Inheritance Tax Act 1984

1984 CHAPTER 51

An Act to consolidate provisions of Part III of the Finance Act 1975 and other enactments relating to[F1 inheritance tax]. [31st July 1984]

Editorial Information

X1 A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.

X2 By Finance Act 1986 s. 100(1), on and after 25 July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984.

X3 This Act is based on material edited by the Inland Revenue and the style of editing for effects prior to 1.2.1991 differs from most Acts on the Statute Law Database.

Textual Amendments

F1 By Finance Act 1986 s. 100(1), on and after 25 July 1986 the Capital Transfer Tax Act 1984 may be cited as the Inheritance Tax Act 1984.

Modifications etc. (not altering text)

C1 Act modified (1.11.2004 with effect as mentioned in reg. 1 of the amending S.I.) by The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543), **reg. 7(2)**

C2 Act modified (with effect in accordance with s. 195(12) of the amending Act) by Finance Act 2003 (c. 14), **s. 195**

C3 Act amended (1.5.1995 with effect in relation to transfers of value or other events occuring on or after 6.4.1995) by 1995 c. 4, **s. 154(2)(3)(5)**
Act modified (31.7.1998 with effect as mentioned in s. 161 of the amending Act) by 1998 c. 36, **s. 161(2)(c)**

C4 Act modified (16.6.2011) by The Taxation of Equitable Life (Payments) Order 2011 (S.I. 2011/1502), arts. 1(1)(2), **5**

Commencement Information

I1 Act wholly in force at 1.1.1985 see s. 274(1).

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Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART I

GENERAL

Main charges and definitions

1 Charge on transfers.

[[F2]Inheritance tax**]** shall be charged on the value transferred by a chargeable transfer.

Textual Amendments

F2 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

2 Chargeable transfers and exempt transfers.

(1) A chargeable transfer is a transfer of value which is made by an individual but is not (by virtue of Part II of this Act or any other enactment) an exempt transfer.

(2) A transfer of value made by an individual and exempt only to a limited extent—

(a) is, if all the value transferred by it is within the limit, an exempt transfer, and

(b) is, if that value is partly within and partly outside the limit, a chargeable transfer of so much of that value as is outside the limit as well as an exempt transfer of so much of that value as is within the limit.

(3) Except where the context otherwise requires, references in this Act to chargeable transfers, to their making or to the values transferred by them shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), to their occurrence or to the amounts on which tax is then chargeable.

3 Transfers of value.

(1) Subject to the following provisions of this Part of this Act, a transfer of value is a disposition made by a person (the transferor) as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer.

(2) For the purposes of subsection (1) above no account shall be taken of the value of excluded property which ceases to form part of a person's estate as a result of a disposition.

(3) **[**[F3] Where the value of a person's estate is diminished, and the value—

(a) of another person's estate, or

(b) of any settled property, other than settled property treated by section 49(1) below as property to which a person is beneficially entitled,

is increased**]** by the first-mentioned person's omission to exercise a right, he shall be treated for the purposes of this section as having made a disposition at the time (or latest time) when he could have exercised the right, unless it is shown that the omission was not deliberate.

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(4) Except as otherwise provided, references in this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person; and "transferor" shall be construed accordingly.

Textual Amendments

F3 Words in s. 3(3) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **8**

[F4 3A Potentially exempt transfers.

(1) Any reference in this Act to a potentially exempt transfer is a reference to a transfer of value—

(a) which is made by an individual on or after 18th March 1986 **[**F5 but before 22nd March 2006**]** ; and

(b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer); and

(c) to the extent that it constitutes either a gift to another individual or a gift into an accumulation and maintenance trust or a disabled trust;

F6 . . . . . .

F7 **[** (1A) Any reference in this Act to a potentially exempt transfer is also a reference to a transfer of value—

(a) which is made by an individual on or after 22nd March 2006,

(b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer), and

(c) to the extent that it constitutes—

(i) a gift to another individual,

(ii) a gift into a disabled trust, or

(iii) a gift into a bereaved minor's trust on the coming to an end of an immediate post-death interest.

(1B) Subsections (1) and (1A) above have effect subject to any provision of this Act which provides that a disposition (or transfer of value) of a particular description is not a potentially exempt transfer.**]**

(2) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) **[**F8 or (1A)(c)(i)**]** above, as a gift to another individual,—

(a) to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes comprised in the estate of that other individual, . . . F9, or

(b) so far as that value is not attributable to property which becomes comprised in the estate of another person, to the extent that, by virtue of the transfer, the estate of that other individual is increased, . . . F10

(3) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) above, as a gift into an accumulation and maintenance trust or a disabled trust, to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 71 or 89 of this Act applies.

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[Subject to subsection (6) below, a transfer of value falls within subsection (1A)(c)
[F11](3A) (ii) above to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 89 below applies.

(3B) A transfer of value falls within subsection (1A)(c)(iii) above to the extent that the value transferred is attributable to settled property (whenever settled) that becomes property to which section 71A below applies in the following circumstances—

(a) under the settlement, a person ("L") is beneficially entitled to an interest in possession in the settled property,

(b) the interest in possession is an immediate post-death interest,

(c) on or after 22nd March 2006, but during L's life, the interest in possession comes to an end,

(d) L is beneficially entitled to the interest in possession immediately before it comes to an end, and

(e) on the interest in possession coming to an end, the property—

(i) continues to be held on the trusts of the settlement, and

(ii) becomes property to which section 71A below applies.**]**

(4) A potentially exempt transfer which is made seven years or more before the death of the transferor is an exempt transfer and any other potentially exempt transfer is a chargeable transfer.

(5) During the period beginning on the date of a potentially exempt transfer and ending immediately before—

(a) the seventh anniversary of that date, or

(b) if it is earlier, the death of the transferor,

it shall be assumed for the purposes of this Act that the transfer will prove to be an exempt transfer.

(6) Where, under any provision of this Act [F12]. . . tax is in any circumstances to be charged as if a transfer of value had been made, that transfer shall be taken to be a transfer which is not a potentially exempt transfer.**]**

[[F13](6A) The reference in subsection (6) above to any provision of this Act does not include section 52 below except where the transfer of value treated as made by that section is one treated as made on the coming to an end of an interest which falls within section 5(1B) below.**]**

[[F14](7) In the application of this section to an event on the happening of which tax is chargeable under section 52 below, the reference in subsection (1)(a) **[**[F15]or (1A)(a)**]** above to the individual by whom the transfer of value is made is a reference to the person who, by virtue of section 3(4) above, is treated as the transferor.**]**

Textual Amendments

F4 Finance Act 1986 Sch. 19 para. 1,*in relation to transfers of value made on or after* 18*March* 1986.

F5 Words in s. 3A(1)(a) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(2)**

F6 Words in s. 3A(1) repealed (22.3.2006) by Finance Act 2006 (c. 25), **s. 178**, {Sch. 26 Pt. 6 Note 1}

F7 S. 3A(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(3)**

F8 Words in s. 3A(2) inserted (22.3.2006) by Finance Act 2006, s. 156, Sch. 20 paras. 7, {9(4)}

F9 *Repealed by*Finance Act 1987 (No. 2) s. 96(2)(a)*and* Sch. 9 Part III,*with effect from* 17*March* 1987.

F10 *Repealed by*Finance Act 1987 (No. 2) s. 96(2)(b)*and* Sch. 9 Part III*with effect from* 17*March* 1987.

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F11 S. 3A(3A)(3B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(5)**
F12 Words in s. 3A(6) omitted (with effect as mentioned in s. 53(10) of the amending Act) by virtue of Finance Act 2010 (c. 13), **s. 53(2)(a)**
F13 S. 3A(6A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(2)(b)**
F14 Finance Act 1987 (No. 2) s. 96(1), (3),*in relation to transfers of value made on or after* 17*March* 1987.
F15 Words in s. 3A(7) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(6)**

4 Transfers on death.

(1) On the death of any person tax shall be charged as if, immediately before his death, he had made a transfer of value and the value transferred by it had been equal to the value of his estate immediately before his death.

(2) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.

5 Meaning of estate.

(1) For the purposes of this Act a person's estate is the aggregate of all the property to which he is beneficially entitled, **[**[F16] except that—

(a) the estate of a person—

(i) does not include an interest in possession in settled property to which section 71A or 71D below applies, and

(ii) does not include an interest in possession that falls within subsection (1A) below **[**[F17]unless it falls within subsection (1B) below**]**, and

(b) the**]** estate of a person immediately before his death does not include excluded property **[**[F18]or a foreign-owned work of art which is situated in the United Kingdom for one or more of the purposes of public display, cleaning and restoration (and for no other purpose).**]**

[[F19](1A) An interest in possession falls within this subsection if—

(a) it is an interest in possession in settled property,

(b) the settled property is not property to which section 71A or 71D below applies,

(c) the person is beneficially entitled to the interest in possession,

(d) the person became beneficially entitled to the interest in possession on or after 22nd March 2006, and

(e) the interest in possession is—

(i) not an immediate post-death interest,

(ii) not a disabled person's interest, and

(iii) not a transitional serial interest.**]**

[[F20](1B) An interest in possession falls within this subsection if the person—

(a) was domiciled in the United Kingdom on becoming beneficially entitled to it, and

(b) became beneficially entitled to it by virtue of a disposition which was prevented from being a transfer of value by section 10 below.**]**

(2) A person who has a general power which enables him, or would if he were sui juris enable him, to dispose of any property other than settled property, or to charge money on any property other than settled property, shall be treated as beneficially entitled to the property or money; and for this purpose "general power" means a power or authority enabling the person by whom it is exercisable to appoint or dispose of property as he thinks fit.

(3) In determining the value of a person's estate at any time his liabilities at that time shall be taken into account, except as otherwise provided by this Act.

(4) The liabilities to be taken into account in determining the value of a transferor's estate immediately after a transfer of value include his liability for **[**[F21]inheritance tax**]** on the value transferred but not his liability (if any) for any other tax or duty resulting from the transfer.

(5) Except in the case of a liability imposed by law, a liability incurred by a transferor shall be taken into account only to the extent that it was incurred for a consideration in money or money's worth.

Textual Amendments

F16 Words in s. 5(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 7, **10(2)**

F17 Words in s. 5(a)(ii) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(3)(a)**

F18 Words in s. 5(1)(b) inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(2)**

F19 S. 5(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **10(3)**

F20 S. 5(1B) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(3)(b)**

F21 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

6 Excluded property.

(1) Property situated outside the United Kingdom is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.

[[F22](1A) A holding in an authorised unit trust and a share in an open-ended investment company is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.**]**

[[F23](1B) A decoration or other award is excluded property if—

(a) it was awarded for valour or gallant conduct, and

(b) it has never been the subject of a disposition for a consideration in money or money's worth.

(1C) In subsection (1B) the reference to a disposition of the decoration or other award includes—

(a) a reference to a disposition of part of it, and

(b) a reference to a disposition of an interest in it (or in part of it).**]**

(2) Where securities have been issued by the Treasury subject to a condition authorised by section 22 of the [M1]Finance (No. 2) Act 1931 (or section 47 of the [M2]Finance (No. 2)

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Act 1915) for exemption from taxation so long as the securities are in the beneficial ownership of persons **[**[F24]of a description specified in the condition**]**, the securities are excluded property if they are in the beneficial ownership of such a person.

(3) Where the person beneficially entitled to the rights conferred by any of the following, namely—

(a) war savings certificates;

(b) national savings certificates (including Ulster savings certificates);

(c) premium savings bonds;

(d) deposits with the National Savings Bank or with a trustee savings bank;

(e) a **[**[F25]certified SAYE savings arrangement**]** within the meaning of **[**[F26]section 703(1) of the Income Tax (Trading and Other Income) Act 2005**]** ;

is domiciled in the Channel Islands or the Isle of Man, the rights are excluded property.

(4) Property to which this subsection applies by virtue of section 155(1) below is excluded property.

Textual Amendments

F22 S. 6(1A) inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(2)**

F23 S. 6(1B)(1C) inserted (6.4.2009 with effect as mentioned in art. 14(2) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730, **art. 14(1)**

F24 Words in s. 6(2) substituted (29.4.1996 with effect as mentioned in s. 154(9) of the amending Act) by 1996 c. 8, s. 154(7), **Sch. 28 para. 7** (with s. 154(5))

F25 Words in s. 6(3)(e) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 394(a)** (with Sch. 2)

F26 Words in s. 6(3)(e) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 394(b)** (with Sch. 2)

Marginal Citations

M1 1931 c. 49.

M2 1915 c. 89.

Rates

7 Rates.

(1) **[**[F27]Subject to subsections (2), (4) and (5) below**]** the tax charged on the value transferred by a chargeable transfer made by any transferor shall be charged at the following rate or rates, that is to say—

(a) if the transfer is the first chargeable transfer made by that transferor in the period of **[**[F28]seven years**]** ending with the date of the transfer, at the rate or rates applicable to that value under the . . . [F29] Table in Schedule 1 to this Act;

(b) in any other case, at the rate or rates applicable under that Table to such part of the aggregate of—

(i) that value, and

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(ii) the values transferred by previous chargeable transfers made by him in that period,

as is the highest part of that aggregate and is equal to that value.

[[F30](2) Except as provided by subsection (4) below, the tax charged on the value transferred by a chargeable transfer made before the death of the transferor shall be charged at one-half of the rate or rates referred to in subsection (1) above.**]**

(3) In **[**[F31]the Table**]** in Schedule 1 to this Act any rate shown in the third column is that applicable to such portion of the value concerned as exceeds the lower limit shown in the first column but does not exceed the upper limit (if any) shown in the second column.

[[F32](4) Subject to subsection (5) below, subsection (2) above does not apply in the case of a chargeable transfer made at any time within the period of seven years ending with the death of the transferor but, in the case of a chargeable transfer made within that period but more than three years before the death, the tax charged on the value transferred shall be charged at the following percentage of the rate or rates referred to in subsection (1) above—

(a) where the transfer is made more than three but not more than four years before the death, 80 per cent;

(b) where the transfer is made more than four but not more than five years before the death, 60 per cent;

(c) where the transfer is made more than five but not more than six years before the death, 40 per cent; and

(d) where the transfer is made more than six but not more than seven years before the death, 20 per cent.

(5) If, in the case of a chargeable transfer made before the death of the transferor, the tax which would fall to be charged in accordance with subsection (4) above is less than the tax which would have been chargeable (in accordance with subsection (2) above) if the transferor had not died within the period of seven years beginning with the date of the transfer, subsection (4) above shall not apply in the case of that transfer.**]**

Textual Amendments

F27 Finance Act 1986 Sch. 19, para. 2(1)(a),*with effect from* 18*March* 1986.

F28 Finance Act 1986 Sch. 19, para. 2(1)(b),*with effect from* 18*March* 1986.*Originally* "ten years".

F29 *Repealed by* Finance Act 1986 s. 101(3)*and* Sch. 19, para. 2(1)(c),*with effect from* 18*March* 1986.

F30 Finance Act 1986 Sch. 19, para. 2(2),*with effect from* 18*March* 1986.*Originally*
"(2) Except as otherwise provided, the first Table in Schedule 1 to this Act is the appropriate Table for a transfer made on or at any time within three years of the death of the transferor, and the second Table in that Schedule is the appropriate Table for any other transfer."

F31 Finance Act 1986 Sch. 19, para. 2(3),*with effect from* 18*March* 1986.*Originally* "each of the Tables".

F32 Finance Act 1986 Sch. 19, para. 2(4),*with effect from* 18*March* 1986.

