



# Finance Act 1958

## 1958 CHAPTER 56

### PART V

#### ESTATE DUTY

#### 28 Purchases of interests in expectancy

- (1) Where at any time within five years before a death—
- (a) there has been in any settled property an interest limited to cease on the death; and
  - (b) a purchase of another interest in that property expectant on or subject to the interest so limited has been made either by the deceased or out of or by means of any property which would have passed for the purposes of estate duty on his death if he had died immediately before the purchase;

then, subject to the following provisions of this section, there shall be deemed for purposes of estate duty on the death to be included in the property passing on the death (in addition to the other property, if any, so included) a sum of money equal to the amount or value of the consideration given for the purchase of that other interest:

Provided that, subject to subsections (2) and (3) of this section, where the settlement is subsisting at the death, this subsection shall not apply unless the interest purchased passes for purposes of estate duty on the death, and if it does so pass, the persons who are or would be accountable for any duty chargeable on the death in respect of it may (by notice in writing given to the Commissioners of Inland Revenue within twelve months of the death or such longer period as the Commissioners may allow) elect that neither this subsection nor subsection (10) of section seven of the Finance Act, 1894 (which provides that the same property shall not be twice charged or twice aggregated on the same death), shall have effect on the death in relation to that interest.

- (2) For the purposes of the proviso to subsection (1) of this section—
- (a) where the settlement has come to an end as respects part but not the whole of the settled property, there shall be deemed to have been a separate settlement of that part; and

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- (b) where at the death there are separate interests in or derived out of the interest purchased, the purchase of that interest shall be treated as having comprised a separate purchase of each of those interests.
- (3) Where a purchased interest as respects which an election might otherwise be made under the proviso to subsection (1) of this section has ceased to subsist as a separate interest before the death and before the time when it was originally limited to determine, any other interest into which the interest purchased has been absorbed or enlarged shall be treated for the purposes of this section (including this subsection) as if it had been the subject matter of the purchase:
- Provided that where an election under that proviso is made as respects any interest by virtue of this subsection, the value for the purposes of estate duty of that interest shall be limited to the proportion thereof attributable to the purchased interests which that interest is treated under this subsection as representing.
- (4) In determining under this section the duty chargeable by reason of the purchase of an interest in settled property, any consideration for the purchase consisting of another interest under the settlement shall be disregarded, unless there has been a prior purchase of that other interest, being a purchase in respect of which duty would be chargeable on the death under this section apart from the proviso to subsection (1) and apart from this subsection : and if there has been such a prior purchase, the consideration for it shall be treated for the purposes of this section (except for the purpose of determining its value) as given not for that purchase but, in place of the said other interest, for the first-mentioned purchase.
- (5) Where an interest limited to cease on a death ceases to subsist as a separate interest in consequence of any dealing with another interest expectant on or subject to it or of a dealing with that other interest and a dealing with the interest so limited, then this section shall apply to a purchase of that other interest or any interest expectant on or subject to it, as if the interest so limited had continued to subsist as a separate interest until the time when it was originally limited to determine.
- (6) Where the interest referred to in paragraph (a) of subsection (1) of this section is such that on the cesser of that interest the settled property (or, if the interest purchased is an interest in part only of that property, that part of it) is to be treated for purposes of estate duty as passing to a limited extent only, then the consideration for the purchase shall be treated for the purposes of this section as reduced to a corresponding extent.
- (7) Any sum deemed to pass on a death by virtue of subsection (1) of this section shall for the purpose of aggregation, or of determining the persons accountable for duty—
- (a) where the purchase was made by the deceased, be treated as having been property to which he was absolutely entitled at his death; and
  - (b) in any other case, be treated as forming part of the property out of or by means of which the purchase was made;

but where the settlement has come to an end before the death as respects all or any of the property in which the interest purchased subsisted, section forty-four of the Finance Act, 1950 (which provides for the trustees of a settlement to be accountable for duty chargeable by virtue of section forty-three of the Finance Act, 1940, by reason of a disposition or determination of a life interest), shall apply as if the duty were chargeable by virtue of the said section forty-three in respect of the property in which the interest purchased subsisted.

