



Finance Act 1951

1951 CHAPTER 43

PART IV

DEATH DUTIES

- 33 Exemptions from estate duty in connection with preservation of land for public benefit**
- (1) Section thirty-one of the Finance Act, 1937, and section thirty-one of the Finance Act, 1949 (which sections exempt from estate duty in certain circumstances land given to the National Trust and maintenance funds given with land so exempted, and are hereafter in this section respectively called "the 1937 section " and " the 1949 section "), shall in the case of property given to the National Trust be extended as follows:—
- (a) any exemption from estate duty conferred by the 1937 section in relation to an estate or interest in land given by any person to the Trust shall be granted also, and to the like extent, to any objects ordinarily kept at the time of the gift in a building forming part of the land, and given by him with that estate or interest with a view to their preservation or use in the building, and where objects so given are exempted by virtue of this paragraph the 1949 section shall apply as if they formed part of the building;
 - (b) where a person gives to the Trust any objects ordinarily kept at the time of the gift in a building which is then inalienably vested in the Trust, and he does so with a view to the objects' preservation or use in the building, then (subject to paragraph (d) of this subsection) the 1937 section and the 1949 section shall apply in the case of the objects so given as if the property comprised in the gift had been an estate or interest in land, except that any condition as to the Trust's interest being held by it inalienably for the public benefit shall not apply;
 - (c) where a person gives property to the Trust as a source of income for the upkeep—
 - (i) of any land which is at the time of the gift inalienably vested in the Trust; or

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(ii) of any objects which are then vested in the Trust and ordinarily kept in a building forming part of any such land, having been given to the Trust with a view to their preservation or use in that building;

and he gave or joined in giving to the Trust its estate or interest in that land or those objects, as the case may be, then (subject to paragraph (d) of this subsection) the 1937 section shall apply in the case of any of the property so given, whether an estate or interest in land or not, as it applies to an estate or interest in land, except that any condition as to the Trust's interest being held by it inalienably for the public benefit shall not apply;

(d) paragraph (b) and sub-paragraph (ii) of paragraph (c) of this subsection shall not apply in the case of any objects unless the gift of the objects or property in respect of which exemption is claimed by virtue of that paragraph is made by a person who also gave or joined in giving to the Trust its estate or interest in the building in which the objects are ordinarily kept at the time of the said gift.

(2) Where, with a view to the preservation of a house or other building for the public benefit, a person gives or has given an estate or interest in the building to, or to trustees for, a Government department, a local authority or any other body not established or conducted for profit, and the Treasury (whether before or after the time of the gift) direct that the gift should be treated as falling within this subsection, then the 1937 section and the 1949 section, together with the foregoing subsection of this section, shall apply in relation to the building and any grounds given with it and specified in the direction, as if references to the National Trust were references to that department, authority or body or to those trustees as the case may be and as if their estate or interest in the building and any such grounds were inalienably vested in them.

In the two next following subsections any reference to a building includes any grounds specified or to be specified in a direction under this subsection relating to the building.

(3) The Treasury shall not give a direction under the foregoing subsection in the case of any building unless in their opinion—

- (a) the building is one for the preservation of which special steps should be taken by reason of its outstanding historic or architectural or aesthetic interest and the cost of preserving it; and
- (b) the department authority or body in question is an appropriate one to be responsible for the building's preservation;

and before giving any such direction the Treasury may require such undertakings to be entered into as they think appropriate for securing the preservation of the building and reasonable access thereto for the public (including undertakings restricting the use or disposal of the building).

(4) Any undertakings entered into as aforesaid may be varied from time to time by agreement between the Treasury and the person bound by the undertakings, and the Treasury may require further undertakings to be entered into as a condition for agreeing to any such variation or consenting to anything for which their consent is required by any undertaking; and the obligations imposed by any such undertaking shall be enforceable for the public benefit by injunction (or, in Scotland, by interdict or by petition under section ninety-one of the Court of Session Act, 1868), and any purported disposition of a building in contravention thereof be void, as if the obligations had been imposed by Act of Parliament.

