



Finance Act 1954

1954 CHAPTER 44

PART IV

ESTATE DUTY

28 Reduced rate of duty on certain business assets

- (1) Where a business or an interest in a business passes on a death, any estate duty chargeable on the death in respect of industrial hereditaments used in and occupied for the purposes of the business or in respect of machinery or plant so used shall (except as hereinafter provided) be charged in accordance with a scale of rates of duty representing the usual scale for the time being in force with a reduction of forty-five per cent. in each of the rates.
- (2) Where any shares in or debentures of a company in respect of which estate duty is chargeable on a death fall to be valued by reference to the value of the company's assets in accordance with section fifty-five of the Finance Act, 1940,—
 - (a) the duty shall be charged in accordance with subsection (1) of this section on the relevant proportion of the net value of the shares or debentures; and
 - (b) if the company is engaged in husbandry or forestry, the duty shall be charged at the reduced rates for the time being in force for the purposes of section twenty-three of the Finance Act, 1925, on such proportion of that net value as is attributable to the agricultural value (within the meaning of the said section twenty-three) of agricultural property occupied by the company for the purposes of that husbandry or forestry or, where the occupation is partly for those and partly for other purposes, the part of that agricultural value which ought justly to be apportioned to the occupation for those purposes.
- (3) The reference in paragraph (a) of subsection (2) of this section to the relevant proportion of the net value of shares or debentures refers to such part of that value as is attributable to the value of any of the following, namely:—
 - (a) industrial hereditaments used in and occupied for the purposes of the company's business and machinery and plant so used;

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- (b) shares in or debentures of a subsidiary of the company in so far as their value is attributable—
 - (i) to the value of industrial hereditaments used in and occupied for the purposes of the business of that or any other subsidiary of the company, or of machinery or plant so used; or
 - (ii) to the value of any interest a subsidiary of the company has as lessor in property let to the company by the subsidiary and consisting either of industrial hereditaments used in and occupied for the purposes of the company's business or of machinery or plant so used;
 - (c) any interest the company has as lessor in any property let by the company to a subsidiary of it and consisting either of industrial hereditaments used in and occupied for the purposes of that subsidiary's business or of machinery or plant so used.
- (4) Where subsection (2) of this section applies to shares in or debentures of a company passing on a death, any interest of the deceased as lessor in industrial hereditaments used in and occupied for the purposes of the company's business or in machinery or plant so used shall, if chargeable with duty on his death, be charged in accordance with subsection (1) of this section; but save as aforesaid the said subsection (1) shall apply only to the interest of the person carrying on the business in question.
- (5) In the case of a company's business treated as passing on a death by virtue of section forty-six of the Finance Act, 1940, duty shall be charged in accordance with subsection (1) of this section in respect of the company's assets in so far as they fall within paragraphs (b) and (c) of subsection (3) of this section (as well as assets falling within subsection (1)).
- (6) The relief from estate duty conferred by this section in respect of, or by reference to the value of, machinery or plant used in any business shall, in the case of machinery or plant not used exclusively in that business, be such part only of the relief conferred apart from this subsection as appears to the Commissioners of Inland Revenue to be just and reasonable having regard to all the relevant circumstances of the case and, in particular, to the extent of any other use (whether for business purposes or not).
- (7) Land or premises used in a business shall be treated for the purposes of this section as an industrial hereditament if it falls to be treated as an industrial hereditament (or industrial lands and heritages) for purposes of valuation for rating or, in the case of land or premises outside Great Britain, would fall to be so treated if situated in England:
- Provided that, in the case of land or premises occupied and used partly for industrial purposes and partly for other purposes, the value shall be apportioned between those purposes and the land or premises shall be treated according to that apportionment as partly being and partly not being an industrial hereditament.
- (8) The value to be apportioned under the proviso to the last foregoing subsection is the net annual value for rating (or, in the case of land or premises outside Great Britain, a corresponding value), and subsection (2) of section four of the Rating and Valuation (Apportionment) Act, 1928, shall apply for the purposes of that proviso, but with the substitution for the reference to the net annual value not exceeding fifty pounds of a reference to the principal value not exceeding one thousand pounds and with the necessary adaptation in relation to land or premises outside Great Britain of other references to net annual value.

