



Finance Act 1950

1950 CHAPTER 15

PART IV

ESTATE DUTY

43 Disposition or determination of life interests, etc.

- (1) Subsections (1) and (2) of section forty-three of the Finance Act, 1940, shall be amended as provided by Part I of the Seventh Schedule to this Act, and accordingly shall have effect as set out in Part II of that Schedule with the amendments made by the Eleventh Schedule to the Finance Act, 1946, and by this subsection.
- (2) Where an interest limited to cease on a death (within the meaning of the said section forty-three) has been disposed of or has determined, bona fide possession and enjoyment of the property shall not be deemed for the purposes of subsection (2) of that section to be assumed immediately thereafter and thenceforward retained to the entire exclusion of a person who had the interest and of any benefit to him by contract or otherwise, if at any time thereafter he has a benefit by virtue of any operations associated with the disposition or determination, nor while he has such a benefit shall the property be deemed to be enjoyed to the entire exclusion as aforesaid for the purposes of subsection (3) of section fifty-nine of the Finance (1909-10) Act, 1910 (which relates to the surrender of benefits reserved).
- (3) In the last foregoing subsection—
 - (a) the reference to any operations associated with the disposition shall be taken as referring to any associated operations as defined by section fifty-nine of the Finance Act, 1940, of which the disposition is one; and
 - (b) the reference to any operations associated with the determination shall be taken as referring to any associated operations as so defined of which any disposition resulting in, or effected in contemplation of or with reference to, the determination is one.
- (4) This section shall have effect in relation to any death occurring after the eighteenth day of April, nineteen hundred and fifty, whether or not the relevant interest is disposed of or determines after that date.

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44 Collection of duty from trustees after disposition or determination of life interest, etc.

- (1) Where an interest limited to cease on a death (within the meaning of section forty-three of the Finance Act, 1940) after becoming an interest in possession is disposed of or determines wholly or partly, then, whatever the nature of the property in which the interest subsisted, the following persons shall be accountable for any estate duty payable on the death by virtue of that section (in addition to any persons accountable therefore apart from this section), that is to say—
 - (a) if the settlement under which the interest subsisted is in existence at the death, the trustees for the time being of that settlement; and
 - (b) if it is not, the persons who were the last trustees of that settlement.
- (2) Notwithstanding anything in the foregoing subsection or in section eight of the Finance Act, 1894, no person shall be accountable as trustee of a settlement for any estate duty payable by virtue of the said section forty-three in respect of property paid or applied to or for the benefit of a person not of full age in the exercise of any express or implied power of advancement under the settlement, where that person is not and does not become absolutely and indefeasibly entitled to any share or interest in the property comprised in the settlement, and the property so paid or applied to him or for his benefit does not exceed altogether in amount one half of his presumptive share or interest in the property so comprised.
- (3) Where—
 - (a) the trustees of a settlement may become accountable for estate duty payable by virtue of the said section forty-three in respect of any property; and
 - (b) it is intended that the property or any part thereof shall cease to be comprised in the settlement;then if the trustees obtain from the Commissioners a certificate of the amount which in the opinion of the Commissioners may properly be treated as the prospective amount of the duty, and give the Commissioners all the information and evidence required by the Commissioners in connection with the application for the certificate, no person shall be accountable as trustee of the settlement for the duty to which the certificate relates to an amount in excess of the amount certified.
- (4) It is hereby declared that a person who may become accountable as trustee of a settlement for estate duty payable by virtue of the said section forty-three on property which is or has been comprised in the settlement has a lien for the prospective amount of the duty and the costs in respect thereof on any property in his hands which is so comprised.
- (5) Where the trustees of a settlement may become accountable for estate duty payable by virtue of the said section forty-three on property, which is or has been comprised in the settlement, they may refuse to execute a deed of discharge under section seventeen of the Settled Land Act, 1925, with respect to any land so comprised, or to make or concur in a conveyance of any such land to a person entitled to it as mentioned in subsection (5) of section seven of that Act, unless they are satisfied that they are effectually indemnified against their liability by virtue of this section up to the prospective amount of the duty and the costs in respect thereof.
- (6) Where land comprised in a settlement is not vested in the trustees of the settlement, but they are entitled under the last foregoing subsection to refuse to make or concur in a conveyance such as is there mentioned, they may require the person having the possession of the last or only principal vesting instrument to endorse on or annex to that

instrument a memorandum that any such conveyance of land so comprised requires the concurrence of the trustees for the time being of the settlement, or, in the case of registered land, they may require the proprietor to apply for the entry on the register of a restriction to the like effect; and thereafter no such conveyance shall be made except by the trustees for the time being or "with their concurrence.