8 Indexation of rate bands.

(1) If the retail prices index for the month of **[**[F33]September in 1993**]** or any later year is higher than it was for the **[**[F33]previous September**]**, then, unless Parliament otherwise

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determines, section 7 above and Schedule 1 to this Act shall apply to chargeable transfers made on or after 6th April in the following year with the substitution of **[**[F34]a new Table for the Table**]** applying (whether by virtue of this section or otherwise) to earlier chargeable transfers.

(1A) . . . . . [F35]

(2) The new **[**[F36]Table**]** shall differ from the **[**[F36]Table**]** it replaces in that for each of the amounts specified in the first and second columns there shall be substituted amounts arrived at by increasing the previous amounts by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £1,000, rounding it up to the nearest amount which is such a multiple.

(3) The references in this section to the retail prices index are references to the general index of retail prices (for all items) published by the **[**[F37]Statistics Board**]**; and if that index is not published for a month of **[**[F33]September**]** those references shall be construed as references to any substituted index or index figures published by **[**[F38]the Board**]**.

(4) The Treasury shall before 6th April **[**[F33]1994**]** and each subsequent 6th April make an order specifying the amounts which by virtue of this section will be treated, in relation to chargeable transfers on or after that date, as specified in the **[**[F39]Table**]** in Schedule 1 to this Act; and any such order shall be made by statutory instrument.

Textual Amendments

F33 Words in s. 8(1)(3)(4) substituted (27.7.1993: the substituting section applying in relation to chargeble transfers made on or after 6.4.1994) by 1993 c. 34, **s. 197(1)(2)**.

F34 Finance Act 1986 Sch. 19, para. 3(1), *with effect from* 18 *March* 1986. *Originally* "new Tables for the Tables".

F35 Finance Act 1986 Sch. 19, para. 3(2), *with effect from* 18 *March* 1986. *repealed by* 1988, s. 136(3) *and* Sch.14, Part X *with effect from* 15 *March* 1988.

F36 Finance Act 1986 Sch. 19, para. 3(3), *with effect from* 18 *March* 1986. *Originally* "Tables".

F37 Words in s. 8(3) substituted (1.4.2008) by Statistics and Registration Service Act 2007 (c. 18), ss. 60(1), 74, **Sch. 3 para. 3(a)**; S.I. 2008/839, **art. 2**

F38 Words in s. 8(3) substituted (1.4.2008) by Statistics and Registration Service Act 2007 (c. 18), ss. 60(1), 74, **Sch. 3 para. 3(b)**; S.I. 2008/839, **art. 2**

F39 Finance Act 1986 Sch. 19, para. 3(4), *with effect from* 18 *March* 1986. *Originally* "Tables".

Modifications etc. (not altering text)

C5 S. 8(1) restricted (7.4.2005) by Finance Act 2005 (c. 7), **s. 98(6)**

C6 S. 8(1) excluded (19.7.2006) by Finance Act 2006 (c. 25), **s. 155(5)**

C7 S. 8 restricted (19.3.1997 with effect as mentioned in s. 93(2) of the amending Act) by 1997 c. 16, **s. 93(2)**

C8 S. 8 restricted (8.4.2010) by Finance Act 2010 (c. 13), **s. 8(3)**

C9 S. 8(1) excluded (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), **s. 72(2)**.
S. 8(1) excluded (27.7.1993) by 1993 c. 34, **s. 196**.
S. 8(1) excluded (3.5.1994 with effect as mentioned in s. 246 of the amending Act) by 1994 c. 9, **s. 246**

C10 S. 8(1) restricted (24.7.2002) by 2002 c. 23, **s. 118(2)**

[[F40]**8A Transfer of unused nil-rate band between spouses and civil partners**

(1) This section applies where—

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(a) immediately before the death of a person (a "deceased person"), the deceased person had a spouse or civil partner ("the survivor"), and

(b) the deceased person had unused nil-rate band on death.

(2) A person has unused nil-rate band on death if—

$$M > \mathrm{VT}$$

where—

M is the maximum amount that could be transferred by a chargeable transfer made (under section 4 above) on the person's death if it were to be wholly chargeable to tax at the rate of nil per cent. (assuming, if necessary, that the value of the person's estate were sufficient but otherwise having regard to the circumstances of the person); and

VT is the value actually transferred by the chargeable transfer so made (or nil if no chargeable transfer is so made).

(3) Where a claim is made under this section, the nil-rate band maximum at the time of the survivor's death is to be treated for the purposes of the charge to tax on the death of the survivor as increased by the percentage specified in subsection (4) below (but subject to subsection (5) and section 8C below).

(4) That percentage is—

$$\frac{E}{\mathrm{NRBMD}} \times 100$$

where—

E is the amount by which M is greater than VT in the case of the deceased person; and

NRBMD is the nil-rate band maximum at the time of the deceased person's death.

(5) If (apart from this subsection) the amount of the increase in the nil-rate band maximum at the time of the survivor's death effected by this section would exceed the amount of that nil-rate band maximum, the amount of the increase is limited to the amount of that nil-rate band maximum.

(6) Subsection (5) above may apply either—

(a) because the percentage mentioned in subsection (4) above (as reduced under section 8C below where that section applies) is more than 100 because of the amount by which M is greater than VT in the case of one deceased person, or

(b) because this section applies in relation to the survivor by reference to the death of more than one person who had unused nil-rate band on death.

(7) In this Act "nil-rate band maximum" means the amount shown in the second column in the first row of the Table in Schedule 1 to this Act (upper limit of portion of value charged at rate of nil per cent.) and in the first column in the second row of that Table (lower limit of portion charged at next rate).

Status: *Point in time view as at 01/04/2011.*
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Textual Amendments

F40 Ss. 8A-8C inserted (with effect as mentioned in Sch. 4 para. 9(1) of the amending Act) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 para. 2** (with transitional modifications in Sch. 4 paras. 10, 11)

8B Claims under section 8A

(1) A claim under section 8A above may be made—

(a) by the personal representatives of the survivor within the permitted period, or

(b) (if no claim is so made) by any other person liable to the tax chargeable on the survivor's death within such later period as an officer of Revenue and Customs may in the particular case allow.

(2) If no claim under section 8A above has been made in relation to a person (P) by reference to whose death that section applies in relation to the survivor, the claim under that section in relation to the survivor may include a claim under that section in relation to P if that does not affect the tax chargeable on the value transferred by the chargeable transfer of value made on P's death.

(3) In subsection (1)(a) above "the permitted period" means—

(a) the period of two years from the end of the month in which the survivor dies or (if it ends later) the period of three months beginning with the date on which the personal representatives first act as such, or

(b) such longer period as an officer of Revenue and Customs may in the particular case allow.

(4) A claim made within either of the periods mentioned in subsection (3)(a) above may be withdrawn no later than one month after the end of the period concerned.

Textual Amendments

F40 Ss. 8A-8C inserted (with effect as mentioned in Sch. 4 para. 9(1) of the amending Act) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 para. 2** (with transitional modifications in Sch. 4 paras. 10, 11)

8C Section 8A and subsequent charges

(1) This section applies where—

(a) the conditions in subsection (1)(a) and (b) of section 8A above are met, and

(b) after the death of the deceased person, tax is charged on an amount under any of sections 32, 32A and 126 below by reference to the rate or rates that would have been applicable to the amount if it were included in the value transferred by the chargeable transfer made (under section 4 above) on the deceased person's death.

(2) If the tax is charged before the death of the survivor, the percentage referred to in subsection (3) of section 8A above is (instead of that specified in subsection (4) of that section)—

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$$\left(\frac{E}{\text{NRBMD}} - \frac{\text{TA}}{\text{NRBME}}\right) \times 100$$

where—

E and NRBMD have the same meaning as in subsection (4) of that section;

TA is the amount on which tax is charged; and

NRBME is the nil-rate band maximum at the time of the event occasioning the charge.

(3) If this section has applied by reason of a previous event or events, the reference in subsection (2) to the fraction

$$\frac{\text{TA}}{\text{NRBME}}$$

is to the aggregate of that fraction in respect of the current event and the previous event (or each of the previous events).

(4) If the tax is charged after the death of the survivor, it is charged as if the personal nil-rate band maximum of the deceased person were appropriately reduced.

(5) In subsection (4) above—

"the personal nil-rate band maximum of the deceased person" is the nil rate band maximum which is treated by Schedule 2 to this Act as applying in relation to the deceased person's death, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the deceased person (as survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the deceased person.**]**

Textual Amendments

F40 Ss. 8A-8C inserted (with effect as mentioned in Sch. 4 para. 9(1) of the amending Act) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 para. 2** (with transitional modifications in Sch. 4 paras. 10, 11)

9 Transitional provisions on reduction of tax.

The transitional provisions in Schedule 2 to this Act shall have effect in relation to any enactment by virtue of which tax is reduced by the substitution of **[**[F41]a new Table**]** in Schedule 1.

Textual Amendments

F41 Finance Act 1986 Sch. 19, para. 4*with effect from* 18*March* 1986.*Originally* "new Tables".

Status: *Point in time view as at 01/04/2011.*
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Dispositions that are not transfers of value

10 Dispositions not intended to confer gratuitous benefit.

(1) A disposition is not a transfer of value if it is shown that it was not intented, and was not made in a transaction intended, to confer any gratuitous benefit on any person and either—

(a) that it was made in a transaction at arm's length between persons not connected with each other, or

(b) that it was such as might be expected to be made in a transaction at arm's length between persons not connected with each other.

(2) Subsection (1) above shall not apply to a sale of **[**[F42]unquoted shares or unquoted debentures**]** unless it is shown that the sale was at a price freely negotiated at the time of the sale or at a price such as might be expected to have been freely negotiated at the time of the sale.

(3) In this section—

"disposition" includes anything treated as a disposition by virtue of section 3(3) above;

"transaction" includes a series of transactions and any associated operations.

Textual Amendments

F42 Finance Act 1987 Sch. 8, para. 1,*with effect from* 17*March* 1987.*Originally* "shares or debentures not quoted on a recognised stock exchange".

11 Dispositions for maintenance of family.

(1) A disposition is not a transfer of value if it is made by one party to a marriage **[**[F43]or civil partnership**]** in favour of the other party or of a child of either party and is—

(a) for the maintenance of the other party, or

(b) for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.

(2) A disposition is not a transfer of value if it is made in favour of a child who is not in the care of a parent of his and is for his maintenance, education or training for a period ending not later than the year in which—

(a) he attains the age of eighteen, or

(b) after attaining that age he ceases to undergo full-time education or training;

but paragraph (b) above applies only if before attaining that age the child has for substantial periods been in the care of the person making the disposition.

(3) A disposition is not a transfer of value if it is made in favour of a dependent relative of the person making the disposition and is a reasonable provision for his care or maintenance.

(4) A disposition is not a transfer of value if it is made in favour of an illegitimate child of the person making the disposition and is for the maintenance, education or training

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of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.

(5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.

(6) In this section—

"child" includes a step-child and an adopted child and "parent" shall be construed accordingly;

[[F44]"civil partnership", in relation to a disposition made on the occasion of the dissolution or annulment of a civil partnership, and in relation to a disposition varying a disposition so made, includes a former civil partnership;**]**

"dependent relative" means in relation to any person—

(a) a relative of his, or of his spouse **[**[F45]or civil partner**]** , who is incapacitated by old age or infirmity from maintaining himself, or

(b) **[**[F46]his mother or father or his spouse's or civil partner's mother or father;**]**

"marriage", in relation to a disposition made on the occasion of the dissolution or annulment of a marriage, and in relation to a disposition varying a disposition so made, includes a former marriage;

"year" means period of twelve months ending with 5th April.

Textual Amendments

F43 Words in s. 11(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **4(2)**

F44 S. 11(6): definition of "civil partnership" inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **4(3)(b)**

F45 S. 11(6): words in definition of "dependent relative" inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **4(3)(a)(i)**

F46 S. 11(6): words in definition of "dependent relative" substituted (5.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **4(3)(a)(ii)**

12 Dispositions allowable for income tax or conferring [F47benefits under pension scheme].

(1) A disposition made by any person is not a transfer of value if it is allowable in computing that person's profits or gains for the purposes of income tax or corporation tax or would be so allowable if those profits or gains were sufficient and fell to be so computed.

(2) Without prejudice to subsection (1) above, a disposition made by any person is not a transfer of value if **[**[F48]it is a contribution under a registered pension scheme **[**[F49], a qualifying non-UK pension scheme or a**]** section 615(3) scheme in respect of an employee of the person making the disposition.**]**

[[F50](2A) Subsection (2B) below applies where a person who is a member of a registered pension scheme, and who has not reached the age of 75, has omitted to exercise pension rights under the pension scheme and, if the words "(or latest time)" were omitted from subsection (3) of section 3 above,—

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(a) that subsection would have treated the person as having made a disposition by reason of omitting to exercise the pension rights, but

(b) section 10 above would have prevented the disposition being a transfer of value.

(2B) Section 3(3) above does not actually treat the person as making a disposition by reason of omitting to exercise the pension rights (at the latest time when the person could have exercised them) unless the condition in subsection (2C) below is satisfied.

(2C) That condition is that—

(a) the person makes an actual pensions disposition under the pension scheme which is not prevented from being a transfer of value by section 10 above within the period of two years ending with the date of his death, and

(b) it is not shown that, when he made the actual pensions disposition, he had no reason to believe that he would die within that period.

(2D) A disposition treated by virtue of section 3(3) above as made by any person who is a member of a registered pension scheme, and who has not reached the age of 75, by reason of omitting to exercise pension rights under the pension scheme is not a transfer of value to the extent that it results in—

(a) the provision of a lump sum death benefit or pension death benefit (or both) to a relevant dependant, or

(b) the making of a payment to a charity.

(2E) A disposition made by a person who is a member of a registered pension scheme, and who has reached the age of 75, is not a transfer of value if the disposition consists in the person—

(a) making an actual pensions disposition under the pension scheme, or

(b) omitting to exercise pension rights under the pension scheme.

(2F) For the purposes of this section—

(a) a person omits to exercise pension rights under a pension scheme if he does not become entitled to the whole or any part of a pension or lump sum (or both) under the pension scheme at a time when he was eligible to become so entitled (whether or not he does become entitled to any other benefits under the pension scheme); and

(b) a person makes an actual pensions disposition under a registered pension scheme if he makes a disposition within section 3(1) above by doing anything in relation to, or to rights under, the pension scheme.

(2G) In this section—

"entitled", in relation to a pension or lump sum, shall be construed in accordance with section 165(3) or 166(2) of the Finance Act 2004;

"lump sum death benefit" has the same meaning as in Part 4 of that Act (see section 168(2) of that Act);

"pension" has the same meaning as in that Part of that Act (see section 165(2) of that Act);

"pension death benefit" has the meaning given by section 167(2) of that Act; and

"relevant dependant", in relation to a person, means a dependant (within the meaning given by paragraph 15 of Schedule 28 to that Act) who is the

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person's spouse or civil partner immediately before his death or someone who is financially dependent on the person at that time.**]**

(3) [F51] . . . . . .

(4) [F51] . . . . . .

(5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.

Textual Amendments

F47 Words in s. 12 sidenote substituted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 2**

F48 Words in s. 12(2) substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(2)(a)**, 284 (with Sch. 36)

F49 Words in s. 12(2) substituted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(2)(8)**

F50 S. 12(2A)-(2G) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 paras. 2**, 12

F51 S. 12(3)(4) repealed (6.4.2006) by Finance Act 2004 (c. 12), ss. 203(2)(b), 284, 326, **Sch. 42 Pt. 3** (with Sch. 36)

13 Dispositions by close companies for benefit of employees.

(1) A disposition of property made to trustees by a close company whereby the property is to be held on trusts of the description specified in section 86(1) below is not a transfer of value if the persons for whose benefit the trusts permit the property to be applied include all or most of either—

(a) the persons employed by or holding office with the company, or

(b) the persons employed by or holding office with the company or any one or more subsidiaries of the company.