- (9) In this section, " business " does not include a business carried on in the exercise of a profession or vocation, or carried on otherwise than for gain.
- (10) Nothing in this section shall apply—
- (a) to a business for the sale of which a binding contract has been entered into, other than a sale to a company formed for the purpose of carrying it on made in consideration wholly or mainly of shares in that company; or
 - (b) to the business of a company with respect to which a winding-up order has been made, or which has passed a resolution for voluntary winding-up (unless only with a view to a reconstruction or amalgamation), or which is otherwise in process of liquidation (unless only with that view);
- nor to assets used in any such business, or shares in or debentures of any such company.

29 Amendments restricting Finance Act, 1940, s. 55, where deceased did not have voting control of company

- (1) In section fifty-five of the Finance Act, 1940 (under which shares in or debentures of a company are in certain cases to be valued for estate duty by reference to the value of the company's assets), the following provisions shall be omitted, that is to say—
- (a) in subsection (1), paragraphs (b) and (c), with the word " or " at the end of paragraph (a); and
 - (b) in subsection (3), paragraph (b), with the word " or " at the end of paragraph (a) and the words " or capacity ";
- but in the cases dealt with by subsections (2) to (4) of this section, the said section fifty-five shall apply as if the deceased had, within five years of his death, had control of the company otherwise than in a fiduciary capacity, but shall apply only to the valuation of shares in or debentures of the company as respects which the conditions of subsection (5) of this section are satisfied.
- (2) The said section fifty-five shall apply as aforesaid if, during a continuous period of two years falling wholly within the five years ending with his death, the deceased had powers equivalent to control of the company.
- (3) The said section fifty-five shall apply as aforesaid, if during any such period as aforesaid the dividends declared by the company and the interest accruing due on debentures of the company are, as to amounts forming in the aggregate more than one-half of the total amount of the dividends and interest, to be treated by virtue of any of the provisions of sections forty-seven and forty-eight of the Finance Act, 1940, as benefits accruing to the deceased from the company, or would have fallen to be so treated if the deceased had made a transfer of property to the company.

For this purpose the expression " debenture " shall have the same meaning as in subsection (4) of this section.

- (4) The said section fifty-five shall apply as aforesaid, if at any time during the five years ending with the death of the deceased (not being a time when some other person had control or powers equivalent to control of the company) the deceased had a beneficial interest in possession in shares in or debentures of the company, or in both, of an aggregate nominal amount representing one-half or more of the aggregate nominal amount of the shares in and debentures of the company then outstanding; but for this purpose—

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- (a) at any time when both the deceased and another person had such an interest in the same share or debenture, the deceased's interest in it shall be treated as extending only to the same fraction of it as that interest would have been deemed for purposes of estate duty to extend to if the share or debenture had passed on his death at that time; and
 - (b) the expression " debenture " shall not include an obligation of the company in respect of a debt incurred by it for money borrowed by way of temporary loan, if the loan was not one of a series of temporary loans by the same person and either was repaid within two years of being made or was made less than two years before the deceased's death.
- (5) The said section fifty-five shall apply by virtue of the foregoing subsections only to the valuation of shares in or debentures of the company as respects which one or other of the following conditions is satisfied:—
- (a) that immediately after the deceased's death a person having control or powers equivalent to control of the company, either alone or in conjunction with his relatives, has a beneficial interest in possession in the shares or debentures;
 - (b) that immediately before and after the death the shares or debentures are held by the trustees of some trust who then have control of the company by virtue of shares in or debentures of the company held by them as such trustees:

Provided that, in the case of shares or debentures falling to be valued on the death by virtue of a gift inter vivos made by the deceased, or by virtue of a disposition or determination (in relation to which section forty-three of the Finance Act, 1940, has effect) of an interest limited to cease on the death, the above conditions shall not apply, and the condition shall be that immediately after the death or at any previous time since the gift or since the disposition or determination, as the case may be, the donee or person becoming entitled by virtue of or upon the disposition or determination has or had control or powers equivalent to control of the company, either alone or in conjunction with his relatives.

