



Finance Act 1980

1980 CHAPTER 48

PART IV

CAPITAL TRANSFER TAX

85 Reduction of tax

- (1) For the Tables in section 37(3) of the Finance Act 1975 (rates of tax) there shall be substituted the Tables in Schedule 14 to this Act.
- (2) Subsection (1) above applies to any chargeable transfer made on or after 26th March 1980.
- (3) The transitional provisions in Schedule 15 to this Act shall have effect in relation to this section and also in relation to any subsequent enactment which reduces tax by substituting new Tables in the said section 37(3).

86 Exemptions

- (1) Schedule 6 to the Finance Act 1975 (exempt transfers) shall be amended as follows.
- (2) In paragraph 1(2) and (3) (exemption limit for transfers to non-domiciled spouse) for "£25,000" there shall be substituted " £50,000 ".
- (3) In paragraph 4(1) (small gifts to same person) for " £100 " there shall be substituted " £250 ".
- (4) In paragraph 10(1)(b) and (4) (limit on exempt gifts to charities) for " £100,000 " there shall be substituted " £200,000 ".
- (5) Subsections (2) and (4) above apply to any transfer of value made on or after 26th March 1980 and subsection (3) above applies to any transfer of value made on or after 6th April 1980.

Status: This is the original version (as it was originally enacted).

87 Mutual transfers

- (1) Sections 86 and 87 of the Finance Act 1976 (mutual transfers) shall be amended as follows.
- (2) After section 86(5) there shall be inserted—
- “(6) The extent to which the donee's transfer is an exempt transfer by virtue of subsection (2) above shall be determined without regard to Schedule 10 to this Act, and that Schedule shall not apply to that transfer to the extent to which it is an exempt transfer by virtue of that subsection.
- (7) Paragraph 11(1) of Schedule 10 to the said Act of 1975 (valuation of life policies etc.) shall not apply in determining the amount mentioned in subsection (2)(a) above.”
- (3) For paragraph (a) of subsection (5) of section 87 there shall be substituted—
- “(a) whichever is the smaller of—
- (i) the amount by which the donee's estate was increased by the donor's transfer; or
- (ii) the amount by which the donor's estate was increased by the donee's transfer; or”;
- and in paragraph (b) of that subsection for the words " that amount" there shall be substituted the words " the amount applying under paragraph (a) above ".
- (4) After section 87(5) there shall be inserted—
- “(5A) Where the value transferred by the donor's transfer fell to be calculated in accordance with the provisions of Schedule 8 to the Finance Act 1975 (agricultural relief) or Schedule 10 to this Act, the value restored by the donee's transfer as determined under subsection (5) above shall be treated as reduced to such part of it as bears to the whole the same proportion as the value transferred by the donor's transfer after applying those provisions bears to the value transferred by it before applying those provisions.
- (5B) Paragraph 11(1) of Schedule 10 to the said Act of 1975 (valuation of life policies etc.) shall not apply in determining the amount mentioned in subsection (5)(a)(ii) above.”
- (5) This section shall be deemed to have come into force on 27th March 1980.

88 Maintenance funds: requirements and eligible property

- (1) Section 84 of the Finance Act 1976 (maintenance funds for historic buildings) shall have effect with the amendments in subsections (2) to (6) below which—
- (a) relax the requirements with which a settlement must comply in order to benefit from the provisions of that section;
- (b) add land of outstanding scenic, historic or scientific interest and objects historically associated with certain buildings to the kinds of property that can be maintained by means of a settlement benefiting from those provisions; and
- (c) alter the extent to which that section is subject to the exceptions specified in paragraph 15 of Schedule 6 to the Finance Act 1975.
- (2) For subsection (3)(a) and (b) (requirements to be complied with by settlement) there shall be substituted—

