
STATUTORY INSTRUMENTS

2005 No. 3441

INHERITANCE TAX

The Inheritance Tax (Double Charges Relief) Regulations 2005

Made - - - - 14th December 2005
Laid before the House of
Commons - - - - 14th December 2005
Coming into force - - 4th January 2006

The Commissioners for Her Majesty's Revenue and Customs, in exercise of the powers conferred by section 104 of the Finance Act 1986⁽¹⁾, and now exercisable by them⁽²⁾, make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Inheritance Tax (Double Charges Relief) Regulations 2005, and shall come into force on 4th January 2006.

(2) In these Regulations—

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

“the debt” means the debt mentioned in regulation 3(2);

“the relevant property” has the meaning given in regulation 3(6).

General

2.—(1) These Regulations apply in the circumstances specified in regulation 3.

(2) They apply for the purposes of paragraph (d) of section 104(1) of the Finance Act 1986 (which refers to circumstances appearing to the Commissioners to be circumstances similar to those referred to in paragraphs (a) to (c) of that provision).

(3) To the extent specified in regulation 4, these Regulations apply for the avoidance of double charges to tax.

(1) 1986 c. 41.

(2) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50 of that Act provides that in so far as it is appropriate in consequence of section 5 a reference in an enactment, however expressed, to the Commissioners of Inland Revenue is to be read as a reference to the Commissioners for Her Majesty's Revenue and Customs.

Circumstances in which these Regulations apply

- 3.—(1) These Regulations apply where conditions A to D are met.
- (2) Condition A is that an individual (“the deceased”) enters into arrangements (“the arrangements”) under which—
- (a) the disposal condition or the contribution condition is met as respects the relevant property, and
 - (b) the deceased makes a transfer of value as a result of which a third party becomes entitled to the benefit of a debt (“the debt”) owed to the deceased.
- (3) Condition B is that, before the deceased’s death, any outstanding part of the debt is wholly written off, waived or released, and the write-off, waiver or release is made otherwise than for full consideration in money or money’s worth.
- (4) Condition C is that the deceased dies on or after 6th April 2005.
- (5) Condition D is that—
- (a) on the deceased’s death, the transfer of value treated as made immediately before the deceased’s death included the relevant property (or any property then representing the relevant property), and
 - (b) as a result of the deceased’s death, the transfer of value referred to in paragraph (2)(b) has become a chargeable transfer.
- (6) In these Regulations “the relevant property” means property which, immediately after the carrying out of the arrangements, falls within the definition of “the relevant property” given in paragraph 11(9) of Schedule 15 to the Finance Act 2004(3).
- (7) In paragraph (2)(a) “the disposal condition” and “the contribution condition” are to be construed in accordance with Schedule 15 to the Finance Act 2004.

Avoidance of double charge: amounts to be calculated

- 4.—(1) Where these Regulations apply, amounts A and B must be calculated separately.
- (2) Amount A is the total tax chargeable as a consequence of the death of the deceased, but disregarding the value transferred represented by the relevant property (or by any property which, at the time of the death, represents the relevant property).
- (3) Amount B is the total tax chargeable as a consequence of the death of the deceased, but disregarding the value transferred by the transfer of value specified in regulation 3(2)(b).
- (4) The total tax chargeable is reduced to amount A or to amount B (whichever is the greater).

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Two of the Commissioners for Her Majesty’s
Revenue and Customs

14th December 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 104 of the Finance Act 1986 confers power to make provision by regulations for avoiding double charges to inheritance tax with respect to transfers of value made, and other events occurring, on or after 18th March 1986. Those powers were exercised in the Inheritance Tax (Double Charges Relief) Regulations 1987 (S.I.1987/1130) and in the Charge to Income Tax by Reference to Enjoyment of Property Previously Owned Regulations 2005 (S.I. 2005/724) (see regulation 6 of those Regulations). Those powers are further exercised in these Regulations.

The Regulations apply where an individual (“the deceased”) enters into arrangements under which there are transfers both of property (“the relevant property”) and of a debt owed to the deceased (“the debt”); the debt is then written off; and, on the deceased’s death on or after 6th April 2005, both the relevant property (or any property then representing the chargeable property) and the debt are chargeable to inheritance tax.

Where these Regulations apply, two separate amounts must be calculated. The first amount is the inheritance tax chargeable on the deceased’s death, but disregarding the value transferred represented by the relevant property (or by any property then representing that property). The second amount is the inheritance tax chargeable on the deceased’s death, but disregarding the value transferred represented by the debt. The total inheritance tax chargeable is then reduced to the first amount or to the second amount (whichever is the greater).