- (6) Notwithstanding anything in this section, the reference in subsection (4) of section fifty-eight of the Finance Act, 1940, to a person having control of a company within the meaning of subsection (3) of section fifty-five of that Act shall continue to include a reference to a person having powers equivalent to control.

30 Other amendments of, or affecting Finance Act, 1940, s. 55

- (1) Where any shares or debentures falling to be valued in accordance with section fifty-five of the Finance Act, 1940, are sold within three years after the death by the persons accountable for the duty payable on the death or by the persons to whom they pass on the death, and the Commissioners of Inland Revenue are satisfied—
- (a) that no person concerned either as vendor or as having an interest in the proceeds of sale was a relative of any person concerned either as purchaser or as having an interest in the purchase; and
 - (b) that the sale was made at arm's length for a price freely negotiated at the time of sale; and
 - (c) that the price obtained for the shares or debentures on the sale, with any adjustment needed to take account of any difference in circumstances at the date of the sale and at the date of the death, was less than the value as ascertained under the said section fifty-five of the shares or debentures sold;

then for the purposes of estate duty on the death that price, as so adjusted, shall be substituted for the value so ascertained as the value of the shares or debentures sold.

- (2) The said section fifty-five shall not apply to the valuation on a person's death of any shares or debentures comprised in a gift inter vivos made by the deceased, if it is shown to the satisfaction of the Commissioners of Inland Revenue—
- (a) that the shares or debentures were given absolutely to a person who was or had been in the employment of the company, or to the widow or orphan of such a person, and the donee was not a relative of the deceased; and
 - (b) that bona fide possession of the shares or debentures was assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the deceased and of any benefit to him by contract or otherwise; and
 - (c) that the donee did not have control or powers equivalent to control of the company either alone or in conjunction with his relatives immediately after the death or at any previous time since the making of the gift.
- (3) For the purposes of subsection (1) of section fifty of the Finance Act, 1940 (by virtue of which an allowance for a company's liabilities is to be made in valuing its assets for the purposes of section forty-six or section fifty-five of that Act), any liability of the company arising, or which may arise, after the death for taxation on income or profits shall be taken into account as if it were an actual but contingent liability at the date of the death, in so far as the liability or its amount is referable to income or profits accruing before the death, whether then realised or not; and in their estimation of any such liability for taxation charged on income or profits arising after the death the Commissioners of Inland Revenue shall take into account the extent (if any) to which the last-mentioned income or profits are likely to be insufficient to meet the liability.
- (4) Where any shares or debentures which fall to be valued in accordance with the said section fifty-five have also fallen to be so valued on a previous death within five years, then for the purposes of section fifteen of the Finance Act, 1914 (which provides relief from estate duty on lands and businesses in respect of quick succession), those shares and debentures shall, in relation to those deaths, be treated in the same way as an interest in land or in a business not carried on by a company, if on both deaths their value is wholly or partly attributable to the value of land of the company or any subsidiary of it or to the value of assets used by the company or any subsidiary of it in a business not consisting mainly in the holding of or dealing in investments other than land:
- Provided that the amount on which the reduction under the said section fifteen is to be calculated shall be limited (where necessary) to the duty on the part so attributable of the value, on which duty is payable, of the shares or debentures, and references to that part of the value shall, in the proviso to the said section fifteen, be substituted for the references to the whole value (whether in relation to the first or the second death).
- (5) Where a company alters its share capital by sub-dividing any shares into shares of smaller amount, or by consolidating and dividing any shares into shares of larger amount, subsections (1) and (4) of this section shall apply to shares derived by those means from shares of the same class which have fallen to be valued in accordance with the said section fifty-five on a death occurring before the alteration of share capital, as if those shares and the equivalent amount of the shares from which they were so derived were the same shares; and if a company has issued to holders of any shares other shares as fully paid bonus shares, those subsections shall apply both to the shares

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in respect of which the issue was made and to the shares so issued as if they were derived from the former by subdivision.