(2) Subsection (1) above shall not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of—

(a) a person who is a participator in the company making the disposition, or

(b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for this section would have been a transfer of value, or

(c) any other person who has been a participator in any such company as is mentioned in paragraph (a) or (b) above at any time after, or during the ten years before, the disposition made by that company, or

(d) any person who is connected with any person within paragraph (a), (b) or (c) above.

(3) The participators in a company who are referred to in subsection (2) above do not include any participator who—

(a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and

(b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets.

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(4) In determining whether the trusts permit property to be applied as mentioned in subsection (2) above, no account shall be taken—

(a) of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident, or

(b) if the trusts are those of a profit sharing scheme approved under **[**[F52]Schedule 9 to the [M3]Taxes Act 1988**]**, of any power to appropriate shares in pursuance of the scheme **[**[F53]; or**]**.

[[F53](c) if the trusts are those of **[**[F54]a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003**]** , of any power to appropriate shares to, or acquire shares on behalf of, individuals under the plan.**]**

(5) In this section—

"close company" and "participator" have the same meanings as in Part IV of this Act;

"ordinary shares" means shares which carry either—

(a) a right to dividends not restricted to dividends at a fixed rate, or

(b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above,

"subsidiary" has **[**[F55]the meaning given by section **[**[F56]1159 of and Schedule 6 to**]]** the **[**[F57]Companies Act **[**[F58]2006**]]**;

and references in subsections (2) and (3) above to a participator in a company shall, in the case of a company which is not a close company, be construed as references to a person who would be a participator in the company if it were a close company.

Textual Amendments

F52 *Substituted by* Income and Corporation Taxes Act 1988 (c. 1. SIF 63:1), Sch. 29, para. 32.*Originally* "the Finance Act 1978".

F53 S. 13(4)(c) and the word "or"immediately preceding it inserted (28.7.2000) by 2000 c. 17, **s. 138(2)**

F54 Words in s. 13(4)(c) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), **Sch. 6 para. 151(1)(a)(2)**

F55 Companies Act 1989 s. 144(4)*and* Sch. 18 para. 30(2),*with effect from the appointed day—on and after* 1*November* 1990 (S.I. 1990 No.1392).*Originally*
"the same meaning as in".

F56 Words in s. 13(5) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

F57 Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), **Sch. 2**,*with effect from* 1*July* 1985.*Originally*
"Companies Act 1948".

F58 Words in s. 13(5) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

Marginal Citations

M3 1988 c. 1.

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14 Waiver of remuneration.

(1) Subject to subsection (2) below, the waiver or repayment of an amount of remuneration is not a transfer of value if, apart from the waiver or repayment, that amount **[**[F59]would be earnings, or would be treated as earnings, and would constitute employment income (see section 7(2)(a) or (b) of the Income Tax (Earnings and Pensions) Act 2003)**]** .

(2) Where, apart from the waiver or repayment, the amount of the remuneration would be allowable as a deduction in computing for the purposes of income tax or corporation tax the profits or gains or losses of the person by whom it is payable or paid, this section shall apply only if, by reason of the waiver or repayment, it is not so allowed or is otherwise brought into charge in computing those profits or gains or losses.

Textual Amendments

F59 Words in s. 14(1) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), **Sch. 6 para. 152**

15 Waiver of dividends.

A person who waives any dividend on shares of a company within twelve months before any right to the dividend has accrued does not by reason of the waiver make a transfer of value.

16 Grant of tenancies of agricultural property.

(1) The grant of a tenancy of agricultural property in the United Kingdom, the Channel Islands or the Isle of Man for use for agricultural purposes is not a transfer of value by the grantor if he makes it for full consideration in money or money's worth.

(2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

17 Changes in distribution of deceased's estate, etc.

None of the following is a transfer of value—

(a) a variation or disclaimer to which section 142(1) below applies;

(b) a transfer to which section 143 below applies;

(c) an election by a surviving spouse **[**[F60]or civil partner**]** under section 47A of the Administration of [M4]Estates Act 1925;

(d) the renunciation of a claim to legitim **[**[F61]or rights under section 131 of the Civil Partnership Act 2004**]** within the period mentioned in section 147(6) below.

Textual Amendments

F60 Words in s. 17(c) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **6(a)**

F61 Words in s. 17(d) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **6(b)**

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Marginal Citations

M4 1925 c.23.

PART II

EXEMPT TRANSFERS

CHAPTER I

GENERAL

18 Transfers between spouses [F62or civil partners].

(1) A transfer of value is an exempt transfer to the extent that the value transferred is attributable to property which becomes comprised in the estate of the transferor's spouse **[**F63or civil partner**]** or, so far as the value transferred is not so attributable, to the extent that that estate is increased.

(2) If, immediately before the transfer, the transferor but not the transferor's spouse **[**F64or civil partner**]** is domiciled in the United Kingdom the value in respect of which the transfer is exempt (calculated as a value on which no tax is chargeable) shall not exceed £55,000 less any amount previously taken into account for the purposes of the exemption conferred by this section.

(3) Subsection (1) above shall not apply in relation to property if the testamentary or other disposition by which it is given—

(a) takes effect on the termination after the transfer of value of any interest or period, or

(b) depends on a condition which is not satisfied within twelve months after the transfer;

but paragraph (a) above shall not have effect by reason only that the property is given to a spouse **[**F65or civil partner**]** only if he survives the other spouse **[**F65or civil partner**]** for a specified period.

(4) For the purposes of this section, property is given to a person if it becomes his property or is held on trust for him.

Textual Amendments

F62 Words in s. 18 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **7(5)**

F63 Words in s. 18(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **reg. 7(2)**

F64 Words in s. 18(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **7(3)**

F65 Words in s. 18(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **7(4)**

Status: *Point in time view as at 01/04/2011.*
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19 Annual exemption.

(1) Transfers of value made by a transferor in any one year are exempt to the extent that the values transferred by them (calculated as values on which no tax is chargeable) do not exceed £3,000.

(2) Where those values fall short of £3,000, the amount by which they fall short shall, in relation to the next following year, be added to the £3,000 mentioned in subsection (1) above.

(3) Where those values exceed £3,000, the excess—

(a) shall, as between transfers made on different days, be attributed so far as possible to a later rather than an earlier transfer, and

(b) shall, as between transfers made on the same day, be attributed to them in proportion to the values transferred by them.

[[F66](3A) A transfer of value which is a potentially exempt transfer—

(a) shall in the first instance be left out of account for the purposes of subsections (1) to (3) above; and

(b) if it proves to be a chargeable transfer, shall for the purposes of those subsections be taken into account as if, in the year in which it was made, it was made later than any transfer of value which was not a potentially exempt transfer.**]**

(4) In this section "year" means period of twelve months ending with 5th April.

(5) Section 3(4) above shall not apply for the purposes of this section (but without prejudice to sections 57 and 94(5) below).

Textual Amendments

F66 Finance Act 1986 Sch. 19, para. 5,*in relation to transfers of value made on or after* 18*March* 1986.

20 Small gifts.

(1) Transfers of value made by a transferor in any one year by outright gifts to any one person are exempt if the values transferred by them (calculated as values on which no tax is chargeable) do not exceed £250.

(2) In this section "year" means period of twelve months ending with 5th April.

(3) Section 3(4) above shall not apply for the purposes of this section.

21 Normal expenditure out of income.

(1) A transfer of value is an exempt transfer if, or to the extent that, it is shown—

(a) that it was made as part of the normal expenditure of the transferor, and

(b) that (taking one year with another) it was made out of his income, and

(c) that, after allowing for all transfers of value forming part of his normal expenditure, the transferor was left with sufficient income to maintain his usual standard of living.

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(2) A payment of a premium on a policy of insurance on the transferor's life, or a gift of money or money's worth applied, directly or indirectly, in payment of such a premium, shall not for the purposes of this section be regarded as part of his normal expenditure if, when the insurance was made or at any earlier or later time, an annuity was purchased on his life, unless it is shown that—

(a) the purchase of the annuity, and

(b) the making or any variation of the insurance or of any prior insurance for which the first-mentioned insurance was directly or indirectly substituted,

were not associated operations.

(3) So much of a purchased life annuity (within the meaning of **[**[F67]section 423 of the Income Tax (Trading and Other Income) Act 2005**]** as is, **[**[F68]exempt from income tax under section 717 of that Act**]** , shall not be regarded as part of the transferor's income for the purposes of this section.

(4) Subsection (3) above shall not apply to annuities purchased before 13th November 1974.

(5) Section 3(4) above shall not apply for the purposes of this section.

Textual Amendments

F67 Words in s. 21(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 395(a)** (with Sch. 2)

F68 Words in s. 21(3) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 395(b)** (with Sch. 2)

22 Gifts in consideration of marriage [[F69]or civil partnership].

(1) Transfers of value made by gifts in consideration of marriage **[**[F70]or civil partnership**]** are exempt to the extent that the values transferred by such transfers made by any one transferor in respect of any one marriage **[**[F70]or civil partnership**]**(calculated as values on which no tax is chargeable) do not exceed—

(a) in the case of gifts within subsection (2) below by a parent of a party to the marriage **[**[F70]or civil partnership**]** , £5,000,

(b) in the case of other gifts within subsection (2) below, £2,500, and

(c) in any other case £1,000;

any excess being attributed to the transfers in proportion to the values transferred.

(2) A gift is within this subsection if—

(a) it is an outright gift to a child or remoter descendant of the transferor or

(b) the transferor is a parent or remoter ancestor of either party to the marriage **[**[F71]or civil partnership**]** , and either the gift is an outright gift to the other party to the marriage **[**[F71]or civil partnership**]** or the property comprised in the gift is settled by the gift, or

(c) the transferor is a party to the marriage **[**[F71]or civil partnership**]** , and either the gift is an outright gift to the other party to the marriage **[**[F71]or civil partnership**]** or the property comprised in the gift is settled by the gift;

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and in this section "child" includes an illegitimate child, an adopted child and a step-child and "parent", "descendant" and "ancestor" shall be construed accordingly.

(3) A disposition which is an outright gift shall not be treated for the purposes of this section as a gift made in consideration of marriage **[**[F72]or civil partnership**]** if, or in so far as, it is a gift to a person other than a party to the marriage **[**[F72]or civil partnership**]** .

(4) A disposition which is not an outright gift shall not be treated for the purposes of this section as a gift made in consideration of marriage **[**[F73]or civil partnership**]** if the persons who are or may become entitled to any benefit under the disposition include any person other than—

[[F74](a) the parties to the marriage or civil partnership, any child of the family of the parties to the marriage or civil partnership, or a spouse or civil partner of any such child;**]**

(b) persons becoming entitled on the failure of trusts for any such **[**[F75]child**]** under which trust property would (subject only to any power of appointment to a person falling within paragraph (a) or (c) of this subsection) vest indefeasibly on the attainment of a specified age or either on the attainment of such an age or on some earlier event, or persons becoming entitled (subject as aforesaid) on the failure of any limitation in tail;

[[F76](c) a subsequent spouse or civil partner of a party to the marriage or civil partnership, any child of the family of the parties to any such subsequent marriage or civil partnership, or a spouse or civil partner of any such child;**]**

(d) persons becoming entitled under such trusts, subsisting under the law of England and Wales or of Northern Ireland, as are specified in section 33(1) of the [M5]Trustee Act 1925 or section 34(1) of the [M6]Trustee Act (Northern Ireland) 1958 (protective trusts), the principal beneficiary being a person falling within paragraph (a) or (c) of this subsection, or under such trusts, modified by the enlargement, as respects any period during which there is no such **[**[F77]child**]** as aforesaid in existence, of the class of potential beneficiaries specified in paragraph (ii) of the said section 33(1) or paragraph (b) of the said section 34(1);

(e) persons becoming entitled under trusts subsisting under the law of Scotland and corresponding with such trusts as are mentioned in paragraph (d) above;

(f) as respects a reasonable amount of remuneration, the trustees of the settlement.

[[F78](4A) In subsection (4) "child of the family", in relation to parties to a marriage or civil partnership, means a child of one or both of them.**]**

(5) [F79]. . . . . .

(6) Section 3(4) above shall not apply for the purposes of this section (but without prejudice to section 57 below).

Textual Amendments

F69 Words in s. 22 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(8)**

F70 Words in s. 22(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(2)**

F71 Words in s. 22(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(3)**

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F72 Words in s. 22(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(4)**

F73 Words in s. 22(4) inserted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(5)(a)**

F74 S. 22(4)(a) substituted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(5)(b)**

F75 Word in s. 22(4)(b) substituted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(5)(c)**

F76 S. 22(4)(c) substituted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(5)(d)**

F77 Word in s. 22(4)(d) substituted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(5)(e)**

F78 S. 22(4A) inserted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(6)**

F79 S. 22(5) omitted (5.12.2005 with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **8(7)**

Marginal Citations

M5 1925 c. 19.

M6 1958 c. 23 (N.I.).

23 Gifts to charities [F80or registered clubs].

(1) Transfers of value are exempt to the extent that the values transferred by them are attributable to property which is given to charities **[**F81or registered clubs**]**.

(2) Subsection (1) above shall not apply in relation to property if the testamentary or other disposition by which it is given—

(a) takes effect on the termination after the transfer of value of any interest or period, or

(b) depends on a condition which is not satisfied within twelve months after the transfer, or

(c) is defeasible;

and for this purpose any disposition which has not been defeated at a time twelve months after the transfer of value and is not defeasible after that time shall be treated as not being defeasible (whether or not it was capable of being defeated before that time).

(3) Subsection (1) above shall not apply in relation to property which is an interest in other property if—

(a) that interest is less than the donor's, or

(b) the property is given for a limited period;

and for this purpose any question whether an interest is less than the donor's shall be decided as at a time twelve months after the transfer of value.

(4) Subsection (1) above shall not apply in relation to any property if—

(a) the property is land or a building and is given subject to an interest reserved or created by the donor which entitled him, his spouse **[**F82or civil partner**]** or a person connected with him to possession of, or to occupy, the whole or any part of the land or building rent-free or at a rent less than might be expected to be obtained in a transaction at arm's length between persons not connected with each other, or

(b) the property is not land or a building and is given subject to an interest reserved or created by the donor other than—

(i) an interest created by him for full consideration in money or money's worth, or

(ii) an interest which does not substantially affect the enjoyment of the property by the person or body to whom it is given;

and for this purpose any question whether property is given subject to an interest shall be decided as at a time twelve months after the transfer of value.

(5) **[**[F83]In the case of any property which is given to charities,**]** subsection (1) above shall not apply in relation to **[**[F84]the**]** property if it or any part of it may become applicable for purposes other than charitable purposes or those of a body mentioned in section 24, **[**[F85]or 25**]** below **[**[F86]or, where it is land, of a body mentioned in section 24A below**]**.

[[F87](5A) In the case of any property which is given to a registered club, subsection (1) above shall not apply in relation to the property if it or any part of it may become applicable for purposes other than—

(a) the purposes of the club in question;

(b) the purposes of another registered club;

(c) the purposes of the governing body of an eligible sport for the purposes of which the club in question exists; or

(d) charitable purposes.**]**

[[F88](6) For the purposes of this section—

(a) property is given to charities if it becomes the property of charities or is held on trust for charitable purposes only; and

(b) property is given to registered clubs if it becomes the property of registered clubs or is held on trust for purposes of registered clubs only;

and "donor" shall be construed accordingly.

