert—

##### **“8D Extra nil-rate band on death if interest in home goes to descendants etc**

- (1) Subsections (2) and (3) apply for the purpose of calculating the amount of the charge to tax under section 4 on a person’s death if the person dies on or after 6 April 2017.
- (2) If the person’s residence nil-rate amount is greater than nil, the portion of VT that does not exceed the person’s residence nil-rate amount is charged at the rate of 0%.

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- (3) References in section 7(1) to the value transferred by the chargeable transfer under section 4 on the person's death are to be read as references to the remainder (if any) of VT.
- (4) The person's residence nil-rate amount is calculated in accordance with sections 8E to 8G.
- (5) For the purposes of those sections and this section—
- (a) the “residential enhancement” is—
    - (i) £100,000 for the tax year 2017-18,
    - (ii) £125,000 for the tax year 2018-19,
    - (iii) £150,000 for the tax year 2019-20, and
    - (iv) £175,000 for the tax year 2020-21 and subsequent tax years,
 but this is subject to subsections (6) and (7),
  - (b) the “taper threshold” is £2,000,000 for the tax year 2017-18 and subsequent tax years, but this is subject to subsections (6) and (7),
  - (c) TT is the taper threshold at the person's death,
  - (d) E is the value of the person's estate immediately before the person's death,
  - (e) VT is the value transferred by the chargeable transfer under section 4 on the person's death,
  - (f) the person's “default allowance” is the total of—
    - (i) the residential enhancement at the person's death, and
    - (ii) the person's brought-forward allowance (see section 8G), and
  - (g) the person's “adjusted allowance” is—
    - (i) the person's default allowance, less
    - (ii) the amount given by—
 
$$\frac{E - TT}{2}$$
 but is nil if that amount is greater than the person's default allowance.
- (6) Subsection (7) applies if—
- (a) the consumer prices index for the month of September in any tax year (“the prior tax year”) is higher than it was for the previous September, and
  - (b) the prior tax year is the tax year 2020-21 or a later tax year.
- (7) Unless Parliament otherwise determines, the amount of each of—
- (a) the residential enhancement for the tax year following the prior tax year, and
  - (b) the taper threshold for that following tax year,
- is its amount for the prior tax year increased by the same percentage as the percentage increase in the index and, if the result is not a multiple of £1,000, rounded up to the nearest amount which is such a multiple.
- (8) The Treasury must before 6 April 2021 and each subsequent 6 April make an order specifying the amounts that in accordance with subsections (6) and (7) are the residential enhancement and taper threshold for the tax year beginning on that date; and any such order is to be made by statutory instrument.

(9) In this section—

“tax year” means a year beginning on 6 April and ending on the following 5 April, and

“the tax year 2017-18” means the tax year beginning on 6 April 2017 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).

### **8E Residence nil-rate amount: interest in home goes to descendants etc**

(1) Subsections (2) to (7) apply if—

- (a) the person’s estate immediately before the person’s death includes a qualifying residential interest, and
- (b)  $N\%$  of the interest is closely inherited, where  $N$  is a number—
  - (i) greater than 0, and
  - (ii) less than or equal to 100,

and in those subsections “ $NV/100$ ” means  $N\%$  of so much (if any) of the value transferred by the transfer of value under section 4 as is attributable to the interest.

(2) Where—

- (a)  $E$  is less than or equal to  $TT$ , and
- (b)  $NV/100$  is less than the person’s default allowance,

the person’s residence nil-rate amount is equal to  $NV/100$  and an amount, equal to the difference between  $NV/100$  and the person’s default allowance, is available for carry-forward.

(3) Where—

- (a)  $E$  is less than or equal to  $TT$ , and
- (b)  $NV/100$  is greater than or equal to the person’s default allowance,

the person’s residence nil-rate amount is equal to the person’s default allowance (and no amount is available for carry-forward).

(4) Where—

- (a)  $E$  is greater than  $TT$ , and
- (b)  $NV/100$  is less than the person’s adjusted allowance,

the person’s residence nil-rate amount is equal to  $NV/100$  and an amount, equal to the difference between  $NV/100$  and the person’s adjusted allowance, is available for carry-forward.

(5) Where—

- (a)  $E$  is greater than  $TT$ , and
- (b)  $NV/100$  is greater than or equal to the person’s adjusted allowance,

the person’s residence nil-rate amount is equal to the person’s adjusted allowance (and no amount is available for carry-forward).

(6) Subsections (2) to (5) have effect subject to subsection (7).