31 Interpretation of and provisions supplementary to ss. 28 to 30

- (1) For the purposes of this Part of this Act, except in so far as the context otherwise requires,—
- (a) " company " includes any body corporate, wheresoever incorporated;
 - (b) " debenture " has the meaning assigned to it by section fifty-nine of the Finance Act, 1940;
 - (c) " subsidiary " has the meaning assigned to it by section one hundred and fifty-four of the Companies Act, 1948;
 - (d) " relative " means husband, wife, ancestor, lineal descendant, brother or sister;
 - (e) a person shall be deemed to have powers equivalent to control of a company if he either has the capacity, or could by an exercise of a power exercisable by him or with his consent obtain the capacity, to exercise or to control the exercise of any of the following powers, that is to say, the powers of a board of directors or of a governing director of the company, power to nominate a majority of directors or a governing director thereof, power to veto the appointment of a director thereof, or powers of a like nature.
- (2) The two last foregoing sections, and this section so far as it relates thereto, shall be construed as one with section fifty-five of the Finance Act, 1940, except that subsection (5) of that section (which provides for disregarding control had by any person in a fiduciary capacity) shall not affect paragraph (b) of subsection (5) of section twenty-nine of this Act.
- (3) In determining, for the purposes of subsection (5) of the said section twenty-nine, or of subsection (2) of section thirty of this Act, whether a person at any time has or had control of a company, either alone or in conjunction with his relatives, or a beneficial interest in possession in any shares in or debentures of a company,—
- (a) where that person or a relative of his is or was at any time entitled under a trust, either alone or in conjunction with that person's relatives, to not less than nine-tenths of the income arising from any such shares or debentures, that person or the relative in question, as the case may be, shall be treated as being or having been able at that time to control the exercise by the trustees of the trust or other persons in whom those shares or debentures are or were vested of any powers attached to those shares or debentures;
 - (b) any shares in or debentures of the company, or interests therein, which form part of a person's estate at his death shall be treated as vesting immediately on his death in the legatees or persons entitled on intestacy, without regard to the powers exercisable for the administration of the estate;
 - (c) there shall, in so far as the Commissioners of Inland Revenue so direct, be disregarded—
 - (i) any limited interest subsisting at the relevant time in any shares in or debentures of the company; and
 - (ii) any voting rights exercisable by virtue of any preference shares in the company (being voting rights which the Commissioners are satisfied do not materially affect the effective control of the company's affairs).
- (4) References in subsection (2) of section twenty-eight and subsection (4) of section thirty of this Act to shares or debentures which fall to be valued in accordance with

section fifty-five of the Finance Act, 1940, shall include shares or debentures of which the value falls ultimately to be ascertained under subsection (1) of section thirty of this Act.

(5) In determining for the purposes of section twenty-eight or subsection (4) of section thirty of this Act what part of the value of any shares in or debentures of a company is attributable to the value of particular assets.—

- (a) the value of the shares or debentures shall be apportioned in proportion to the net value of the company's assets after allowing for liabilities other than liabilities in respect of shares in or debentures of the company; and
- (b) the value apportioned under this subsection to the value of any shares in or debentures of another company (being a subsidiary either of the first-mentioned company or of a company of which that company is a subsidiary) shall, where material, be similarly apportioned between the other company's assets;

and subsection (1) of section fifty of the Finance Act, 1940, shall apply in relation to any allowance for liabilities to be made for the purposes of this subsection as it applies in relation to an allowance for the purposes of section fifty-five of that Act.

(6) In arriving at the net value of any assets in respect of which, or by reference to the value of which, duty is to be charged at a reduced rate by virtue of the foregoing provisions of this Part of this Act, any allowance to be made for liabilities incurred for the purpose of the business which (or an interest in which) passes on the death, or of the business of the company whose assets they are, as the case may be, shall be made, as far as may be, from the value of assets used in the business other than such assets as aforesaid, except that any allowance for secured liabilities shall be made from the value of assets which are, rather than the value of assets which are not, included in the security.

(7) The foregoing sections of this Part of this Act shall have effect in relation to any death occurring after the commencement of this Act.