- (7) References in this section to the prospective amount of any duty are to be taken as referring to the prospective amount of the duty on the assumption that it will become chargeable.
- (8) Subsections (1) and (2) of this section shall have effect in relation to any death occurring after the eighteenth day of April, nineteen hundred and fifty, whether or not the relevant interest is disposed of or determines after that date, so however that no person shall by virtue of the said subsection (1) be accountable as trustee of any settlement for any duty except to the extent of the property comprised in the settlement after the said eighteenth day of April; and subsection (3) of this section shall be deemed always to have had effect and to have applied with any necessary modifications to duty payable by virtue of section eleven of the Finance Act, 1900, or section thirty-nine of the Finance Act, 1930, as it applies to duty payable by virtue of section forty-three of the Finance Act, 1940.

45 Parliamentary settled estates

- (1) Where land or chattels are so settled, whether by Act of Parliament or royal grant, that no one of the persons successively in possession thereof is capable of alienating the same, then notwithstanding anything in subsection (3) of section twenty-eight of the Finance Act, 1949 (which directs that the estate duty law shall apply to land and chattels so settled in the same way as to other settled property), on the death of a tenant in tail of the property comprised in the settlement estate duty shall not be chargeable as respects any part of that property in the case of which he has disposed of his personal interest to or for the benefit of the person who may from time to time be his successor and in the case of which the conditions of the next following subsection are satisfied.
- (2) The conditions to be satisfied are—
- (a) that the disposition of the tenant in tail's personal interest was bona fide effected five years before his death;
 - (b) that bona fide possession and enjoyment of the property was assumed immediately after the disposition by the tenant in tail's successor and thenceforward retained to the entire exclusion of the tenant in tail and of any benefit to him by contract or otherwise or (bona fide possession and enjoyment of the property having been so assumed) the property was enjoyed to the entire exclusion as aforesaid for the five years before the tenant in tail's death ;
 - (c) that there is not (by reason of any subsequent disposition of the tenant in tail's personal interest or otherwise) any change on the tenant in tail's death in the person beneficially entitled to possession of the property or the income arising therefrom:

Provided that, for the purposes of paragraph (b) of this subsection, subsection (2) of section forty-three of this Act shall apply in relation to any disposition of a tenant in tail's personal interest as it applies for the purposes of the enactments therein mentioned in relation to a disposition of an interest limited to cease on a death.

- (3) For the purpose of paragraph (c) of the last foregoing subsection there shall not be deemed to be a change on a tenant in tail's death in the person beneficially entitled to

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the income arising from any property by reason only that a jointure or other annuity payable out of that income arises on the tenant in tail's death under the settlement comprising the property or ceases on the tenant in tail's death, but nothing in this section shall affect the duty chargeable on any property on the tenant in tail's death by reason of some other person's having or having had in that property an interest limited to cease on that death.

- (4) In this section the expression "tenant in tail" means tenant in tail in possession within the meaning of the Settled Land Act, 1925, and references to a tenant in tail of any property include one of two or more tenants in tail in common or tenants in tail in coparcenery of that property ; and in relation to any tenant in tail of property—
- (a) the expression "personal interest" means his right as tenant in tail to possession of the property or the income arising therefrom or a share thereof during his life; and
 - (b) the expression "successor" means the person who, if the tenant in tail were dead, would be tenant in tail in his place, whether as heir under the entail or as tenant in tail in remainder.

46 Dispositions in favour of relatives

- (1) In relation to a person dying after the eighteenth day of April, nineteen hundred and fifty, there shall be substituted for subsection (1) of section forty-four of the Finance Act, 1940, the following subsections:—

- “(1) Any disposition made by the deceased in favour of a relative of his shall be treated for the purposes of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as a gift unless—
- (a) the disposition was made on the part of the deceased for full consideration in money or money's worth paid to him for his own use or benefit; or
 - (b) the deceased was concerned in a fiduciary capacity imposed on him otherwise than by a disposition made by him and in such a capacity only;

and references to a gift in the other enactments relating to estate duty (including this Part of this Act) shall be construed accordingly:

Provided that where the disposition was made on the part of the deceased for partial consideration in money or money's worth paid to him for his own use or benefit, the value of the consideration shall be allowed as a deduction from the value of the property for the purpose of estate duty.

- (1A) Where the deceased made a disposition of property in favour of a relative of his, the creation or disposition in favour of the deceased of an annuity or other interest limited to cease on the death of the deceased or of any other person shall not be treated for the purposes of this section or of subsection (1) of section seven of the Finance Act, 1894, as consideration for the disposition made by the deceased.
- (1B) If a company to which this section applies was concerned in a transaction in relation to which it is claimed that the provisions of paragraph (a) of or the proviso to subsection (1) of this section have effect, those provisions shall have effect in relation thereto if and only if, and to the extent only to which, the Commissioners are satisfied that those provisions would have had effect

in the following circumstances, namely, if the assets of the company had been held by it on trust for the members thereof and any other person to whom it is under any liability incurred otherwise than for the purposes of the business of the company wholly and exclusively, in accordance with the rights attaching to the shares in and debentures of the company and the terms on which any such liability was incurred, and if the company had acted in the capacity of a trustee only with power to carry on the business of the company and to employ the assets of the company therein.