(7) Where the person’s residence nil-rate amount as calculated under subsections (2) to (5) without applying this subsection is greater than  $VT$ —

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- (a) subsections (2) to (5) have effect as if each reference in them to NV/100 were a reference to VT,
- (b) each of subsections (3) and (5) has effect as if it provided that the person's residence nil-rate amount were equal to VT (rather than the person's default allowance or, as the case may be, the person's adjusted allowance).

(8) See also—

- section 8H (meaning of “qualifying residential interest”),
- section 8J (meaning of “inherit”),
- section 8K (meaning of “closely inherited”), and
- section 8M (cases involving conditional exemption).

### **8F Residence nil-rate amount: no interest in home goes to descendants etc**

- (1) Subsections (2) and (3) apply if the person's estate immediately before the person's death—
  - (a) does not include a qualifying residential interest, or
  - (b) includes a qualifying residential interest but none of the interest is closely inherited.
- (2) The person's residence nil-rate amount is nil.
- (3) An amount—
  - (a) equal to the person's default allowance, or
  - (b) if E is greater than TT, equal to the person's adjusted allowance, is available for carry-forward.
- (4) See also—
  - section 8H (meaning of “qualifying residential interest”),
  - section 8J (meaning of “inherit”),
  - section 8K (meaning of “closely inherited”), and
  - section 8M (cases involving conditional exemption).

### **8G Meaning of “brought-forward allowance”**

- (1) This section is about the amount of the brought-forward allowance (see section 8D(5)(f)) for a person (“P”) who dies on or after 6 April 2017.
- (2) In this section “related person” means a person other than P where—
  - (a) the other person dies before P, and
  - (b) immediately before the other person dies, P is the other person's spouse or civil partner.
- (3) P's brought-forward allowance is calculated as follows—
  - (a) identify each amount available for carry-forward from the death of a related person (see sections 8E and 8F, and subsections (4) and (5)),
  - (b) express each such amount as a percentage of the residential enhancement at the death of the related person concerned,
  - (c) calculate the percentage that is the total of those percentages, and

- (d) the amount that is that total percentage of the residential enhancement at P's death is P's brought-forward allowance or, if that total percentage is greater than 100%, P's brought-forward allowance is the amount of the residential enhancement at P's death,  
but P's brought-forward allowance is nil if no claim for it is made under section 8L.
- (4) Where the death of a related person occurs before 6 April 2017—
- (a) an amount equal to £100,000 is treated for the purposes of subsection (3) as being the amount available for carry-forward from the related person's death, but this is subject to subsection (5), and
- (b) the residential enhancement at the related person's death is treated for those purposes as being £100,000.
- (5) If the value ("RPE") of the related person's estate immediately before the related person's death is greater than £2,000,000, the amount treated under subsection (4)(a) as available for carry-forward is reduced (but not below nil) by—

$$\frac{\text{RPE} - \text{£2,000,000}}{2}$$

#### **8H Meaning of "qualifying residential interest"**

- (1) This section applies for the purposes of sections 8E and 8F.
- (2) In this section "residential property interest", in relation to a person, means an interest in a dwelling-house which has been the person's residence at a time when the person's estate included that, or any other, interest in the dwelling-house.
- (3) Where a person's estate immediately before the person's death includes residential property interests in just one dwelling-house, the person's interests in that dwelling-house are a qualifying residential interest in relation to the person.
- (4) Where—
- (a) a person's estate immediately before the person's death includes residential property interests in each of two or more dwelling-houses, and
- (b) the person's personal representatives nominate one (and only one) of those dwelling-houses,
- the person's interests in the nominated dwelling-house are a qualifying residential interest in relation to the person.
- (5) A reference in this section to a dwelling-house—
- (a) includes any land occupied and enjoyed with it as its garden or grounds, but
- (b) does not include, in the case of any particular person, any trees or underwood in relation to which an election is made under section 125 as it applies in relation to that person's death.
- (6) If at any time when a person's estate includes an interest in a dwelling-house, the person—

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- (a) resides in living accommodation which for the person is job-related, and
- (b) intends in due course to occupy the dwelling-house as the person's residence,

this section applies as if the dwelling-house were at that time occupied by the person as a residence.

- (7) Section 222(8A) to (8D) of the 1992 Act (meaning of “job-related”), but not section 222(9) of that Act, apply for the purposes of subsection (6).