32 Extension of certain exemptions

(1) The scale of rates of estate duty set out in the Seventh Schedule to the Finance Act, 1949, shall have effect, as respects deaths occurring after the commencement of this Act, with the substitution for the entries relating to estates of a principal value not exceeding five thousand pounds of the following entries:—

<i>“Principal value of estate</i>	<i>Rate per cent. of duty</i>
Not exceeding £3,000	Nil
Exceeding £3,000 and not exceeding £4,000	1
Exceeding £4,000 and not exceeding £5,000	2”

(2) For the purposes of the exemption from estate duty chargeable on property passing on the death of a surviving spouse, estate duty shall be deemed to have been paid on any property passing on the death of the other spouse, being property on which it was not payable, but would have been if the duty were payable on estates of however small a principal value; and in relation to that death the references in this subsection to estate duty shall include estate duty chargeable under the law in force in Northern Ireland.

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- (3) Subsection (2) of this section shall apply where the second death occurs after the commencement of this Act, whether or not the first death occurred after that commencement.

33 Aggregation

- (1) For subsection (3) of section sixteen of the Finance Act, 1894, there shall be substituted the following subsection:—

“(3) Where the property passing on the deceased's death includes any such settled property as is hereinafter mentioned, then—

- (a) if the other property passing on the death, exclusive of that settled property and exclusive also of any property in respect of which estate duty neither is payable on the death nor would be if the duty were payable on estates of however small a principal value, is of a net value not exceeding ten thousand pounds, it shall not be aggregated with that settled property, but shall be an estate by itself; and
- (b) if that other property is of a net value exceeding ten thousand pounds, the duty payable in respect of it shall not exceed the amount of the excess together with the duty which would have been so payable if the net value of the other property had been reduced rateably by the amount of the excess (but this shall not affect any reduction falling to be made under section thirteen of the Finance Act, 1914, in the duty payable on that settled property).

The settled property above referred to is any settled property other than property comprised in a settlement made by the deceased or made, directly or indirectly, at his expense or out of funds provided by him, and other than property not so comprised of which he has been competent to dispose and has disposed by the exercise by his will or otherwise of a power conferred by the settlement, or which devolves on his personal representatives as assets for payment of his debts.”

- (2) Subject to the said subsection (3), where the property which passes on a death, but in which the deceased never had an interest, includes any policies of assurance on his life, or moneys received under such a policy, or interests in such a policy or moneys, then the rate of estate duty to be paid on any such policy, money or interest so included (hereinafter referred to as "a life insurance ") shall be determined as follows:—
- (a) in respect of the value of any life insurance or interest in a life insurance to which immediately after the death any one person is absolutely and indefeasibly entitled for his own benefit otherwise than by virtue of a purchase for consideration in money or money's worth (whether of that life insurance or interest or of the policy or otherwise), the rate shall be that appropriate to the value or aggregate value of that life insurance or interest and of any other life insurance or interest in a life insurance to which he is so entitled;
 - (b) subject to the foregoing paragraph, the rate shall be that appropriate to the aggregate value of all the life insurances or, if there is only one, to the value of that life insurance:

Provided that for the purposes of this subsection—

- (i) there shall be left out of account any life insurance in respect of which estate duty neither is payable on the death nor would be if the duty were payable on estates of however small a principal value; and
 - (ii) where any life insurance or interest in a life insurance is immediately after the death subject to a mortgage or charge, the mortgage or charge shall be disregarded and the life insurance or interest shall be valued accordingly; and
 - (iii) in relation to life insurances and interests therein which then form part of the unadministered estate of a deceased person this subsection shall have effect as if that person had been then living and entitled to those life insurances and interests.
- (3) For the purposes of paragraph (a) of the last foregoing subsection the value of any interest in a policy of assurance or moneys received under such a policy shall be arrived at by apportioning the total value of the policy or moneys according to the respective values of the interest in question and of the interest a person would have if, except for the interest in question, he were absolutely and indefeasibly entitled to the policy or moneys.
- (4) This section shall have effect in relation to any death occurring after the commencement of this Act.