(7) For the purposes of this section "registered club" and "eligible sport" have the same meaning as in Chapter 9 of Part 13 of the Corporation Tax Act 2010.**]**

Textual Amendments

F80 S. 23: words in title inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(6)** (with Sch. 2)

F81 Words in s. 23(1) inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(2)** (with Sch. 2)

F82 Words in s. 23(4)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **9**

F83 Words in s. 23(5) inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(3)(a)** (with Sch. 2)

F84 Word in s. 23(5) inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(3)(b)** (with Sch. 2)

F85 Words in s. 23(5) substituted (31.7.1998 with effect in relation to any transfer of value made on or after 17.3.1998) by 1998 c. 36, **s. 143(2)(a)**

F86 Finance Act 1989 s. 171(2),*in relation to transfers of value made on or after* 14*March* 1989.

F87 S. 23(5A) inserted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(4)** (with Sch. 2)

F88 S. 23(6)(7) substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) for s. 23(6) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 189(5)** (with Sch. 2)

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Modifications etc. (not altering text)

C11 S. 23 modified (24.7.2002 with effect as mentioned in s. 58(4) of the amending Act) by 2002 c. 23, s. 58, **Sch. 18 Pt. 3**, para. 9(2)

24 Gifts to political parties.

(1) Transfers of value are exempt to the extent that the values transferred by them—

(a) are attributable to property which becomes the property of a political party qualifying for exemption under this section; . . . [F89]

(b) . . . . . [F89]

(2) A political party qualifies for exemption under this section if, at the last general election preceding the transfer of value,—

(a) two members of that party were elected to the House of Commons, or

(b) one member of that party was elected to the House of Commons and not less than 150,000 votes were given to candidates who were members of that party.

(3) Subsections (2) to (5) of section 23 above shall apply in relation to subsection (1) above as they apply in relation to section 23(1).

(4) For the purposes of section 23(2) to (5) as they apply by virtue of subsection (3) above property is given to any person or body if it becomes the property of or is held on trust for that person or body, and "donor" shall be construed accordingly.

Textual Amendments

F89 *Repealed by* Finance Act 1988 s. 137*and* Sch.14, Part X*in relation to transfers of value made on or after* 15*March* 1988.

Modifications etc. (not altering text)

C12 S. 24 applied (6.3.1992 with effect as mentioned in s. 289(1)(2) of the applying Act) by Taxation of Chargeable Gains Act 1992 (c. 12), **ss. 264(8)**, 289(with ss. 60, 101(1), 201(3)).

[[F90]24A Gifts to housing associations.

(1) A transfer of value is exempt to the extent that the value transferred by it is attributable to land in the United Kingdom given to a **[**[F91]body falling within subsection (2) below**]**.

[[F92](2) A body falls within this subsection if it is—

[[F93](za) a non-profit registered provider of social housing;**]**

(a) a registered social landlord within the meaning of Part I of the Housing Act 1996;

(b) a registered housing association within the meaning of the Housing Associations Act 1985; or

(c) a registered housing association within the meaning of Part II of the Housing (Northern Ireland) Order 1992.**]]**

(3) Subsections (2) to (5) of section 23 and subsection (4) of section 24 above shall apply in relation to subsection (1) above as they apply in relation to section 24(1).

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Textual Amendments

F90 Finance Act 1989 s. 171(1),*with effect from* 14*March* 1989.

F91 Words in s. 24A(1) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 12(2)**

F92 S. 24A(2) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 12(3)**

F93 S. 24A(2)(za) inserted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), ss. 277, 325, **Sch. 9 para. 7**; S.I. 2010/862, **art. 2** (with Sch.)

25 Gifts for national purposes, etc.

(1) A transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property which becomes the property of a body within Schedule 3 to this Act.

(2) Subsections (2) to (5) of section 23 and subsection (4) of section 24 above shall apply in relation to subsection (1) above as they apply in relation to section 24(1), except that section 23(3) shall not prevent subsection (1) above from applying in relation to property consisting of the benefit of an agreement restricting the use of land.

[F94]26 . . . . . .

Textual Amendments

F94 S. 26 repealed (31.7.1998 with effect as mentioned in s. 143(1) of the amending Act) by 1998 c. 36, ss. 143(1), 165(1), **Sch. 27 Pt. IV**, note 1

[[F95]26A Potentially exempt transfer of property subsequently held for national purposes etc.

A potentially exempt transfer which would (apart from this section) have proved to be a chargeable transfer shall be an exempt transfer to the extent that the value transferred by it is attributable to property which has been or could be designated under section 31(1) below and which, during the period beginning with the date of the transfer and ending with the death of the transferor,—

(a) has been disposed of by sale by private treaty to a body mentioned in Schedule 3 to this Act or has been disposed of to such a body otherwise than by sale, or

(b) has been disposed of in pursuance of section 230 below.**]**

Textual Amendments

F95 Finance Act 1986 Sch. 19, para. 6,*in relation to transfers of value made on or after* 18*March* 1986.

27 Maintenance funds for historic buildings, etc.

(1) **[**[F96]Subject to subsection (1A) below,**]** a transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property which by virtue of the transfer becomes comprised in a settlement and in respect of which—

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(a) a direction under paragraph 1 of Schedule 4 to this Act has effect at the time of the transfer, or

(b) such a direction is given after the time of the transfer.

[[F97](1A) Subsection (1) above does not apply in the case of a direction given after the time of the transfer unless the claim for the direction (if it is not made before that time) is made no more than two years after the date of that transfer, or within such longer period as the Board may allow.**]**

(2) Subsections (2) and (3) of the section 23 and subsection (4) of section 24 above shall apply in relation to subsection (1) above as they apply in relation to section 24(1).

Textual Amendments

F96 Words in s. 27(1) inserted (31.7.1998 with effect in relation to transfers of value made on or after 17.3.1998) by 1998 c. 36, **s. 144(1)(2)**

F97 S. 27(1A) inserted (31.7.1998 with effect in relation to transfers of value made on or after 17.3.1998) by 1998 c. 36, **s. 144(1)(2)**

28 Employee trusts.

(1) A transfer of value made by an individual who is beneficially entitled to shares in a company is an exempt transfer to the extent that the value transferred is attributable to shares in or securities of the company which become comprised in a settlement if—

(a) the trusts of the settlement are of the description specified in section 86(1) below, and

(b) the persons for whose benefit the trusts permit the settled property to be applied include all or most of the persons employed by or holding office with the company.

(2) Subsection (1) above shall not apply unless at the date of the transfer, or at a subsequent date not more than one year thereafter, both the following conditions are satisfied, that is to say—

(a) the trustees—

(i) hold more than one half of the ordinary shares in the company, and

(ii) have powers of voting on all questions affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised on them; and

(b) there are no provisions in any agreement or instrument affecting the company's constitution or management or its shares or securities whereby the condition in paragraph (a) above can cease to be satisfied without the consent of the trustees.

(3) Where the company has shares or securities of any class giving powers of voting limited to either or both of the following—

(a) the question of winding up the company, and

(b) any question primarily affecting shares or securities of that class,

the reference in subsection (2)(a)(ii) above to all questions affecting the company as a whole shall be read as a reference to all such questions except any in relation to which those powers are capable of being exercised.

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(4) Subsection (1) above shall not apply if the trusts permit any of the settled property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of—

(a) a person who is a participator in the company mentioned in subsection (1) above; or

(b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for section 13 above would have been a transfer of value; or

(c) any other person who has been a participator in the company mentioned in subsection (1) above or in any such company as is mentioned in paragraph (b) above at any time after, or during the ten years before, the transfer of value mentioned in subsection (1) above; or

(d) any person who is connected with any person within paragraph (a), (b) or (c) above.

(5) The participators in a company who are referred to in subsection (4) above do not include any participator who—

(a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and

(b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets.

(6) In determining whether the trusts permit property to be applied as mentioned in subsection (4) above, no account shall be taken of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident.

(7) Subsection (5) of section 13 above shall have effect in relation to this section as it has effect in relation to that section.

29 Loans—modifications of exemptions.

(1) If or to the extent that a transfer of value is a disposition whereby the use of money or other property is allowed by one person to another ("the borrower"), the preceding provisions of this Chapter shall apply to it with the following modification.

(2) For the purposes of section 18 the borrower's estate shall be treated as increased by an amount equal to the value transferred; and section 18(3) shall not apply.

(3) For the purposes of sections 20 and 22 the transfer of value shall be treated as made by outright gift.

(4) Section 21(1) shall apply as if for the conditions stated in paragraphs (a) and (b) there were substituted the condition that the transfer was a normal one on the part of the transferor.

(5) For the purposes of sections 23 **[**[F98]to 25**]**—

(a) the value transferred shall be treated as attributable to the property of which the borrower is allowed the use, and

(b) that property shall be treated as given to, or as becoming the property of, the borrower unless the use allowed includes use for purposes other than

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charitable purposes or those of a body mentioned in section 24, **[**[F98]or 25**][**[F99]or where it is land, of a body mentioned in section 24A**]**

and sections 23(2) to (6), 24 . . . [F100], (3) and (4), **[**[F99]24A(3)**][**[F98]and 25(2)**]** shall not apply.

Textual Amendments

F98 Words in s. 29(5) substituted (31.7.1998 with effect in relation to any transfer of value made on or after 17.3.1998) by 1998 c. 36, **s. 143(2)(b)**

F99 Finance Act 1989 s. 171(3),*in relation to transfers of value made on or after* 14*March* 1989.

F100 "(1)(b)"
repealed by Finance Act 1988 s. 148*and* Sch. 14, Part X,*with effect from* 15*March* 1988.

[[F101]**29A Abatement of exemption where claim settled out of beneficiary's own resources.**

(1) This section applies where—

(a) apart from this section the transfer of value made on the death of any person is an exempt transfer to the extent that the value transferred by it is attributable to an exempt gift, and

(b) the exempt beneficiary, in settlement of the whole or part of any claim against the deceased's estate, effects a disposition of property not derived from the transfer.

(2) The provisions of this Act shall have effect in relation to the transfer as if—

(a) so much of the relevant value as is equal to the following amount, namely the amount by which the value of the exempt beneficiary's estate immediately after the disposition is less than it would be but for the disposition, or

(b) where that amount exceeds the relevant value, the whole of the relevant value,

were attributable to such a gift to the exempt beneficiary as is mentioned in subsection (3) below (instead of being attributable to a gift with respect to which the transfer is exempt).

(3) The gift referred to in subsection (2) above is a specific gift with respect to which the transfer is chargeable, being a gift which satisfies the conditions set out in paragraphs (a) and (b) of section 38(1) below.

(4) In determining the value of the exempt beneficiary's estate for the purposes of subsection (2) above—

(a) no deduction shall be made in respect of the claim referred to in subsection (1)(b) above, and

(b) where the disposition referred to in that provision constitutes a transfer of value—

(i) no account shall be taken of any liability of the beneficiary for any tax on the value transferred, and

(ii) sections 104 and 116 below shall be disregarded.

(5) Subsection (1)(b) above does not apply in relation to any claim against the deceased's estate in respect of so much of any liability as is, in accordance with this Act, to be taken into account in determining the value of the estate.

(6) In this section—

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"exempt gift", in relation to a transfer of value falling within subsection (1)(a) above, means—

(a) a gift with respect to which the transfer is (apart from this section) exempt by virtue of the provisions of any sections 18 and 23 to 28 above, or

(b) where (apart from this section) the transfer is so exempt with respect to a gift up to a limit, so much of the gift as is within that limit;

"the exempt beneficiary", in relation to an exempt gift, means any of the following, namely—

(a) where the gift is exempt by virtue of section 18 above, the deceased's spouse **[**[F102]or civil partner**]** ,

(b) where the gift is exempt by virtue of section 23 above, any person or body—

(i) whose property the property falling within subsection (1) of that section becomes, or

(ii) by whom that property is held on trust for charitable purposes,

(c) where the gift is exempt by virtue of section 24, **[**[F103]or 25**]** above, any body whose property the property falling within subsection (1) of that section becomes,

(d) where the gift is exempt by virtue of section 24A above, any body to whom the land falling within subsection (1) of that section is given, and

(e) where the gift is exempt by virtue of section 27 or 28 above, the trustees of any settlement in which the property falling within subsection (1) of that section becomes comprised;

"gift" and "specific gift" have the same meaning as in Chapter III of this Part; and

"the relevant value", in relation to a transfer of value falling within subsection (1)(a) above, means so much of the value transferred by the transfer as is attributable to the gift referred to in that provision.**]**

Textual Amendments

F101 Finance Act 1989 s. 172(1),*in relation to deaths occurring on or after* 27*July* 1989.

F102 S. 29A(6): words in the definition of "the exempt beneficiary" inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **10**

F103 S. 29A(6): words in the definition of "the exempt beneficiary" substituted (31.7.1998 with effect in relation to any transfer of value made on or after 17.3.1998) by 1998 c. 36, **s. 143(2)(a)**

CHAPTER II

CONDITIONAL EXEMPTION

30 Conditionally exempt transfers.

(1) A transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property—

(a) which, on a claim made for the purpose, is designated by the Treasury under section 31 below, and

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(b) with respect to which the requisite undertaking described in that section is given by such person as the Treasury think appropriate in the circumstances of the case **[**[F104]or (where the property is an area of land within subsection (1)(d) of that section) with respect to which the requisite undertakings described in that section are given by such person or persons as the Treasury think appropriate in the circumstances of the case.**]**

(2) A transfer of value exempt with respect to any property under this section or under section 76 of the [M7]Finance Act 1976 is referred to in this Act as a conditionally exempt transfer of that property.

(3) Subsection (1) above shall not apply to a transfer of value other than one which under section 4 above a person makes on his death unless—

(a) the transferor or his spouse **[**[F105]or civil partner**]** , or the transferor and his spouse **[**[F105]or civil partner**]** between them, have been beneficially entitled to the property throughout the six years ending with the transfer, or

(b) the transferor acquired the property on a death on the occasion of which there was a transfer of value under section 4 above which was itself a conditionally exempt transfer of the property.

[[F106](3A) The provisions of this section shall be disregarded in determining under section 3A above whether a transfer of value is a potentially exempt transfer.

(3B) No claim may be made under subsection (1) above with respect to a potentially exempt transfer until the transferor has died.

[F107](3BA) **[** A claim under subsection (1) above must be made no more than two years after the date of the transfer of value to which it relates or, in the case of a claim with respect to a potentially exempt transfer, the date of the death, or (in either case) within such longer period as the Board may allow.**]**

(3C) Subsection (1) above shall not apply to a potentially exempt transfer to the extent that the value transferred by it is attributable to property which has been disposed of by sale during the period beginning with the date of the transfer and ending with the death of the transferor.**]**

(4) Subsection (1) above does not apply to a transfer of value to the extent to which it is an exempt transfer under section 18 or 23 above.

Textual Amendments

F104 Finance Act 1985 Sch. 26, para. 1,*in relation to events occurring after* 18*March* 1985.

F105 Words in s. 30(3)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **11**

F106 Finance Act 1986 Sch. 19, para. 7,*in relation to transfers of value made on or after* 18*March* 1986.

F107 S. 30(3BA) inserted (31.7.1998 with effect in relation to any transfer of value or death on or after 17.3.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 2(1)(2)**

Modifications etc. (not altering text)

C13 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

Marginal Citations

M7 1976 c. 40.