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- (8) Section fifty-seven of the Finance (1909-10) Act, 1910 (which provides that in valuing an estate for duty purposes no allowance shall be made in certain cases for debts or incumbrances incurred or created for the purchase of an interest in expectancy), shall not apply to debts or incumbrances incurred or created for the purpose of or in consideration for a purchase made within the five years before the death of the deceased; and where duty is chargeable by virtue of this section by reason of a purchase of an interest, and the deceased incurred any debt or created any incumbrance wholly or partly as consideration for that purchase, that consideration for the debt or incumbrance shall be left out of account for the purpose of section thirty-one of the Finance Act, 1939 (which excludes or limits the making for purposes of estate duty of an allowance for certain debts incurred or incumbrances created by the deceased for the purchase of property coming ultimately from himself).
- (9) Any allowance for a debt or incumbrance, to the extent to which it could not be made apart from subsection (8) of this section, shall, where an election under the proviso to subsection (1) of this section has effect in relation to the purchase in question, be deducted from the value, on which by reason of that purchase duty is chargeable, of the interest chargeable by virtue of the election, and shall not be made otherwise.
- (10) In relation to a purchase from a body of persons established for public or charitable purposes only, or from the trustees of a trust so established, references to one year before the death shall be substituted for the references in subsections (1) and (8) of this section to five years before the death.
- (11) For the purposes of this section—
- (a) any transaction whereby a person for money or money's worth acquires an interest or secures its extinction for his benefit shall be deemed to be a purchase of that interest by him, and any interest extinguished shall be treated as absorbed into the interest benefiting from the extinction;
  - (b) any consideration for a purchase given otherwise than in cash shall be valued as at the date of the purchase;
  - (c) any consideration given for the purchase of more than one interest under a settlement, or for the purchase of an interest under a settlement and for something else, shall be apportioned as may be just;
  - (d) the property in which an interest under a settlement from time to time subsists (or is treated for the purposes of this section as subsisting) shall be treated as the same property, notwithstanding any substitution of one item for another or any accretion thereto.
- (12) This section shall not apply where estate duty neither is chargeable on the settled property on the death by reason of the coming to an end of the interest referred to in paragraph (a) of subsection (1), nor would have been if that interest had continued to subsist as a separate interest until the time when it was originally limited to determine, or where the settled property is or, as the case may be, would have been of no principal value, or of too small a principal value for duty to be payable.
- (13) This section shall have effect in relation to any purchase made after the fifteenth day of April, nineteen hundred and fifty-eight, and in relation to any such purchase shall have effect notwithstanding that the death occurs before the date of the passing of this Act.

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## **29 Effect of presumptions as to order of deaths**

- (1) In all cases where, after the fifteenth day of April, nineteen hundred and fifty-eight, two or more persons have died in circumstances rendering it uncertain which of them survived the other or others, the property chargeable with estate duty in respect of each death shall be ascertained as if they had died at the same instant and all relevant property had devolved accordingly.
- (2) Property shall not be deemed for purposes of estate duty to pass, or to have passed, on a person's death because on a later or simultaneous death (occurring after the said fifteenth day of April) a testamentary disposition of that property takes effect, under section thirty-three of the Wills Act, 1837, or otherwise, as if that person had survived the testator.

## **30 Quick successions**

- (1) Where estate duty becomes payable on any property on a death occurring after the fifteenth day of April, nineteen hundred and fifty-eight, and the Commissioners of Inland Revenue are satisfied—
  - (a) that estate duty has been payable on the same property on an earlier death occurring within five years before the later death; and
  - (b) that the person entitled to the property immediately before the later death did not acquire his title by or under a purchase for a consideration in money or money's worth made since the earlier death (whether by him or by another);then, subject to the provisions of this section, the amount of the estate duty payable on the property on the later death shall be reduced as follows—
  - where the earlier death occurred within three months before the later, by seventy-five per cent.;
  - where the earlier death occurred within one year before the later, by fifty per cent.;
  - where the earlier death occurred within two years before the later, by forty per cent.;
  - where the earlier death occurred within three years before the later, by thirty per cent.;
  - where the earlier death occurred within four years before the later, by twenty per cent.;
  - where the earlier death occurred within five years before the later, by ten per cent.
- (2) Where the estate duty payable on a death in respect of any property falls to be reduced under subsection (1) of this section, but is payable on a greater value than the net value of the property after the earlier death, the duty shall not be reduced on an amount in excess of that net value.
- (3) Relief under this section shall not be given on any death in respect of the same property by reference to more than one earlier death.
- (4) This section shall have effect subject to and in accordance with the Eighth Schedule to this Act.
- (5) If the enactments relating to estate duty in force in Northern Ireland make provision corresponding to this section, and include provision for giving relief by reference to duty paid under the law in force in Great Britain, then for the purpose of determining the relief (if any) to be given under this section on any death, account shall be taken of