(5) For the purposes of this section, except in so far as the context otherwise requires.—

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- (a) the expression " gift" includes devise and bequest and the expression " give " shall be construed accordingly, and in relation to a devise or bequest any reference to the time of the gift shall be construed as a reference to the time of the testator's death ;
 - (b) the expression " vested " means indefeasibly vested, and a building or land shall be deemed to be inalienably vested in the National Trust if an estate or interest therein is vested in the Trust (whether in possession or not) and has been so dealt with as to be held by the Trust inalienably;
 - (c) any reference to giving objects shall be construed as a reference to giving the whole or a limited interest in the objects, and any reference to objects being vested in the National Trust shall be construed accordingly;
 - (d) the expression " National Trust" means the National Trust for Places of Historic Interest or Natural Beauty or, in relation to Scotland, the National Trust for Scotland for Places of Historic Interest or Natural Beauty ;
 - (e) the expression " local authority " means the Common Council of the City of London or a local authority within the meaning of the Local Government Act, 1933, the London Government Act, 1939, or the Local Government (Scotland) Act, 1947.
- (6) An object shall not be deemed for the purposes of paragraph (a) of subsection (1) of this section to be given with an estate or interest in land if either is subject to an interest or power of appointment created by the gift of it to which the other is not subject :

Provided that, where the object is given subject to one or more life interests created by the gift of it to which the estate or interest is not subject, but which (if it were so subject) would fall within subsection (2) of the 1937 section, then the said paragraph (a) shall apply in relation to the object as it would apply if the estate or interest had also been given subject to that life interest or those life interests.

- (7) Where the property given by any person as a source of income for the upkeep of any land or objects is in the opinion of the Commissioners more than enough to provide (with a reasonable margin) for the upkeep of the land or objects out of the income of the property, so much only as is in their opinion enough for that purpose shall be deemed for the purposes of paragraph (c) of subsection (1) of this section to be given as a source of income for the upkeep of the land or objects, and in determining what is enough for that purpose the Commissioners shall have regard to any other property given by the same or any other person as a source of income for the upkeep of the land or objects or any part thereof (with or without any other land or objects).
- (8) This section applies to duty leviable on or with reference to any death occurring after the commencement of this Act but in relation to duty so leviable shall apply to gifts made before as well as after that commencement.

34 Government securities exempt from taxation while in foreign ownership

- (1) Where the Treasury issue securities subject to any such condition as is authorised by section twenty-two of the Finance (No. 2) Act, 1931, for an exemption from taxation so long as the securities are in the beneficial ownership of persons neither domiciled nor ordinarily resident in the United Kingdom, the condition so far as it relates to duties leviable on or with reference to a death shall be such as to operate by reference to the persons in whose beneficial ownership the securities are immediately before, not after, the death.

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- (2) This section shall be deemed always to have had effect, and to have applied for the purpose of section forty-seven of the Finance (No. 2) Act, 1915, as it applies for the purpose of section twenty-two of the Finance (No. 2) Act, 1931; and any condition subject to which securities have been issued by virtue of either of those sections before the passing of this Act shall be construed accordingly:

Provided that any duty which, apart from this proviso, would be or have been leviable in accordance with this section in respect of any securities on or with reference to a death occurring before the fourteenth day of December, nineteen hundred and fifty, shall not be so leviable if no part of the duty was paid before that date.

35 Restriction on re-opening cases on the ground of legal mistake

- (1) For the purpose—
- (a) of any claim by the Commissioners under subsection (7) of section eight of the Finance Act, 1894, for payment of additional duty; or
 - (b) of any claim against the Commissioners under subsection (12) of that section for repayment of excess of duty;

the question whether the duty paid was too little or too much, and (if so) what was the right amount, shall, in so far as it appears that the payment and its acceptance were regarded as satisfying the claim for duty, and were so regarded on a view of the law which at the time was generally received or adopted in practice, be determined on the same view of the law (subject to any express enactment to the contrary), notwithstanding that it appears from a subsequent legal decision or otherwise that that view was or may have been wrong.

- (2) This section shall have effect as from the eleventh day of April, nineteen hundred and fifty-one, but not so as to affect any appeal to a court of law which was brought before that day under section ten of the Finance Act, 1894.