### **8J Meaning of “inherited”**

- (1) This section explains for the purposes of sections 8E and 8F whether a person (“B”) inherits, from a person who has died (“D”), property which forms part of D's estate immediately before D's death.
- (2) B inherits the property if there is a disposition of it (whether effected by will, under the law relating to intestacy or otherwise) to B.
- (3) Subsection (2) does not apply if—
  - (a) the property becomes comprised in a settlement on D's death, or
  - (b) immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession.
- (4) Where the property becomes comprised in a settlement on D's death, B inherits the property if—
  - (a) B becomes beneficially entitled on D's death to an interest in possession in the property, and that interest in possession is an immediate post-death interest or a disabled person's interest, or
  - (b) the property becomes, on D's death, settled property—
    - (i) to which section 71A or 71D applies, and
    - (ii) held on trusts for the benefit of B.
- (5) Where, immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession, B inherits the property if B becomes beneficially entitled to it on D's death.
- (6) Where the property forms part of D's estate immediately before D's death as a result of the operation of section 102(3) of the Finance Act 1986 (gifts with reservation) in relation to a disposal of the property made by D by way of gift, B inherits the property if B is the person to whom the disposal was made.

### **8K Meaning of “closely inherited”**

- (1) In relation to the death of a person (“D”), something is “closely inherited” for the purposes of sections 8E and 8F if it is inherited for those purposes (see section 8J) by—
  - (a) a lineal descendant of D,
  - (b) a person who, at the time of D's death, is the spouse or civil partner of a lineal descendant of D, or
  - (c) a person who—

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- (i) at the time of the death of a lineal descendant of D who died no later than D, was the spouse or civil partner of the lineal descendant, and
  - (ii) has not, in the period beginning with the lineal descendant's death and ending with D's death, become anyone's spouse or civil partner.
- (2) The rules in subsections (3) to (8) apply for the interpretation of subsection (1).
- (3) A person who is at any time a step-child of another person is to be treated, at that and all subsequent times, as if the person was that other person's child.
- (4) Any rule of law, so far as it requires an adopted person to be treated as not being the child of a natural parent of the person, is to be disregarded (but this is without prejudice to any rule of law requiring an adopted person to be treated as the child of an adopter of the person).
- (5) A person who is at any time fostered by a foster parent is to be treated, at that and all subsequent times, as if the person was the foster parent's child.
- (6) Where—
  - (a) an individual ("G") is appointed (or is treated by law as having been appointed) under section 5 of the Children Act 1989, or under corresponding law having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, as guardian (however styled) of another person, and
  - (b) the appointment takes effect at a time when the other person ("C") is under the age of 18 years,C is to be treated, at all times after the appointment takes effect, as if C was G's child.
- (7) Where—
  - (a) an individual ("SG") is appointed as a special guardian (however styled) of another person ("C") by an order of a court—
    - (i) that is a special guardianship order as defined by section 14A of the Children Act 1989, or
    - (ii) that is a corresponding order under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, and
  - (b) the appointment takes effect at a time when C is under the age of 18 years,C is to be treated, at all times after the appointment takes effect, as if C was SG's child.
- (8) In particular, where under any of subsections (3) to (7) one person is to be treated at any time as the child of another person, that first person's lineal descendants (even if born before that time) are accordingly to be treated at that time (and all subsequent times) as lineal descendants of that other person.
- (9) In subsection (4) "adopted person" means—
  - (a) an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002, or

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- (b) a person who would be an adopted person within the meaning of that Chapter if, in section 66(1)(e) of that Act and section 38(1)(e) of the Adoption Act 1976, the reference to the law of England and Wales were a reference to the law of any part of the United Kingdom.

(10) In subsection (5) “foster parent” means—

- (a) someone who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989,
- (b) a foster parent with whom the person is placed by a voluntary organisation under section 59(1)(a) that Act,
- (c) someone who looks after the person in circumstances in which the person is a privately fostered child as defined by section 66 of that Act, or
- (d) someone who, under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, is a foster parent (however styled) corresponding to a foster parent within paragraph (a) or (b).

### **8L Claims for brought-forward allowance**

(1) A claim for brought-forward allowance for a person (see section 8G) may be made—

- (a) by the person’s personal representatives within the permitted period, or
- (b) (if no claim is so made) by any other person liable to the tax chargeable on the person’s death within such later period as an officer of Revenue and Customs may in the particular case allow.

(2) In subsection (1)(a) “the permitted period” means—

- (a) the period of 2 years from the end of the month in which the person dies or (if it ends later) the period of 3 months beginning with the date on which the personal representatives first act as such, or
- (b) such longer period as an officer of Revenue and Customs may in the particular case allow.