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31 Designation and undertakings.

(1) The Treasury may designate under this section—

[[F108](a) any relevant object which appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;

(aa) any collection or group of relevant objects which, taken as a whole, appears to the Board to be pre-eminent for its national, scientific, historic or artistic interest;**]**

(b) any land which in the opinion of the Treasury is of outstanding scenic or historic or scientific interest;

(c) any building for the preservation of which special steps should in the opinion of the Treasury be taken by reason of its outstanding historic or architectural interest;

[[F109](d) any area of land which in the opinion of the Treasury is essential for the protection of the character and amenities of such a building as is mentioned in paragraph (c) above;**]**

(e) any object which in the opinion of the Treasury is historically associated with such a building as is mentioned in paragraph (c) above.

[[F110](1A) Where the transfer of value in relation to which the claim for designation is made is a potentially exempt transfer which (apart from section 30 above) has proved to be a chargeable transfer, the question whether any property is appropriate for designation under this section shall be determined by reference to circumstances existing after the death of the transferor.**]**

(2) In the case of property within subsection **[**[F111](1)(a)or(aa)**]** above, the requisite undertaking is that, until the person beneficially entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise—

(a) the property 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) **[**[F112]such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it,**]** will be taken for the preservation of the property and for securing reasonable access to the public.

(3) If it appears to the Treasury, on a claim made for the purpose, that any documents which are designated or to be designated under subsection **[**[F111](1)(a) or (aa)**]** above contain information which for personal or other reasons ought to be treated as confidential, they may exclude those documents, either altogether or to such extent as they think fit, from so much of an undertaking given or to be given under subsection (2)(b) above as relates to public access.

(4) In the case of other property within subsection (1) above, the requisite undertaking is that, until the person beneficially entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise, **[**[F113]such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it,**]** will be taken—

(a) in the case of land falling within subsection (1)(b) above, for the maintenance of the land and the preservation of its character, and

(b) in the case of any other property, for the maintenance, repair and preservation of the property and, if it is an object falling within subsection (1)(e) above, for keeping it associated with the building concerned;

and for securing reasonable access to the public.

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[[F114](4A) In the case of an area of land within subsection (1)(d) above (relevant land) there is an additional requisite undertaking, which is that, until the person beneficially entitled to property falling within subsection (4C) below dies, or it is disposed of, whether by sale or gift or otherwise, specified steps will be taken for its maintenance, repair and preservation and for securing reasonable access to the public; and "specified steps" means such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it.

(4B) Where different persons are entitled (either beneficially or otherwise) to different properties falling within subsection (4C) below, subsection (4A) above shall have effect to require separate undertakings as to the maintenance, repair, preservation and access of each of the properties to be given by such persons as the Treasury think appropriate in the circumstances of the case.

(4C) The following property falls within this subsection—

(a) the building for the protection of whose character and amenities the relevant land is in the opinion of the Treasury essential;

(b) any other area (or areas) of land which, in relation to the building, falls (or fall) within subsection (1)(d) above and which either lies (or lie) between the relevant land and the building or is (or are) in the opinion of the Treasury, physically closely connected with the relevant land or the building.

(4D) Where subsection (4A) above requires an undertaking for the maintenance, repair, preservation and access of property, such an undertaking is required notwithstanding that some other undertaking for its maintenance, repair, preservation and access is effective.

(4E) Any undertaking given in pursuance of subsection (4A) above is for the purposes of this Act given with respect to the relevant land.

(4F) It is for the person seeking the designation of relevant land to secure that any undertaking required under subsection (4A) above is given.**]**

[[F115](4FA) For the purposes of this section, the steps agreed for securing reasonable access to the public must ensure that the access that is secured is not confined to access only where a prior appointment has been made.**]**

[[F116](4FB) Subject to subsection (3) above, where the steps that may be set out in any undertaking include steps for securing reasonable access to the public to any property, the steps that may be agreed and set out in that undertaking may also include steps involving the publication of—

(a) the terms of any undertaking given or to be given for any of the purposes of this Act with respect to the property; or

(b) any other information relating to the property which (apart from this subsection) would fall to be treated as confidential;

and references in this Act to an undertaking for access to any property shall be construed as including references to so much of any undertaking as provides for the taking of steps involving any such publication.**]**

[[F117](4G) In a case where—

(a) the transfer of value in question is a potentially exempt transfer which (apart from section 30 above) has proved to be a chargeable transfer, and

(b) at the time of the transferor's death an undertaking by such a person as is mentioned in section 30(1)(b) above given under paragraph 3(3) of Schedule 4

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to this Act or under section **[**[F118]258 of the 1992 Act**]** is in force with respect to any property to which the value transferred by the transfer is attributable,

that undertaking shall be treated for the purposes of this Chapter as an undertaking given under section 30 above.**]**

[[F119](5) In this section—

'national interest' includes interest within any part of the United Kingdom; and

'relevant object' means—

(a) a picture, print, book, manuscript, work of art or scientific object, or

(b) anything not falling within paragraph (a) above that does not yield income;

and in determining under subsection (1)(a) or (aa) above whether an object or a collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.**]**

Textual Amendments

F108 S. 31(1)(a)(aa) substituted for s. 31(1)(a) (31.7.1998 with effect in relation to the making of any designation on a claim made on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 4(1)(4)**

F109 Finance Act 1985 Sch. 26, para. 2(2),*in relation to events occurring after* 18*March* 1985.*Originally* "any land which adjoins such a building as is mentioned in paragraph (c) above and which in the opinion of the Treasury is essential for the protection of the character and amenities of the building."

F110 Finance Act 1986 Sch. 19, para. 8(1),*in relation to transfers of value made on or after* 18*March* 1986.

F111 Words in s. 31(2)(3) substituted (31.7.1998 with effect in relation to the making of any designation on a claim made on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 4(2)(4)**

F112 Finance Act 1985 Sch. 26, para. 2(3),*in relation to events occurring after* 18*March* 1985.*Originally* "reasonable steps".

F113 Finance Act 1985 Sch. 26, para. 2(3),*in relation to events occurring after* 18*March* 1985.*Originally* "reasonable steps".

F114 Finance Act 1985 Sch. 26, para. 2(4),*in relation to events occurring after* 18*March* 1985.

F115 S. 31(4FA) inserted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 5(1)(2)**

F116 S. 31(4FB) inserted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 6(1)(2)**

F117 Finance Act 1986 Sch. 19, para. 8(2),*in relation to transfers of value made on or after* 18*March* 1986.

F118 Words in s. 31(4G)(b) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(2)** (with ss. 60, 101(1), 201(3)).

F119 S. 31(5) substituted (31.7.1998 with effect in relation to the making of any designation on a claim made on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 4(3)(4)**

Modifications etc. (not altering text)

C14 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

32 Chargeable events.

(1) Where there has been a conditionally exempt transfer of any property, tax shall be charged under this section on the first occurrence after the transfer **[**[F120](or, if the transfer was a potentially exempt transfer, after the death of the transferor)**]** of an event which under this section is a chargeable event with respect to the property.

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(2) If the Treasury are satisfied that at any time an undertaking given with respect to the property under section 30 above or **[**[F121]subsection (5AA)**]** below has not been observed in a material respect, the failure to observe the undertaking is a chargeable event with respect to the property.

(3) If—

(a) the person beneficially entitled to the property dies, or

(b) the property is disposed of, whether by sale or gift or otherwise,

the death or disposal is, subject to subsections (4) and (5) below, a chargeable event with respect to the property.

(4) A death or disposal is not a chargeable event with respect to any property if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—

(a) a disposal of the property by sale by private treaty to a body mentioned in Schedule 3 to this Act, or a disposal of it to such a body otherwise than by sale, or

(b) a disposal in pursuance of section 230 below,

and a death or disposal of the property after such a disposal as is mentioned in paragraph (a) or (b) above is not a chargeable event with respect to the property unless there has again been a conditionally exempt transfer of it after that disposal.

(5) A death or disposal otherwise than by sale is not a chargeable event with respect to any property if—

(a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property, or

[[F122](b) the condition specified in subsection (5AA) below is satisfied with respect to the property.**]**

[[F123](5AA) The condition referred to in subsection (5)(b) above is satisfied if—

(a) the requisite undertaking described in section 31 above is given with respect to the property by such person as the Board think appropriate in the circumstances of the case, or

(b) (where the property is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Board think appropriate in the circumstances of the case.**]**

[[F124](5A) This section does not apply where section 32A below applies.**]**

(6) . . . . . [F125]

Textual Amendments

F120 Finance Act 1986 Sch. 19, para. 9,*in relation to transfers on or after* 18*March* 1986.

F121 Words in s. 32(2) substituted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(1)(9)**

F122 S. 32(5)(b) substituted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(2)(9)**

F123 S. 32(5AA) inserted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(3)(9)**

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F124 Finance Act 1985 Sch. 26, para. 3(2),*in relation to events occurring after* 18*March* 1985.

F125 *Subss.* (6)*and* (7)*repealed by* Finance Act 1985 s. 94; Sch. 26, para. 3(3)*and* Sch. 27, Part XI,*in relation to events occurring after* 18*March* 1985.

Modifications etc. (not altering text)

C15 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

[F126 32A Associated properties.

(1) For the purposes of this section the following properties are associated with each other, namely, a building falling within section 31(1)(c) above and (to the extent that any of the following exists) an area or areas of land falling within section 31(1)(d) above in relation to the building and an object or objects falling within section 31(1)(e) above in relation to the building; and this section applies where there are such properties, which are referred to as associated properties.

(2) Where there has been a conditionally exempt transfer of any property (or part), tax shall be charged under this section in respect of that property (or part) on the first occurrence after the transfer **[**F127(or, if the transfer was a potentially exempt transfer, after the death of the transferor**]** of an event which under this section is a chargeable event with respect to that property (or part).

(3) If the Treasury are satisfied that at any time an undertaking given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of any of the associated properties has not been observed in a material respect, then (subject to subsection (10) below) the failure to observe the undertaking is a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.

(4) If—

(a) the person beneficially entitled to property dies, or

(b) property (or part of it) is disposed of, whether by sale or gift or otherwise,

then, if the property is one of the associated properties and an undertaking for its maintenance, repair, preservation, access or keeping has been given under section 30 above or this section, the death or disposal is (subject to subsections (5) to (10) below) a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.

(5) Subject to subsection (6) below, the death of a person beneficially entitled to property, or the disposal of property (or part), is not a chargeable event if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—

(a) a disposal of the property (or part) concerned by sale by private treaty to a body mentioned in Schedule 3 to this Act, or to such a body otherwise than by sale, or

(b) a disposal of the property (or part) concerned in pursuance of section 230 below.

(6) Where a disposal mentioned in subsection (5)(a) or (b) above is a part disposal, that subsection does not make the event non-chargeable with respect to property other than that disposed of **[**F128unless—

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(a) the requisite undertaking described in section 31 above is given with respect to the property (or part) not disposed of by such person as the Board think appropriate in the circumstances of the case, or

(b) (where any of the property or part not disposed of is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to that property (or that part) by such person or persons as the Board think appropriate in the circumstances of the case;

and**]** in this subsection "part disposal" means a disposal of property which does not consist of or include the whole of each property which is one of the associated properties and of which there has been a conditionally exempt transfer.

(7) Where, after a relevant disposal (that is, a disposal mentioned in subsection (5)(a) or (b) above made in circumstances where that subsection applies), a person beneficially entitled to the property (or part) concerned dies or the property (or part) concerned is disposed of, the death or disposal is not a chargeable event with respect to the property (or part) concerned unless there has again been a conditionally exempt transfer of the property (or part) concerned after the relevant disposal.

(8) The death of a person beneficially entitled to property, or the disposal of property (or part) otherwise than by sale, is not a chargeable event if—

(a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property (or part) concerned, or

F129 **[** (b) the condition specified in subsection (8A) below is satisfied with respect to the property (or part) concerned.**]**

F130 **[** The condition referred to in subsection (8)(b) above is satisfied if—

(8A) (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or

(b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case.**]**

F131 **[** If the whole or part of any property is disposed of by sale and—

(9) (a) the requisite undertaking described in section 31 above is given with respect to the property (or part) by such person as the Board think appropriate in the circumstances of the case, or

(b) (where any of the property or part is an area of land within section 31(1)(d) above) the requisite undertakings described in that section are given with respect to the property (or part) by such person or persons as the Board think appropriate in the circumstances of the case,

the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).**]**

(10) If—

(a) the Treasury are satisfied that there has been a failure to observe, as to one of the associated properties or part of it, an undertaking for the property's maintenance, repair, preservation, access or keeping, or

(b) there is a disposal of one of the associated properties or part of it,

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and it appears to the Treasury that the entity consisting of the associated properties has not been materially affected by the failure or disposal, they may direct that it shall be a chargeable event only with respect to the property or part as to which there has been a failure or disposal (if it is a chargeable event with respect to that property or part apart from this subsection.**]**

Textual Amendments

F126 Finance Act 1985 Sch. 26 para. 4,*in relation to events occurring after* 18*March* 1985.

F127 Finance Act 1986 Sch. 19, para. 10,*in relation to transfers on or after* 18*March* 1986.

F128 S. 32A(6)(a)(b) and the words "unless"and "and"substituted for the words "unless"to "case; and"(31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(4)(9)**

F129 S. 32A(8)(b) substituted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(5)(9)**

F130 S. 32A(8A) inserted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(6)(9)**

F131 S. 32A(9) substituted (31.7.1998 with effect in relation to the giving of any undertaking on or after 31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 7(7)(9)**

Modifications etc. (not altering text)

C16 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

33 Amount of charge under section 32.

(1) Tax chargeable in respect of any property under section 32 **[**[F132]or 32A**]** above by reference to a chargeable event shall be charged—

(a) on an amount equal to the value of the property at the time of the chargeable event; and

(b) at the following rate or rates—

(i) if the relevant person is alive, the rate or rates that would be applicable to that amount **[**[F133]in accordance with section 7(2) above**]** if it were the value transferred by a chargeable transfer made by the relevant person at that time;

(ii) if the relevant person is dead, the rate or rates that would have applied to that amount **[**[F134]in accordance with the appropriate provision of section 7 above**]** if it had been added to the value transferred on his death and had formed the highest part of that value.

[[F135](2) For the purposes of subsection (1)(b)(ii) above the appropriate provision of section 7 above is—

(a) if the conditionally exempt transfer by the relevant person was made on death (but the property was not treated as forming part of his estate immediately before his death only by virtue of section 102(3) of the Finance Act 1986), subsection (1) of section 7; and

(b) in any other case, subsection (2) of section 7.

(2A) The rate or rates of tax determined under subsection (1)(b)(i) above in respect of any chargeable event shall not be affected by the death of the relevant person after that event.**]**

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(3) Where the chargeable event is a disposal on sale and the sale—

(a) was not intended to confer any gratuitous benefit on any person, and

(b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other,

the value of the property at the time of the chargeable event shall be taken for the purposes of subsection (1)(a) above to be equal to the proceeds of the sale.

(4) Where by virtue of section 30(4) above the conditionally exempt transfer extended only to part of the property, the amount mentioned in subsection (1)(a) above shall be proportionately reduced.

(5) The relevant person in relation to a chargeable event in respect of any property is—

(a) if there has been only one conditionally exempt transfer of the property before the event, the person who made that transfer;

(b) if there have been two or more such transfers and the last was before, or only one of them was within, the period of thirty years ending with the event, the person who made the last of those transfers;

(c) if there have been two or more such transfers within that period, the person who made whichever of those transfers the Board may select.