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the operation of the said enactments on that or any earlier death in relation to property on which estate duty is not payable under the law of Great Britain, so that the like relief shall be given under this section as if in the case of any such property duty payable and relief allowable under the said enactments were payable or allowable under the law of Great Britain ; and for this purpose any reference in the Eighth Schedule to this Act to any provision of the law of Great Britain shall include a reference to any corresponding provision of the law of Northern Ireland.

### **31 Works of art, etc. bought at auction for public collections**

In section forty-four of the Finance Act, 1921, and in the proviso to subsection (2) of section forty of the Finance Act, 1930 (which provide that estate duty shall not become chargeable on certain sales to national institutions or other bodies or persons of works of art or other property previously exempted), and in any subsequent enactment extending the sales to which those provisions apply, the references to a sale shall not include a sale after the commencement of this Act otherwise than by private treaty.

### **32 Power to give property in satisfaction of death duty**

- (1) Where a person has power to sell any property in order to raise money for the payment of any estate duty, he may agree with the Commissioners of Inland Revenue for the property to be accepted in satisfaction of that duty in pursuance of any enactment authorising its acceptance by the Commissioners ; and, except as regards the nature of the consideration, and the receipt and application thereof, any such agreement shall be subject to the same provisions and shall be treated for all purposes as a sale made in the exercise of the said power, and any conveyance or transfer made or purporting to be made to give effect to such an agreement shall have effect accordingly.
- (2) The foregoing subsection shall not affect subsection (3) of section thirty of the Finance Act, 1953, as originally enacted or as applied by section thirty-four of the Finance Act, 1956 (which provide that the acceptance of certain works of art or other objects in satisfaction of estate duty is not to be treated as a sale so as to raise a charge of duty under subsection (2) of section forty of the Finance Act, 1930).
- (3) This section shall be deemed always to have had effect, and to apply and have applied to any former death duties as it applies to estate duty.

### **33 Relief in cases of demolition or clearance orders**

- (1) In the case of deaths occurring after the commencement of this Act, section thirty-three of the Finance Act, 1956 (which reduces the estate duty chargeable on land compulsorily purchased within five years after the date as at which it is valued for the purposes of duty), shall apply in relation to an interest in a house which is demolished in pursuance of a demolition order under Part II of the Housing Act, 1957, or a clearance order under Part III of that Act, as if—
  - (a) the house had been purchased at site value in pursuance of a compulsory purchase order made by virtue of the said Part II or the said Part III, and compensation in respect of the interest had been payable accordingly; and
  - (b) the purchase had been made in pursuance of a notice to treat served on the date on which the clearance order or demolition order was made.
- (2) Subsection (1) of this section shall apply where a house which might have been the subject of a demolition order is, without the making of such an order, vacated and

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demolished in pursuance of an undertaking given to the local authority, as if there had been a demolition order made at the date when the undertaking is given.

(3) In this section—

" house " includes any building constructed or adapted wholly or partly as, or for the purposes of, a dwelling;

" site value " in relation to a house means the value, at the time the valuation is made, of the site as a cleared site available for development in accordance with the requirements of the building bye-laws for the time being in force in the district.

(4) This section shall have effect in relation to a house in Scotland as if for the references to the Housing Act, 1957, there were substituted references to the Housing (Scotland) Act, 1950, and for the reference to the building bye-laws there were substituted a reference to the building regulations.