(3) A claim under subsection (1) made within either of the periods mentioned in subsection (2)(a) may be withdrawn no later than one month after the end of the period concerned.

(4) Subsection (5) applies if—

- (a) no claim under this section has been made for brought-forward allowance for a person (“P”),
- (b) the amount of the charge to tax under section 4 on the death of another person (“A”) would be different if a claim under subsection (1) had been made for brought-forward allowance for P, and
- (c) the amount of the charge to tax under section 4 on the death of P, and the amount of the charge to tax under section 4 on the death of any person who is neither P nor A, would not have been different if a claim under subsection (1) had been made for brought-forward allowance for P.



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- (5) A claim for brought-forward allowance for P may be made—
- (a) by A’s personal representatives within the allowed period, or
  - (b) (if no claim is so made) by any other person liable to the tax chargeable on A’s death within such later period as an officer of Revenue and Customs may in the particular case allow.
- (6) In subsection (5)(a) “the allowed period” means—
- (a) the period of 2 years from the end of the month in which A dies or (if it ends later) the period of 3 months beginning with the date on which the personal representatives first act as such, or
  - (b) such longer period as an officer of Revenue and Customs may in the particular case allow.
- (7) A claim under subsection (5) made within either of the periods mentioned in subsection (6)(a) may be withdrawn no later than one month after the end of the period concerned.

### **8M Residence nil-rate amount: cases involving conditional exemption**

- (1) This section applies where—
- (a) the estate of a person (“D”) immediately before D’s death includes a qualifying residential interest,
  - (b) D dies on or after 6 April 2017, and
  - (c) some or all of the transfer of value under section 4 on D’s death is a conditionally exempt transfer of property consisting of, or including, some or all of the qualifying residential interest.
- (2) For the purposes of sections 8E and 8F, but subject to subsection (3), the exempt percentage of the qualifying residential interest is treated as being not closely inherited; and for this purpose “the exempt percentage” is given by—

$$\frac{X}{QRI} \times 100$$

where—

X is the attributable portion of the value transferred by the conditionally exempt transfer,

QRI is the attributable portion of the value transferred by the transfer under section 4, and

“the attributable portion” means the portion (which may be the whole) attributable to the qualifying residential interest.

- (3) For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest where D is the relevant person for the purposes of section 33—
- (a) in subsection (2), X is calculated as if the property forming the subject-matter of the conditionally exempt transfer had not included the property on which the tax is chargeable,
  - (b) section 33 has effect as if for subsection (1)(b)(ii) there were substituted—

“(ii) if the relevant person is dead, the rate or rates that would have applied to that amount in

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accordance with section 8D(2) and (3) above and the appropriate provision of section 7 above if—

- (a) that amount had been added to the value transferred on the relevant person's death, and
  - (b) the unrelieved portion of that amount had formed the highest part of that value.”, and
- (c) for the purposes of that substituted section 33(1)(b)(ii) “the unrelieved portion” of the amount on which tax is chargeable is that amount itself less the amount (if any) by which—
- (i) D's residence nil-rate amount for the purposes of the particular calculation under section 33, exceeds
  - (ii) D's residence nil-rate amount for the purposes of the charge to tax under section 4 on D's death.
- (4) The following provisions of this section apply if immediately before D's death there is a person (“P”) who is D's spouse or civil partner.
- (5) For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest which occurs after P's death, the amount that would otherwise be D's residence nil-rate amount for those purposes is reduced by the amount (if any) by which P's residence nil-rate amount, or the residence nil-rate amount of any person who dies after P but before the chargeable event occurs, was increased by reason of an amount being available for carry-forward from D's death.
- (6) Where tax is chargeable under section 32 or 32A by reference to a chargeable event related to the qualifying residential interest which occurs before P's death, section 8G(3) has effect for the purpose of calculating P's brought-forward allowance as if—
- (a) before the “and” at the end of paragraph (c) there were inserted—
    - “(ca) reduce that total (but not below nil) by deducting from it the recapture percentage.”,
  - (b) in paragraph (d), before “total”, in both places, there were inserted “reduced”, and
  - (c) the reference to the recapture percentage were to the percentage given by—

$$\frac{TA}{REE} \times 100$$

where—

REE is the residential enhancement at the time of the chargeable event, and

TA is the amount on which tax is chargeable under section 32 or 32A.

- (7) If subsection (6) has applied by reason of a previous event or events related to the qualifying residential interest, the reference in subsection (6)(c) to the fraction—

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$\frac{TA}{REE}$  »