(6) The conditionally exempt transfers to be taken into account for the purpose of subsection (5) above in relation to a chargeable event do not include transfers made before any previous chargeable event in respect of the same property or before any event which apart from section 32(4) above would have been such a chargeable event **[**[F136]or, where the property has been disposed of as mentioned in section 32A(5) above, before any event which apart from section 32A(5) would have been such a chargeable event**]**

(7) **[**[F137]Subject to subsection (8) below**]**, where after a conditionally exempt transfer of any property there is a chargeable transfer the value transferred by which is wholly or partly attributable to that property, any tax charged on that value so far as attributable to that property shall be allowed as a credit—

(a) if the chargeable transfer is a chargeable event with respect to the property, against the tax chargeable in accordance with this section by reference to that event;

(b) if the chargeable transfer is not such a chargeable event, against the tax chargeable in accordance with this section by reference to the next chargeable event with respect to the property.

[[F138](8) Where after a conditionally exempt transfer of any property there is a potentially exempt transfer the value transferred by which is wholly or partly attributable to that property and either—

(a) the potentially exempt transfer is a chargeable event with respect to the property, or

(b) after the potentially exempt transfer, but before the death of the person who is the transferor in relation to the potentially exempt transfer, a chargeable event occurs with respect to the property,

the tax charged in accordance with this section by reference to that chargeable event shall be allowed as a credit against any tax which may become chargeable, by reason of the potentially exempt transfer proving to be a chargeable transfer, on so much of the

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value transferred by that transfer as is attributable to the property; and subsection (7) above shall not apply with respect to any tax so becoming chargeable.**]**

Textual Amendments

F132 Finance Act 1985 Sch. 26 para. 5,*in relation to events occurring after* 18*March* 1985.

F133 Finance Act 1986 Sch. 19 para. 11(1)(a),*with effect from* 18*March* 1986.*Originally* "under the second Table in Schedule 1 to this Act".

F134 Finance Act 1986 Sch. 19 para. 11(1)(b),*with effect from* 18*March* 1986.*Originally* "under the appropriate Table".

F135 Finance Act 1986 Sch. 19 para. 11(2),*with effect from* 18*March* 1986.*Originally* "(2) For the purposes of subsection (1)(b)(ii) above the appropriate Table is, if the conditionally exempt transfer by the relevant person was made on death, the first Table in Schedule 1 to this Act and, if not, the second Table".

F136 Finance Act 1985 Sch. 26 para. 6,*in relation to events occurring after* 18*March* 1985.

F137 Finance Act 1986 Sch. 19 para. 11(3),*with effect from* 18*March* 1986.

F138 Finance Act 1986 Sch. 19 para. 11(4),*in relation to chargeable events in respect of potentially exempt transfers made on or after* 18*March* 1986.

34 Reinstatement of transferor's cumulative total.

(1) Where tax has become chargeable under section 32 **[**[F139]or 32A**]** above by reference to a chargeable event in respect of any property ("the relevant event") the rate or rates of tax applicable to any subsequent chargeable transfer made by the person who made the last conditionally exempt transfer of the property before the relevant event shall be determined as if the amount on which tax has become chargeable as aforesaid were value transferred by a chargeable transfer made by him at the time of the relevant event.

(2) Where the person who made the last conditionally exempt transfer of the property before the relevant event—

(a) is dead, and

(b) is for the purposes of section 33 above the relevant person in relation to a subsequent chargeable event,

section 33(1)(b)(ii) shall have effect as if the value transferred on his death were increased by the amount on which tax has become chargeable on the occasion of the relevant event.

(3) If—

(a) the person who made the last conditionally exempt transfer of the property before the relevant event is not the relevant person for the purposes of section 33 above in relation to that event, and

(b) at the time of that event or within the previous five years the property is or has been comprised in a settlement made not more than thirty years before that event, and

(c) a person who is the settlor in relation to the settlement has made a conditionally exempt transfer of the property within those thirty years,

subsections (1) and (2) above shall have effect with the substitution for references to the person who made the last conditionally exempt transfer before the relevant event of a reference to any such person as is mentioned in paragraph (c) above.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The conditionally exempt transfers to be taken into account for the purposes of subsection (3)(c) above in relation to the relevant event do not include transfers made before any previous chargeable event in respect of the same property or before any event which apart from section 32(4) above would have been such a chargeable event **[**[F140]or, where the property has been disposed of as mentioned in section 32A(5) above, before any event which apart from section 32A(5) would have been such a chargeable event**]**.

Textual Amendments

F139 Finance Act 1985 Sch. 26 para. 5, *in relation to events occurring after* 18 *March* 1985.

F140 Finance Act 1985 Sch. 26 para. 6, *in relation to events occurring after* 18 *March* 1985.

35 Conditional exemption on death before 7th April 1976.

(1) Schedule 5 to this Act shall have effect with respect to certain cases where, by virtue of sections 31 to 34 of the [M8]Finance Act 1975, the value of any property was left out of account in determining the value transferred on a death before 7th April 1976.

(2) Where there has been a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the Finance Act 1975 and, before any tax has become chargeable in respect of that property under those provisions, there is a conditionally exempt transfer of that property, then, on the occurrence of a chargeable event in respect of that property—

[[F141](a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either—

(i) under section 32 or 32A above (as the case may be), or

(ii) under Schedule 5 to this Act, as the Board may elect;

(b) if there has been such a conditionally exempt transfer, tax shall be chargeable under section 32 or 32A above (as the case may be) and not under that Schedule.**]**

(3) In **[**[F142]sections 33(7) and (8) above, references**]** to a conditionally exempt transfer of any property **[**[F143]include references**]** to a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the Finance Act 1975 and, in relation to such property, references to a chargeable event or to the tax chargeable in accordance with section 33 above by reference to a chargeable event include references to an event on the occurrence of which tax becomes chargeable under Schedule 5 to this Act, or to the tax so chargeable.

Textual Amendments

F141 Finance Act 1985 Sch. 26 para. 7,*in relation to events occurring after* 18*March* 1985.*Originally*
"(a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either under section 32 above or under Schedule 5 to this Act as the Board may elect; (b) if there has been such a conditionally exempt transfer, tax shall be chargeable under that section and not under that Schedule."

F142 Finance Act 1986 Sch. 19 para. 12,*with effect from* 18*March* 1986.*Originally*
"section 33(7) above, the reference".

F143 Finance Act 1986 Sch. 19 para. 12,*with effect from* 18*March* 1986.*Originally*
"includes a reference".

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations

M8 1975 c. 7.

[F144 35A Variation of undertakings.

(1) An undertaking given under section 30, 32 or 32A above or paragraph 5 of Schedule 5 to this Act may be varied from time to time by agreement between the Board and the person bound by the undertaking.

(2) Where **[**F145 the tribunal**]** is satisfied that—

(a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,

(b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and

(c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,

[F146 the tribunal may direct that the undertaking is to have effect from a specified date**]** as if the proposed variation had been agreed to by the person bound by the undertaking.

(3) The date specified by the **[**F147 tribunal**]** must not be less than sixty days after the date of **[**F148 the tribunal's direction**]**.

(4) A direction under this section shall not take effect if, before the date specified by the **[**F149 tribunal**]**, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.**]**

Textual Amendments

F144 S. 35A and sidenote inserted (31.7.1998 with effect as mentioned in Sch. 25 para. 8(4) of the amending Act) by 1998 c. 36, s. 142, **Sch. 25 para. 8(1)**

F145 Words in s. 35A(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 109(2)(a)**

F146 Words in s. 35A(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 109(2)(b)**

F147 Word in s. 35A(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 109(3)(a)**

F148 Words in s. 35A(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 109(3)(b)**

F149 Words in s. 35A(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 109(4)**

Modifications etc. (not altering text)

C17 S. 35A extended (31.7.1998) by 1992 c. 12, **s. 258(8A)** (as inserted (31.7.1998 with effect as mentioned in Sch. 25 para. 9(2) of the amending Act) by 1998 c. 36, s. 142, **Sch. 25 para. 9(1)**)
S. 35A applied (with modifications) (31.7.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 10**

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Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

CHAPTER III

ALLOCATION OF EXEMPTIONS

36 Preliminary.

Where any one or more of sections 18, 23 to 27 and 30 above apply in relation to a transfer of value but the transfer is not wholly exempt—

(a) any question as to the extent to which it is exempt or, where it is exempt up to a limit, how an excess over the limit is to be attributed to the gifts concerned shall be determined in accordance with sections 37 to 40 below; and

(b) section 41 below shall have effect as respects the burden of tax.

37 Abatement of gifts.

(1) Where a gift would be abated owing to an insufficiency of assets and without regard to any tax chargeable, the gift shall be treated for the purposes of the following provisions of this Chapter as so abated.

(2) Where the value attributable, in accordance with section 38 below, to specific gifts exceeds the value transferred the gifts shall be treated as reduced to the extent necessary to reduce their value to that of the value transferred; and the reduction shall be made in the order in which, under the terms of the relevant disposition or any rule of law, it would fall to be made on a distribution of assets.

38 Attribution of value to specific gifts.

(1) Such part of the value transferred shall be attributable to specific gifts as corresponds to the value of the gifts; but if or to the extent that the gifts—

(a) are not gifts with respect to which the transfer is exempt or are outside the limit up to which the transfer is exempt, and

(b) do not bear their own tax,

the amount corresponding to the value of the gifts shall be taken to be the amount arrived at in accordance with subsections (3) to (5) below.

(2) Where any question arises as to which of two or more specific gifts are outside the limit up to which a transfer is exempt or as to the extent to which a specific gift is outside that limit—

(a) the excess shall be attributed to gifts not bearing their own tax before being attributed to gifts bearing their own tax, and

(b) subject to paragraph (a) above, the excess shall be attributed to gifts in proportion to their values.

(3) Where the only gifts with respect to which the transfer is or might be chargeable are specific gifts which do not bear their own tax, the amount referred to in subsection (1) above is the aggregate of—

(a) the sum of the value of those gifts; and

(b) the amount of tax which would be chargeable if the value transferred equalled that aggregate.

(4) Where the specific gifts not bearing their own tax are not the only gifts with respect to which the transfer is or might be chargeable, the amount referred to in subsection (1)

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above is such amount as, after deduction of tax at the assumed rate specified in subsection (5) below, would be equal to the sum of the value of those gifts.

(5) For the purposes of subsection (4) above—

(a) the assumed rate is the rate found by dividing the assumed amount of tax by that part of the value transferred with respect to which the transfer would be chargeable on the hypothesis that—

(i) the amount corresponding to the value of specific gifts not bearing their own tax is equal to the aggregate referred to in subsection (3) above, and

(ii) the parts of the value transferred attributable to specific gifts and to gifts of residue or shares in residue are determined accordingly; and

(b) the assumed amount of tax is the amount that would be charged on the value transferred on the hypothesis mentioned in paragraph (a) above.

(6) For the purposes of this section, any liability of the transferor which is not to be taken into account under section 5(5) above **[**[F150]or by virtue of section 103 of the Finance Act 1986**]** shall be treated as a specific gift **[**[F150]and to the extent that any liability of the transferor is abated under the said section 103, that liability shall be treated as a specific gift**]**.

Textual Amendments

F150 Finance Act 1986 Sch. 19 para. 13,*with effect from* 18*March* 1986.

39 Attribution of value to residuary gifts.

Such part only of the value transferred shall be attributed to gifts of residue or shares in residue as is not attributed under section 38 above to specific gifts.

[[F151]39A Operation of sections 38 and 39 in cases of business or agricultural relief.

(1) Where any part of the value transferred by a transfer of value is attributable to—

(a) the value of relevant business property, or

(b) the agricultural value of agricultural property,

then, for the purpose of attributing the value transferred (as reduced in accordance with section 104 or 116 below), to specific gifts and gifts of residue or shares of residue, sections 38 and 39 above shall have effect subject to the following provisions of this section.

(2) The value of any specific gifts of relevant business property or agricultural property shall be taken to be their value as reduced in accordance with section 104 or 116 below.

(3) The value of any specific gifts not falling within subsection (2) above shall be taken to be the appropriate fraction of their value.

(4) In subsection (3) above "the appropriate fraction" means a fraction of which—

(a) the numerator is the difference between the value transferred and the value, reduced as mentioned in subsection (2) above, of any gifts falling within that subsection, and

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(b) the denominator is the difference between the unreduced value transferred and the value, before the reduction mentioned in subsection (2) above, of any gifts falling within that subsection;

and in paragraph (b) above "the unreduced value transferred" means the amount which would be the value transferred by the transfer but for the reduction required by sections 104 and 116 below.

(5) If or to the extent that specific gifts fall within paragraphs (a) and (b) of subsection (1) of section 38 above, the amount corresponding to the value of the gifts shall be arrived at in accordance with subsections (3) to (5) of that section by reference to their value reduced as mentioned in subsection (2) or, as the case may be, subsection (3) of this section.

(6) For the purposes of this section the value of a specific gift of relevant business property or agricultural property does not include the value of any other gift payable out of that property; and that other gift shall not itself be treated as a specific gift of relevant business property or agricultural property.

(7) In this section—

"agricultural property" and "the agricultural value of agricultural property" have the same meaning as in Chapter II of Part V of this Act; and

"relevant business property" has the same meaning as in Chapter I of that Part.**]**

Textual Amendments

F151 Finance Act 1986 s. 105,*in relation to transfers of value made after* 17*March* 1986.

40 Gifts made separately out of different funds.

Where gifts taking effect on a transfer of value take effect separately out of different funds the preceding provisions of this Chapter shall be applied separately to the gifts taking effect out of each of those funds, with the necessary adjustments of the values and amounts referred to in those provisions.

41 Burden of tax.

Notwithstanding the terms of any disposition—

(a) none of the tax on the value transferred shall fall on any specific gift if or to the extent that the transfer is exempt with respect to the gift, and

(b) none of the tax attributable to the value of the property comprised in residue shall fall on any gift of a share of residue if or to the extent that the transfer is exempt with respect to the gift.

42 Supplementary.

(1) In this Chapter—

"gift", in relation to any transfer of value, means the benefit of any disposition or rule of law by which, on the making of the transfer, any property becomes (or would but for any abatement become) the property of any person or applicable for any purpose;

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"given" shall be construed accordingly;

"specific gift" means any gift other than a gift of residue or of a share in residue.

(2) For the purposes of this Chapter a gift bears its own tax if the tax attributable to it falls on the person who becomes entitled to the property given or (as the case may be) is payable out of property applicable for the purposes for which the property given becomes applicable.

(3) Where—

(a) the whole or part of the value transferred by a transfer of value is attributable to property which is the subject of two or more gifts, and

(b) the aggregate of the values of the property given by each of those gifts is less than the value transferred or, as the case may be, that part of it,

then for the purposes of this Chapter (and notwithstanding the definition of a gift in subsection (1) above) the value of each gift shall be taken to be the relevant proportion of the value transferred or, as the case may be, that part of it; and the relevant proportion in relation to any gift is the proportion which the value of the property given by it bears to the said aggregate.

(4) Where on the death of a person legal rights under the law of Scotland are claimed by a person entitled to claim them, they shall be treated for the purposes of this Chapter as a specific gift which bears its own tax; and in determining the value of such legal rights, any tax payable on the estate of the deceased shall be left out of account.

PART III

SETTLED PROPERTY

CHAPTER I

PRELIMINARY

43 Settlement and related expressions.

(1) The following provisions of this section apply for determining what is to be taken for the purposes of this Act to be a settlement, and what property is, accordingly, referred to as property comprised in a settlement or as settled property.