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- “(a) that none of the property comprised in the settlement can at any time in the period of six years beginning with the date on which it became comprised in the settlement be applied otherwise than—
- (i) for the maintenance, repair or preservation of, or making provision for public access to, property which is for the time being qualifying property as defined in subsection (5) below, for the maintenance, repair or preservation of property comprised in the settlement or for defraying the expenses of the trustees ; or
 - (ii) as respects income not so applied and not accumulated, for the benefit of a body mentioned in paragraph 12 of Schedule 6 to the said Act of 1975 (museums etc.) or of a qualifying charity as defined in subsection (7) below ; and
- (b) that none of the property can, on ceasing at any time in that period to be comprised in the settlement, devolve otherwise than on any such body or charity as aforesaid; and
- (c) that income arising from property comprised in the settlement cannot at any time after the end of that period be applied except as mentioned in paragraph (a) (i) or (ii) above.”
- (3) After subsection (3) there shall be inserted—
- “(3A) Paragraphs (a) and (b) of subsection (3) above do not apply to property which—
- (a) was previously comprised in another settlement; and
 - (b) ceased to be comprised in that settlement and became comprised in the current settlement in circumstances such that by virtue of section 89(4)(d) of the Finance Act 1980 there was no charge to tax by reference to its value ;
- and in relation to any such property paragraph (c) of that subsection shall apply with the omission of the words ' at any time after the end of that period ’”
- (4) In subsection (5) for the words from the beginning to the end of paragraph (a) there shall be substituted—
- “(5) Property is qualifying property for the purposes of subsection (3) above if—
- (a) it has been designated under section 34(1) of the Finance Act 1975 or section 77(1)(b), (c), (d) or (e) above; and”.
- (5) In subsection (6) for the words " subsection (1)(c) or (d)" there shall be substituted the words " subsection (1)(b), (c), (d) or (e), ".
- (6) For subsection (8) there shall be substituted—
- “(8) Sub-paragraphs (1), (2), (3)(a), (b) and (ba) and (4B) of paragraph 15 of Schedule 6 to the said Act of 1975 shall apply to this section as they apply to paragraphs 10 to 13 of that Schedule and for the purposes of the said sub-paragraph (4B) the trustees of a settlement in relation to which the Treasury have given a direction under this section shall be treated as a body within paragraph 13 of that Schedule.”.
- (7) In section 38(2)(b) of the Finance Act 1977 (which refers to the provisions amended by subsections (2) and (4) above) for the words " a building or land " and " the building or

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land in question" there shall be substituted respectively the words " qualifying property " and "the qualifying property in question ".

89 Maintenance funds: charge of tax

- (1) If in the case of a settlement in respect of which the Treasury have given a direction under section 84 of the Finance Act 1976 (maintenance funds for historic buildings)—
- (a) any of the property comprised in the settlement (whether capital or income) is applied otherwise than as mentioned in paragraph (a)(i) or (ii) of subsection (3) of that section; or
 - (b) any of that property on ceasing to be comprised in the settlement devolves otherwise than on any such body or charity as is mentioned in paragraph (a) (ii) of that subsection,

tax shall be charged in accordance with subsection (2) below.

- (2) Tax chargeable under this section shall be charged—
- (a) on such an amount as, after deduction of the tax charged on it, is equal to the value of the property which is applied or which devolves as mentioned in subsection (1) above exclusive of so much, if any, of that value as is attributable to property falling within subsection (4) below; and
 - (b) at a rate or rates determined in accordance with Part I of Schedule 16 to this Act;

and Part II of that Schedule shall have effect with respect to the rate or rates at which tax is chargeable on subsequent occasions where tax has been previously charged under this section.

- (3) The tax mentioned in paragraph (a) of subsection (2) above does not include any tax which is payable by a person for whose benefit the property is applied or on whom it devolves or which is payable out of that property; and where tax is chargeable on any occasion in accordance with that subsection the provisions of section 73 of the Finance Act 1976 and Schedule 10 to that Act (relief for business property) shall apply as if the trustees had made a transfer of value and the amount on which tax is chargeable were the value transferred by that transfer.
- (4) Subject to subsections (5) and (6) below, the property the value of which is excluded from subsection (2)(a) above is—
- (a) property to which the settlor or his spouse becomes beneficially entitled on the occasion on which tax would be chargeable under this section;
 - (b) property to which the settlor's widow or widower becomes beneficially entitled on that occasion if the settlor has died in the previous two years ;
 - (c) if the settlor has died after the settlement has taken effect but not more than four years later, property to which the settlor's widow or widower becomes beneficially entitled within thirty days of the expiration of six years from the date on which the settlement took effect;
 - (d) property which, within thirty days after the occasion on which tax would be chargeable under this section, becomes comprised in another settlement as a result of a transfer of value which is exempt under the said section 84.

- (5) Subsection (4) above does not apply to any property if the person who becomes beneficially entitled to it or (in a case within paragraph (d)) makes the transfer of value has acquired it for a consideration in money or money's worth; and for the purposes of this subsection a person shall be treated as acquiring any property for a consideration

in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that or other property.