(1C) Any gift made in favour of a relative of the deceased by a company of which the deceased at the time of the gift had control within the meaning of subsection (3) of section fifty-five of this Act shall be treated for the purposes of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as a gift made by the deceased, and the property taken under the gift shall be treated as included by virtue of that paragraph in the property passing on the death of the deceased, if and to the extent to which the Commissioners are satisfied that they would fall to be so treated in the circumstances mentioned in the last foregoing subsection.”

(2) Where the foregoing subsection applies,—

(a) references to subsection (1A) of the said section forty four shall be substituted—

(i) for the reference to subsection (1) of that section in subsection (5) thereof; and

(ii) for the reference to that section in subsection (II) of section forty of the Finance Act, 1944 (which allows from the value of the property chargeable by virtue of the said section forty-four a deduction for the deceased's annuity payments, but limits the deduction to the amount specified in the Third Schedule to that Act); and

(b) section forty of the Finance Act, 1944, shall have effect also as if for paragraph 2 of the Third Schedule to that Act there were substituted the following paragraph:—

“2 Where under section forty-four of the Finance Act, 1940, a deduction for partial consideration would have been allowable in respect of the annuity or other interest if subsection (1A) of that section had not applied to the disposition and if any other consideration for the disposition had not been given, the amount allowed shall not exceed the amount of that deduction.”

47 Amendment of s. 51 of Finance Act, 1940

In section fifty-one of the Finance Act, 1940 (which relates to the charge for estate duty under the provisions of that Act about companies, and contains provisions for preventing duplication of the charge), there shall be inserted after subsection (1) the following subsection:—

“(1A) Where the following conditions are satisfied, that is to say, that the deceased has, within five years before his death, disposed of any shares in or debentures of the company for consideration in money or money's worth paid to him for his own use or benefit, and that any benefits accrued to the deceased from the company by virtue of those shares or debentures or by virtue of a power's

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having been exercisable by him or with his consent in relation to those shares or debentures, then—

- (a) if the value of the said consideration is equal to or greater than the proportion of the value of the company's assets that corresponds to the benefits that so accrued to him, or if the Commissioners are satisfied that the said proportion would not, if fully ascertained, be found to be substantially in excess of the value of the said consideration, duty on the said proportion shall not be payable ;
- (b) in any other case, the amount on which duty is to be charged in respect of the said proportion shall be reduced by the amount of the value of the said consideration :

Provided that, in the case of any shares or debentures,—

- (i) this subsection shall not apply where estate duty is payable on the death on their value or any part thereof or would be so payable but for an exemption from estate duty; and
- (ii) for the purpose of determining to what extent, if any, the disposition of them satisfies the conditions of this subsection, section fifty-six of this Act (which relates to transactions through the medium of a company) shall apply as it applies for the purposes of section three of the Finance Act, 1894.”

48 Objects of national, scientific, historic or artistic interest

- (1) Subject to the next following subsection, section forty of the Finance Act, 1930 which exempts from estate duty objects of national, scientific, historic or artistic interest), shall apply to objects which pass on a death occurring after the date of the passing of this Act only if an undertaking is given, by such person as the Treasury think appropriate in the circumstances of the case, that, until the objects again pass on a death or are sold,—
 - (a) the objects will be kept permanently in the United Kingdom, and will not leave it temporarily except for a purpose and a period approved by the Treasury; and
 - (b) reasonable steps will be taken for the preservation of the objects; and
 - (c) reasonable facilities for examining the objects for the purpose of seeing the steps taken for their preservation, or for purposes of research, will be allowed to any person authorized by the Treasury so to examine them.
- (2) If on a claim for exemption under the said section forty it is made to appear to the Treasury that any documents for which the exemption is claimed contain information which for personal or other reasons ought to be treated as confidential, the Treasury may exclude those documents either altogether or to such extent as they think fit from any undertaking under the foregoing subsection so far as the undertaking relates to the examination of the documents for purposes of research.
- (3) Where any objects are exempted from estate duty in pursuance of an undertaking under subsection (1) of this section, and the Treasury are satisfied that at any time during the period for which the undertaking was given it has not been observed in a material respect, then estate duty shall become chargeable, on the value at that time of those objects, in respect of the death on which the exemption was given and at the rate appropriate to the principal value of the estate passing on that death upon which estate duty is leviable, and with which the objects would have been aggregated if they had not been objects to which the said section forty applies; and any person who, if the objects

were sold when the duty becomes chargeable, would be entitled to receive (whether for his own benefit or not) the proceeds of sale or any income arising therefrom shall be accountable for the duty.

- (4) Where any objects are sold after becoming chargeable with estate duty under this section in respect of any death, the proceeds of sale shall not be chargeable with estate duty in respect of the same death under subsection (2) of the said section forty.