(2) "Settlement" means any disposition or dispositions of property, whether effected by instrument, by parol or by operation of law, or partly in one way and partly in another, whereby the property is for the time being—

(a) held in trust for persons in succession or for any person subject to a contingency, or

(b) held by trustees on trust to accumulate the whole or part of any income of the property or with power to make payments out of that income at the discretion of the trustees or some other person, with or without power to accumulate surplus income, or

(c) charged or burdened (otherwise than for full consideration in money or money's worth paid for his own use or benefit to the person making the

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disposition) with the payment of any annuity or other periodical payment payable for a life or any other limited or terminable period,

or would be so held or charged or burdened if the disposition or dispositions were regulated by the law of any part of the United Kingdom; or whereby, under the law of any other country, the administration of the property is for the time being governed by provisions equivalent in effect to those which would apply if the property were so held, charged or burdened.

(3) A lease of property which is for life or lives, or for a period ascertainable only by reference to a death, or which is terminable on, or at a date ascertainable only by reference to, a death, shall be treated as a settlement and the property as settled property, unless the lease was granted for full consideration in money or money's worth; and where a lease not granted as a lease at a rack rent is at any time to become a lease at an increased rent it shall be treated as terminable at that time.

(4) In relation to Scotland "settlement" also includes—

(a) an entail,

(b) any deed by virtue of which an annuity is charged on, or on the rents of, any property (the property being treated as the property comprised in the settlement), and

(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 for the purposes of this subsection "deed" includes any disposition, arrangement, contract, resolution, instrument or writing.

(5) In the application of this Act to Northern Ireland this section shall have effect as if references to property held in trust for persons included references to property standing limited to persons and as if the lease referred to in subsection (3) did not include a lease in perpetuity within the meaning of section 1 of the [M9]Renewable Leasehold Conversion Act 1849 or a lease to which section 37 of that Act applies.

Marginal Citations

M9 1849 c. 105.

44 Settlor.

(1) In this Act "settlor", in relation to a settlement, includes any person by whom the settlement was made directly or indirectly, and in particular (but without prejudice to the generality of the preceding words) includes any person who has provided funds directly or indirectly for the purpose of or in connection with the settlement or has made with any other person a reciprocal arrangement for that other person to make the settlement.

(2) Where more than one person is a settlor in relation to a settlement and the circumstances so require, this Part of this Act (except section 48(4) to (6)) shall have effect in relation to it as if the settled property were comprised in separate settlements.

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45 Trustee.

In this Act "trustee", in relation to a settlement in relation to which there would be no trustees apart from this section, means any person in whom the settled property or its management is for the time being vested.

46 Interest in possession: Scotland.

In the application of this Act to Scotland, any reference to an interest in possession in settled property is a reference to an interest of any kind under a settlement by virtue of which the person in right of that interest is entitled to the enjoyment of the property or would be so entitled if the property were capable of enjoyment, 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; and the person in right of such an interest at any time shall be deemed to be entitled to a corresponding interest in the whole or any part of the property comprised in the settlement.

[F152 46A Contract of life insurance entered into before 22nd March 2006 which on that day is settled property in which interest in possession subsists

(1) Subsections (2) and (4) below apply where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,

(d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—

(i) were comprised in the settlement, and

(ii) were settled property in which a transitionally-protected interest (whether or not the same such interest throughout that period) subsisted,

(e) rights under the contract become, by reference to payment of the premium or as a result of the variation,—

(i) comprised in the settlement, and

(ii) part of the settled property in which the then-current transitionally-protected interest subsists, and

(f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it is a variation that—

(i) increased the benefits secured by the contract, or

(ii) extended the term of the insurance provided by the contract,

was an allowed variation.

(2) For the purposes of the provisions mentioned in subsection (3) below—

(a) the rights mentioned in subsection (1)(e) above shall be taken to have become comprised in the settlement, and

(b) the person beneficially entitled to the then-current transitionally-protected interest shall be taken to have become beneficially entitled to his interest in possession so far as it subsists in those rights,

before 22nd March 2006.

(3) Those provisions are—

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section 3A(2) above;
section 5(1A) above;
section 49(1A) and (1B) below;
section 51(1A) and (1B) below;
section 52(2A) and (3A) below;
section 53(1A) and (2A) below;
section 54(2A) and (2B) below;
section 54A(1A) below;
section 57A(1A) below;
section 58(1B) and (1C) below;
section 59(1) and (2) below;
section 80(4) below;
section 100(1A) below;
section 101(1A) below;
section 102ZA(1) of the Finance Act 1986 (gifts with reservation); and
sections 72(1A) and (2A) and 73(2A) of the 1992 Act.

(4) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.

(5) In this section—

"allowed variation", in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006;

"transitionally-protected interest" means—

(a) an interest in possession to which a person was beneficially entitled immediately before, and on, 22nd March 2006, or

(b) a transitional serial interest.

Textual Amendments

F152 Ss. 46A, 46B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **11(1)(2)**

46B Contract of life insurance entered into before 22nd March 2006 which immediately before that day is property to which section 71 applies

(1) Subsections (2) and (5) below apply where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,

(d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—

(i) were comprised in the settlement, and

(ii) were settled property to which section 71 below applied,

(e) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and

Status: *Point in time view as at 01/04/2011.*
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(f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—

(i) increased the benefits secured by the contract, or

(ii) extended the term of the insurance provided by the contract,

was an allowed variation.

(2) If the rights mentioned in subsection (1)(e) above would, but for subsection (1A) of section 71 below, become property to which that section applies, those rights shall become settled property to which that section applies when they become comprised in the settlement.

(3) Subsection (5) below also applies where—

(a) a settlement commenced before 22nd March 2006,

(b) a contract of life insurance was entered into before that day,

(c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day when there are rights under the contract—

(i) that are comprised in the settlement and are settled property to which section 71A or 71D below applies,

(ii) that immediately before that day were settled property to which section 71 below applied, and

(iii) that on or after that day, but before the particular time, became property to which section 71A or 71D below applies in circumstances falling within subsection (4) below,

(d) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and

(e) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—

(i) increased the benefits secured by the contract, or

(ii) extended the term of the insurance provided by the contract,

was an allowed variation.

(4) The circumstances referred to in subsection (3)(c)(iii) above are—

(a) in the case of property to which section 71D below applies, that the property on becoming property to which section 71D below applies ceased to be property to which section 71 below applied without ceasing to be settled property;

(b) in the case of property to which section 71A below applies—

(i) that the property on becoming property to which section 71A below applies ceased, by the operation of section 71(1B) below, to be property to which section 71 below applied, or

(ii) that the property, having become property to which section 71D below applied in circumstances falling within paragraph (a) above, on becoming property to which 71A below applies ceased, by the operation of section 71D(5)(a) below, to be property to which section 71D below applied.

(5) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.

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(6) In this section "allowed variation", in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006.**]**

Textual Amendments

F152 Ss. 46A, 46B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **11(1)(2)**

47 Reversionary interest.

In this Act "reversionary interest" means a future interest under a settlement, whether it is vested or contingent (including an interest expectant on the termination of an interest in possession which, by virtue of section 50 below, is treated as subsisting in part of any property) and in relation to Scotland includes an interest in the fee of property subject to a proper liferent.

[F153 47A Settlement power

In this Act "settlement power" means any power over, or exercisable (whether directly or indirectly) in relation to, settled property or a settlement.**]**

Textual Amendments

F153 S. 47A inserted (24.7.2002 with effect as mentioned in s.119(6)(7) of the amending Act) by 2002 c. 23, **s. 119(2)(6)(7)**

48 Excluded property.

(1) A reversionary interest is excluded property unless—

(a) it has at any time been acquired (whether by the person entitled to it or by a person previously entitled to it) for a consideration in money or money's worth, or

(b) it is one to which either the settlor or his spouse **[**F154 or civil partner**]** is or has been beneficially entitled, or

(c) it is the interest expectant on the determination of a lease treated as a settlement by virtue of section 43(3) above.

(2) In relation to a reversionary interest under a settlement made before 16th April 1976, subsection (1) above shall have effect with the omission of paragraph (b); and, if the person entitled to a reversionary interest under a settlement made on or after 16th April 1976 acquired the interest before 10th March 1981, that subsection shall have effect with the omission of the words "or has been" in paragraph (b).

(3) Where property comprised in a settlement is situated outside the United Kingdom—

(a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and

(b) section 6(1) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F155]; but this subsection is subject to subsection (3B) below.**]**

[[F156](3A) Where property comprised in a settlement is a holding in an authorised unit trust or a share in an open-ended investment company—

(a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and

(b) section 6(1A) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property

[[F157]; but this subsection is subject to subsection (3B) below.**]]**

[[F158](3B) Property is not excluded property by virtue of subsection (3) or (3A) above if—

(a) a person is, or has been, beneficially entitled to an interest in possession in the property at any time,

(b) the person is, or was, at that time an individual domiciled in the United Kingdom, and

(c) the entitlement arose directly or indirectly as a result of a disposition made on or after 5th December 2005 for a consideration in money or money's worth.

(3C) For the purposes of subsection (3B) above—

(a) it is immaterial whether the consideration was given by the person or by anyone else, and

(b) the cases in which an entitlement arose indirectly as a result of a disposition include any case where the entitlement arose under a will or the law relating to intestacy.**]**

(4) Where securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above are comprised in a settlement, that subsection shall not apply to them; but the securities are excluded property if—

(a) a person **[**[F159]of a description specified in the condition in question**]** is entitled to a qualifying interest in possession in them, or

(b) no qualifying interest in possession subsists in them but it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied, or who are or might become beneficially entitled to an interest in possession in it, are persons **[**[F159]of a description specified in the condition in question**]**.

(5) Where—

(a) property ceased to be comprised in one settlement before 10th December 1981 and after 19th April 1978 and, by the same disposition, became comprised in another settlement, or

(b) property ceased to be comprised in one settlement after 9th December 1981 and became comprised in another without any person having in the meantime become beneficially entitled to the property (and not merely to an interest in possession in the property),

subsection (4)(b) above shall, in its application to the second settlement, be construed as requiring the matters there stated to be shown both in relation to the property comprised in that settlement and in relation to the property that was comprised in the first settlement.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Subsection (5) above shall not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the second settlement before 10th December 1981.

(7) In this section "qualifying interest in possession" has the same meaning as in Chapter III of this Part of this Act.

Textual Amendments

F154 Words in s. 48(1)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **12**

F155 Words in s. 48(3) inserted (5.12.2005) by Finance Act 2006 (c. 25), **s. 157(2)(6)** (with s. 157(5))

F156 S. 48(3A) inserted (with effect as mentioned in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(3)**

F157 Words in s. 48(3A) inserted (5.12.2005) by Finance Act 2006 (c. 25), **s. 157(3)(6)** (with s. 157(5))

F158 S. 48(3B)(3C) inserted (5.12.2005) by Finance Act 2006 (c. 25), **s. 157(4)(6)** (with s. 157(5))

F159 Words in s. 48(4)(a)(b) substituted (29.4.1996 with effect as mentioned in s. 154(9)(a)(b) of the amending Act) by 1996 c. 8, s. 154(7), **Sch. 28 para. 8** (with s. 154(5))

CHAPTER II

[F160 INTERESTS IN POSSESSION, REVERSIONARY INTERESTS AND SETTLEMENT POWERS]

Textual Amendments

F160 Words in the title of Chapter II substituted (24.7.2002 with effect in relation to transfers of value on or after 17.4.2002) by virtue of 2002 c. 23, **s. 119(5)(6)**

49 Treatment of interests in possession.

(1) A person beneficially entitled to an interest in possession in settled property shall be treated for the purposes of this Act as beneficially entitled to the property in which the interest subsists.

[F161(1A) Where the interest in possession mentioned in subsection (1) above is one to which the person becomes beneficially entitled on or after 22nd March 2006, subsection (1) above applies in relation to that interest only if, and for so long as, it is—

(a) an immediate post-death interest,

(b) a disabled person's interest, or

(c) a transitional serial interest,

[F162or falls within section 5(1B) above.]

(1B) Where the interest in possession mentioned in subsection (1) above is one to which the person became beneficially entitled before 22nd March, subsection (1) above does not apply in relation to that interest at any time when section 71A below applies to the property in which the interest subsists.]

(2) Where a person becomes entitled to an interest in possession in settled property as a result of a disposition for a consideration in money or money's worth, any question whether and to what extent the giving of the consideration is a transfer of value or chargeable transfer shall be determined without regard to subsection (1) above.

(3) . . . . . [F163]

Textual Amendments

F161 S. 49(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 4(1)(2)**

F162 Words in s. 49(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(4)(a)**

F163 Finance Act 1986 Sch. 19 para. 14,*with effect from* 18*March* 1986*and repealed by* Finance Act (No.2) 1987 s. 96(4)*and* Sch. 9 Part III,*in relation to transfers of value made on or after* 17*March* 1987.

[[F164]49A Immediate post-death interest

(1) Where a person ("L") is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is an "immediate post-death interest" only if the following conditions are satisfied.

(2) Condition 1 is that the settlement was effected by will or under the law relating to intestacy.

(3) Condition 2 is that L became beneficially entitled to the interest in possession on the death of the testator or intestate.

(4) Condition 3 is that—

(a) section 71A below does not apply to the property in which the interest subsists, and

(b) the interest is not a disabled person's interest.

(5) Condition 4 is that Condition 3 has been satisfied at all times since L became beneficially entitled to the interest in possession.

Textual Amendments

F164 Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 5(1)(2)**

49B Transitional serial interests

Where a person is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is a "transitional serial interest" only—

(a) if section 49C or 49D below so provides, or

(b) if, and to the extent that, section 49E below so provides.

Textual Amendments

F164 Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 5(1)(2)**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

49C Transitional serial interest: interest to which person becomes entitled during period 22nd March 2006 to 5th [F165October] 2008

(1) Where a person ("B") is beneficially entitled to an interest in possession in settled property ("the current interest"), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—
- (a) the settlement commenced before 22nd March 2006, and
- (b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which B, or some other person, was beneficially entitled to an interest in possession ("the prior interest").

(3) Condition 2 is that the prior interest came to an end at a time on or after 22nd March 2006 but before 6th **[**F166October**]** 2008.

(4) Condition 3 is that B became beneficially entitled to the current interest at that time.

(5) Condition 4 is that—
- (a) section 71A below does not apply to the property in which the interest subsists, and
- (b) the interest is not a disabled person's interest.

Textual Amendments

F164 Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 5(1)(2)**

F165 S. 49C: word in heading substituted (retrospective to 6.4.2008) by Finance Act 2008 (c. 9), **s. 141(1)(a)(2)**

F166 Word in s. 49C(3) substituted (retrospective to 6.4.2008) by Finance Act 2008 (c. 9), **s. 141(1)(a)(2)**

49D Transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6th [F167October] 2008

(1) Where a person ("E") is beneficially entitled to an interest in possession in settled property ("the successor interest"), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—
- (a) the settlement commenced before 22nd March 2006, and
- (b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which a person other than E was beneficially entitled to an interest in possession ("the previous interest").

(3) Condition 2 is that the previous interest came to an end on or after 6th **[**F168October**]** 2008 on the death of that other person ("F").

(4) Condition 3 is that, immediately before F died, F was the spouse or civil partner of E.

(5) Condition 4 is that E became beneficially entitled to the successor interest on F's death.