- (6) Paragraphs (a), (b) and (c) of subsection (4) above do not apply unless the person who becomes beneficially entitled to the property is domiciled in the United Kingdom at the time when he becomes so entitled; and where tax is chargeable under this section in the case of a settlement (" the current settlement") those paragraphs do not apply if the property—
- (a) was previously comprised in another settlement; and
 - (b) ceased to be comprised in that settlement and became comprised in the current settlement in circumstances such that by virtue of paragraph (d) of that subsection or by virtue of the said section 84 or of section 90(1) below there was no charge to tax by reference to its value or there was a reduced charge to tax by virtue of section 90(3) below.
- (7) The value to be excluded under subsection (2) (a) above as attributable to property falling within subsection (4)(d) above shall be—
- (a) its value at the time when tax would be chargeable under this section; or
 - (b) its value at the time when it becomes comprised in the other settlement,
- whichever is the less reduced, where the trustees of the other settlement give consideration for the property in money or money's worth, by the amount or value of that consideration.
- (8) The persons liable for tax charged under subsection (2) above shall be each of the following, that is to say, the trustees of the settlement and, as respects tax on the value of property which devolves on any person or to which a person becomes beneficially entitled on the occasion on which the tax is chargeable, the person on whom it devolves or who becomes beneficially entitled to it; and in paragraphs 2(7), 12(4) and 19(1)(c) of Schedule 4 to the Finance Act 1975 (duty to deliver accounts and provisions as to payment of tax) after the words " section 78 of the Finance Act 1976 " there shall be inserted the words " or section 89 of the Finance Act 1980 ".
- (9) Tax shall also be chargeable in accordance with the foregoing provisions of this section if any of the property comprised in a settlement to which subsection (1) above applies, on ceasing at any time to be comprised in the settlement, devolves on any such body or charity as is referred to in paragraph (b) of that subsection and at or before that time an interest under the settlement is or has been acquired for a consideration in money or money's worth by that or another such body or charity; but for the purposes of this subsection any acquisition from another such body or charity shall be disregarded.

90 Maintenance funds: other amendments

- (1) Subject to subsections (2) and (3) below, a transfer of property or other event shall not constitute or give rise to a distribution payment or capital distribution under any provision of Schedule 5 to the Finance Act 1975 (settled property) if not later than thirty days after the date of the transfer or event an individual makes a transfer of value—
- (a) which is exempt under section 84 of the Finance Act 1976 (maintenance funds for historic buildings); and
 - (b) the value transferred by which is attributable to the property by reference to which the amount of the distribution payment or capital distribution would have fallen to be determined.

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- (2) Subsection (1) above does not apply if the individual has acquired the property referred to in paragraph (b) for a consideration in money or money's worth; and for the purposes of this subsection an individual shall be treated as acquiring any property for such consideration if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that or other property.
- (3) Subsection (1) above does not apply if—
- (a) the amount of the distribution payment or capital distribution exceeds the value of the property which by virtue of the exempt transfer becomes comprised in the settlement referred to in the said section 84; or
 - (b) the individual receives any consideration in money or money's worth for that property;
- but in a case where that subsection would apply but for the foregoing provisions of this subsection the amount of the distribution payment or capital distribution shall be treated as equal to the excess referred to in paragraph (a) above or, as the case may be, to the consideration referred to in paragraph (b) above or, where both paragraphs apply, to the aggregate of the excess and the consideration.
- (4) Where the Treasury have given a direction in respect of a settlement under the said section 84 the trusts of the settlement shall be enforceable at the suit of the Treasury and the Treasury shall, as respects the appointment, removal and retirement of trustees, have the rights and powers of a beneficiary.

91 Discretionary trusts: credit for annual charge

- (1) At the end of paragraph 12(3) of Schedule 5 to the Finance Act 1975 (under which tax charged under paragraph 12(2) is allowed as a credit against the tax chargeable on the next capital distribution out of the settlement) there shall be inserted the words " and if the tax charged exceeds the tax so chargeable the excess shall be allowed as a credit against the tax chargeable on the next subsequent such capital distribution and so on. "
- (2) This section shall be deemed always to have had effect.

92 Provision for dependants of deceased persons

In section 122 of the Finance Act 1976 (Inheritance (Provision for Family and Dependents) Act 1975) after subsection (7) there shall be inserted—

“(7A) Where an order is made staying or dismissing proceedings under the said Act of 1975 on terms set out in or scheduled to the order this section shall have effect as if any of those terms which could have been included in an order under section 2 or 10 of that Act were provisions of such an order.”

93 Proper liferent and fee

- (1) In section 51(1) of the Finance Act 1975 there shall be inserted at the end of the definition of " reversionary interest " the words " and in relation to Scotland includes an interest in the fee of property subject to a proper liferent".
- (2) Paragraph 1 of Schedule 5 to that Act shall be amended as follows—
- (a) at the end of sub-paragraph (4) (b) there shall be added—

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- “(c) any deed creating or reserving a proper liferent of any property whether heritable or moveable (the property from time to time subject to the proper liferent being treated as the property comprised in the settlement).”; and
 - (b) in sub-paragraph (9) after the words "capable of enjoyment" there shall be inserted the words "including an interest of an assignee under an assignation of an interest of any kind (other than a reversionary interest) in property subject to a proper liferent".
- (3) At the end of section 68(4) of the Finance Act 1978 there shall be added—
 - “In the application of this subsection to Scotland, property which is subject to a proper liferent shall be deemed to be held in trust for the liferenter.”
- (4) This section applies—
 - (a) to any transfer of value made after 17th April 1980 ;
 - (b) if any person liable for capital transfer tax on the transfer so elects, to any transfer of value made on or before 17th April 1980 in respect of which payment of capital transfer tax has not been made and accepted in full satisfaction of the liability.

94 Delivery of accounts

- (1) The Board may make regulations—
 - (a) dispensing with the delivery of accounts under paragraph 2 of Schedule 4 to the Finance Act 1975 in such cases as may be specified in the regulations ;
 - (b) discharging, subject to such restrictions as may be so specified, property from an Inland Revenue charge under that Schedule and persons from further claims for tax in cases other than those mentioned in paragraph 25 of that Schedule;
 - (c) requiring information to be furnished to the Board, in such circumstances as may be so specified, by persons who have not delivered accounts under the said paragraph 2 or who have produced documents other than an account or inventory in pursuance of arrangements made under the enactments mentioned in subsection (2) below ;
 - (d) modifying section 114(6) of the Finance Act 1976 (transfers reported late) in cases where the delivery of an account has been dispensed with under the regulations.
- (2) The enactments referred to in subsection (1)(c) above are section 156A(2) of the Supreme Court of Judicature (Consolidation) Act 1925, the proviso to section 42 of the Probate and Legacy Duties Act 1808 and Article 20 of the Administration of Estates (Northern Ireland) Order 1979.
- (3) Regulations under this section may contain such supplementary or incidental provisions as the Board think fit.
- (4) In paragraph 2 of the said Schedule 4 after sub-paragraph (2) there shall be inserted—
 - “(2A) Where in the case of the estate of a deceased person no grant of representation or confirmation has been obtained in the United Kingdom before the expiration of the period of twelve months from the end of the month in which the death occurred—

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- (a) every person in whom any of the property forming part of the estate vests (whether beneficially or otherwise) on or at any time after the deceased's death or who at any such time is beneficially entitled to an interest in possession in any such property; and
 - (b) where any of the property is at any such time comprised in a settlement and there is no person beneficially entitled to an interest in possession in that property, every person for whose benefit any of that property (or income from it) is applied at any such time,shall deliver to the Board an account specifying to the best of his knowledge and belief the relevant property vested in him, in which he has an interest or which (or income from which) is applicable for his benefit and the value of that property.”
- (5) In sub-paragraph (4) of the said paragraph 2 after the word " if " there shall be inserted " , in the case of an account to be delivered by a person falling within sub-paragraph (2A) above, a person falling within that sub-paragraph has satisfied the Board that an account will in due course be delivered by the personal representatives or if, in that or any other case, " .
- (6) After sub-paragraph (5)(a) of the said paragraph 2 there shall be inserted—
 - “(aa) in the case of an account to be delivered by a person falling within sub-paragraph (2A) above, before the expiration of the period of three months from the time when he first has reason to believe that he is required to deliver an account under that sub-paragraph ; and”.
- (7) In section 12 of the Customs, Inland Revenue, and Savings Banks Act 1877 (transmission and custody of inventories in Scotland)—
 - (a) for the word " All " , where first occurring, there shall be substituted the words " To the extent that the Registrar, Capital Taxes Office at Edinburgh may require, " ; and
 - (b) the words " as often as required " shall cease to have effect.
- (8) The provisions of subsections (4), (5) and (6) above shall come into force on the coming into force of the first regulations made under paragraph (a) of subsection (1) above; and if regulations under that paragraph come into force on different dates in respect of different parts of the United Kingdom those provisions shall come into force in each part on the coming into force of the first regulations that come into force in respect of that part.
- (9) The power to make regulations under this section shall be exercisable by statutory instrument; and a statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.