(6) Condition 5 is that—
- (a) section 71A below does not apply to the property in which the successor interest subsists, and
- (b) the successor interest is not a disabled person's interest.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F164 Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 5(1)(2)**

F167 S. 49D: word in heading substituted (retrospective to 6.4.2008) by Finance Act 2008 (c. 9), **s. 141(1)(b)(2)**

F168 Word in s. 49D(3) substituted (retrospective to 6.4.2008) by Finance Act 2008 (c. 9), **s. 141(1)(b)(2)**

49E Transitional serial interest: contracts of life insurance

(1) Where—

(a) a person ("C") is beneficially entitled to an interest in possession in settled property ("the present interest"), and

(b) on C's becoming beneficially entitled to the present interest, the settled property consisted of, or included, rights under a contract of life insurance entered into before 22nd March 2006,

the present interest so far as subsisting in rights under the contract, or in property comprised in the settlement that directly or indirectly represents rights under the contract, is a "transitional serial interest" for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—

(a) the settlement commenced before 22nd March 2006, and

(b) immediately before 22nd March 2006—

(i) the property then comprised in the settlement consisted of, or included, rights under the contract, and

(ii) those rights were property in which C, or some other person, was beneficially entitled to an interest in possession ("the earlier interest").

(3) Condition 2 is that—

(a) the earlier interest came to an end at a time on or after 6th **[**[F169]October**]** 2008 ("the earlier-interest end-time") on the death of the person beneficially entitled to it and C became beneficially entitled to the present interest—

(i) at the earlier-interest end-time, or

(ii) on the coming to an end, on the death of the person beneficially entitled to it, of an interest in possession to which that person became beneficially entitled at the earlier-interest end-time, or

(iii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession to the first of which a person became beneficially entitled at the earlier-interest end-time and each of which ended on the death of the person beneficially entitled to it, or

(b) C became beneficially entitled to the present interest—

(i) on the coming to an end, on the death of the person entitled to it, of an interest in possession that is a transitional serial interest under section 49C above, or

(ii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession the first of which was a transitional serial interest under section 49C above and each of which ended on the death of the person beneficially entitled to it.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) Condition 3 is that rights under the contract were comprised in the settlement throughout the period beginning with 22nd March 2006 and ending with C's becoming beneficially entitled to the present interest.

(5) Condition 4 is that—

(a) section 71A below does not apply to the property in which the present interest subsists, and

(b) the present interest is not a disabled person's interest.**]**

Textual Amendments

F164 Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 5(1)(2)**

F169 Word in s. 49E(3) substituted (retrospective to 6.4.2008) by Finance Act 2008 (c. 9), **s. 141(1)(c)(2)**

50 Interests in part, etc.

(1) Where the person referred to in section 49(1) above is entitled to part only of the income (if any) of the property, the interest shall be taken to subsist in such part only of the property as bears to the whole the same proportion as the part of the income to which he is entitled bears to the whole of the income.

(2) Where the part of the income of any property to which a person is entitled is a specified amount (or the whole less a specified amount) in any period, his interest in the property shall be taken, subject to subsection (3) below, to subsist in such part (or in the whole less such part) of the property as produces that amount in that period.

(3) The Treasury may from time to time by order prescribe a higher and a lower rate for the purposes of this section; and where tax is chargeable in accordance with subsection (2) above by reference to the value of the part of a property which produces a specified amount or by reference to the value of the remainder (but not where chargeable transfers are made simultaneously and tax is chargeable by reference to the value of that part as well as by reference to the value of the remainder) the value of the part producing that specified amount—

(a) shall, if tax is chargeable by reference to the value of that part, be taken to be not less than it would be if the property produced income at the higher rate so prescribed, and

(b) shall, if tax is chargeable by reference to the value of the remainder, be taken to be not more than it would be if the property produced income at the lower rate so prescribed;

but the value to be taken by virtue of paragraph (a) above as the value of part of a property shall not exceed the value of the whole of the property.

(4) The power to make orders under subsection (3) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(5) Where the person referred to in section 49(1) above is not entitled to any income of the property but is entitled, jointly or in common with one or more other persons, to the use and enjoyment of the property, his interest shall be taken to subsist in such part of the property as corresponds to the proportion which the annual value of his interest bears to the aggregate of the annual values of his interest and that or those of the other or others.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) Where, under section 43(3) above, a lease of property is to be treated as a settlement, the lessee's interest in the property shall be taken to subsist in the whole of the property less such part of it as corresponds to the proportion which the value of the lessor's interest (as determined under Part VI of this Act) bears to the value of the property.

Modifications etc. (not altering text)

C18 *See*S.I. 1980/1000 (*in* Part III Statutory Regulations etc.)*for the current rates applicable.*

51 Disposal of interest in possession.

(1) Where a person beneficially entitled to an interest in possession in settled property disposes of his interest the disposal—

(a) is not a transfer of value, but

(b) shall be treated for the purposes of this Chapter as the coming to an end of his interest;

and tax shall be charged accordingly under section 52 below.

[[F170](1A) Where the interest disposed of is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (1) above applies in relation to the disposal only if the interest is—

(a) an immediate post-death interest,

(b) a disabled person's interest within section 89B(1)(c) or (d) below, or

(c) a transitional serial interest,

[[F171]or falls within section 5(1B) above.**]**

(1B) Where the interest disposed of is one to which the person became beneficially entitled before 22nd March 2006, subsection (1) above does not apply in relation to the disposal if, immediately before the disposal, section 71A or 71D below applies to the property in which the interest subsists.**]**

(2) Where a disposition satisfying the conditions of section 11 above is a disposal of an interest in possession in settled property, the interest shall not by virtue of subsection (1) above be treated as coming to an end.

(3) References in this section to any property or to an interest in any property include references to part of any property or interest.

Textual Amendments

F170 S. 51(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **12**

F171 Words in s. 51(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(4)(b)**

52 Charge on termination of interest in possession.

(1) Where at any time during the life of a person beneficially entitled to an interest in possession in settled property his interest comes to an end, tax shall be charged, subject to section 53 below, as if at that time he had made a transfer of value and the value transferred had been equal to the value of the property in which his interest subsisted.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If the interest comes to an end by being disposed of by the person beneficially entitled to it and the disposal is for a consideration in money or money's worth, tax shall be chargeable under this section as if the value of the property in which the interest subsisted were reduced by the amount of the consideration; but in determining that amount the value of a reversionary interest in the property or of any interest in other property comprised in the same settlement shall be left out of account.

[[F172](2A) Where the interest mentioned in subsection (1) or (2) above is one to which the person became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the coming to an end of the interest only if the interest is—

(a) an immediate post-death interest,

(b) a disabled person's interest, or

(c) a transitional serial interest,

[[F173]or falls within section 5(1B) above.**]]**

(3) Where a transaction is made between the trustees of the settlement and a person who is, or is connected with,—

(a) the person beneficially entitled to an interest in the property, or

(b) a person beneficially entitled to any other interest in that property or to any interest in any other property comprised in the settlement, or

(c) a person for whose benefit any of the settled property may be applied,

and, as a result of the transaction, the value of the first-mentioned property is less than it would be but for the transaction, a corresponding part of the interest shall be deemed for the purposes of this section to come to an end, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.

[[F174](3A) Where the interest mentioned in paragraph (a) of subsection (3) above is one to which the person mentioned in that paragraph became beneficially entitled on or after 22nd March 2006, that subsection applies in relation to the transaction only if the interest is—

(a) an immediate post-death interest,

(b) a disabled person's interest, or

(c) a transitional serial interest,

[[F173]or falls within section 5(1B) above.**]]**

(4) References in this section or section 53 below to any property or to an interest in any property include references to part of any property or interest; and—

(a) the tax chargeable under this section on the coming to an end of part of an interest shall be charged as if the value of the property (or part) in which the interest subsisted were a corresponding part of the whole; and

(b) if the value of the property (or part) to which or to an interest in which a person becomes entitled as mentioned in subsection (2) of section 53 below is less than the value on which tax would be chargeable apart from that subsection, tax shall be chargeable on a value equal to the difference.

Textual Amendments

F172 S. 52(2A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **13(2)**

F173 Words in s. 52(2A)(3A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(4)(c)**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F174 S. 52(3A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **13(3)**

53 Exceptions from charge under section 52.

(1) Tax shall not be chargeable under section 52 above if the settled property is excluded property.

[[F175](1A) Tax shall not be chargeable under section 52 above if—

(a) the person whose interest comes to an end became beneficially entitled to the interest before 22nd March 2006,

(b) the interest comes to an end on or after that day, and

(c) immediately before the interest comes to an end, section 71A or 71D below applies to the property in which the interest subsists.**]**

(2) Tax shall not be chargeable under section 52 above (except in the case mentioned in subsection (4)(b) of that section) if the person whose interest in the property comes to an end becomes on the same occasion beneficially entitled to the property or to another interest in possession in the property.

[[F176]**[**[F177](2A) Subsection (2) above applies by virtue of the person becoming beneficially entitled on or after 12 March 2008 to another interest in possession in the property only if that other interest is—

(a) a disabled person's interest, or

(b) a transitional serial interest;

and that is the case irrespective of whether the person's beneficial entitlement to the interest in possession in the property which comes to an end is one which began before, or on or after, 22 March 2006.**]]**

(3) Tax shall not be chargeable under section 52 above if the interest comes to an end during the settlor's life and on the same occasion the property in which the interest subsisted reverts to the settlor.

(4) Tax shall not be chargeable under section 52 above if on the occasion when the interest comes to an end—

(a) the settlor's spouse **[**[F178]or civil partner**]**, or

(b) where the settlor has died less than two years earlier, the settlor's widow or widower **[**[F179]or surviving civil partner**]**,

becomes beneficially entitled to the settled property and is domiciled in the United Kingdom.

(5) Subsections (3) and (4) above shall not apply in any case where—

(a) the settlor or the spouse **[**[F180]or civil partner**]** (or in a case within subsection (4)(b), the widow or widower **[**[F181]or surviving civil partner**]**) of the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth, or

(b) their application depends upon a reversionary interest having been transferred into a settlement on or after 10th March 1981.

(6) For the purposes of subsection (5) above a person shall be treated as acquiring an interest 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 interest or of other property.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) Where the acquisition of the interest was before 12th April 1978, subsection (5)(a) above shall have effect, so far as it relates to subsection (3) above, with the omission of the reference to the spouse **[**[F182]or civil partner**]** of the settlor.

(8) Subsection (6) above shall not apply where the person concerned became entitled to the interest before 12th April 1978.

Textual Amendments

F175 S. 53(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **14(2)**

F176 S. 53(2A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **14(3)**

F177 S. 53(2A) substituted (retrospective to 22.3.2006) by Finance Act 2008 (c. 9), **s. 140(1)(2)**

F178 Words in s. 53(4)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **13(2)(a)**

F179 Words in s. 53(4)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **13(2)(b)**

F180 Words in s. 53(5)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **13(3)(a)**

F181 Words in s. 53(5)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **13(3)(b)**

F182 Words in s. 53(7) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **13(4)**

54 Exceptions from charge on death

(1) Where a person is entitled to an interest in possession in settled property which on his death, but during the settlor's life, reverts to the settlor, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.

(2) Where on the death of a person entitled to an interest in possession in settled property—

(a) the settlor's spouse **[**[F183]or civil partner**]**, or

(b) if the settlor has died less than two years earlier, the settlor's widow or widower **[**[F184]or surviving civil partner**]**,

becomes beneficially entitled to the settled property and is domiciled in the United Kingdom, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.

[[F185](2A) Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsections (1) and (2) above apply in relation to the interest only if it is—

(a) a disabled person's interest, or

(b) a transitional serial interest.

(2B) Where—

(a) a person ("B") becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property,

(b) B dies,

(c) the interest in possession, throughout the period beginning with when B becomes beneficially entitled to it and ending with B's death, is an immediate post-death interest,

(d) the settlor died before B's death but less than two years earlier, and

(e) on B's death, the settlor's widow or widower, or surviving civil partner, becomes beneficially entitled to the settled property and is domiciled in the United Kingdom,

the value of the settled property shall be left out of account in determining for the purposes of this Act the value of B's estate immediately before his death.**]**

(3) Subsections (5) and (6) of section 53 above shall apply in relation to subsections **[**[F186](1), (2) and (2B)**]** above as they apply in relation to section 53(3) and (4) **[**[F187], but as if the reference in section 53(5)(a) above to section 53(4)(b) above were to subsection (2)(b) or (2B) above.**]** .

(4) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.

Textual Amendments

F183 Words in s. 54(2)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **14(a)**

F184 Words in s. 54(2)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **14(b)**

F185 S. 54(2A)(2B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras 7, **15(2)**

F186 Words in s. 54(3) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **15(3)(a)**

F187 Words in s. 54(3) added (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **15(3)(b)**

[[F188]**54A Special rate of charge where settled property affected by potentially exempt transfer.**

(1) If the circumstances fall within subsection (2) below, this section applies to any chargeable transfer made—

(a) under section 52 above, on the coming to an end of an interest in possession in settled property during the life of the person beneficially entitled to it, or

(b) on the death of a person beneficially entitled to an interest in possession in settled property;

and in the following provisions of this section the interest in possession mentioned in paragraph (a) or paragraph (b) above is referred to as “the relevant interest”.

[F189](1A) **[** Where a person becomes beneficially entitled on or after 22nd March 2006 to an interest in possession in settled property, subsection (1)(b) above applies in relation to the person's death only if the interest is—

(a) a disabled person's interest, or

(b) a transitional serial interest.**]**

(2) The circumstances referred to in subsection (1) above are—

(a) that the whole or part of the value transferred by the transfer is attributable to property in which the relevant interest subsisted and which became settled

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property in which there subsisted an interest in possession (whether the relevant interest or any previous interest) on the making by the settlor of a potentially exempt transfer at any time on or after 17th March 1987 and within the period of seven years ending with the date of the chargeable transfer; and

(b) that the settlor is alive at the time when the relevant interest comes to an end; and

(c) that, on the coming to an end of the relevant interest, any of the property in which that interest subsisted becomes settled property in which no qualifying interest in possession (as defined in section 59 below) subsists [F190]. . . ; and

(d) that, within six months of the coming to an end of the relevant interest, any of the property in which that interest subsisted has neither—

(i) become settled property in which a qualifying interest in possession subsists [F190]. . . , nor

(ii) become property to which an individual is beneficially entitled.

(3) In the following provisions of this section "the special rate property", in relation to a chargeable transfer to which this section applies, means the property in which the relevant interest subsisted or, in a case where—

(a) any part of that property does not fall within subsection (2)(a) above, or

(b) any part of that property does not become settled property of the kind mentioned in subsection (2)(c) above,

so much of that property as appears to the Board or, on appeal, to the **[**[F191]tribunal**]** to be just and reasonable.

(4) Where this section applies to a chargeable transfer (in this section referred to as "the relevant transfer"), the tax chargeable on the value transferred by the transfer shall be whichever is the greater of the tax that would have been chargeable apart from this section and the tax determined in accordance with subsection (5) below.

(5) The tax determined in accordance with this subsection is the aggregate of—

(a) the tax that would be chargeable on a chargeable transfer of the description specified in subsection (6) below, and

(b) so much (if any) of the tax that would, apart from this section, have been chargeable on the value transferred by the relevant transfer as is attributable to the value of property other than the special rate property.

(6) The chargeable transfer postulated in subsection (5)(a) above is one—

(a) the value transferred by which is equal to the value transferred by the relevant transfer or, where only part of that value is attributable to the special rate property, that part of that value;

(b) which is made at the time of the relevant transfer by a transferor who has in the preceding seven years made chargeable transfers having an aggregate value equal to the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of seven years ending with the date of the potentially exempt transfer; and

(c) for which the applicable rate or rates are one-half of the rate or rates referred to in section 7(1) above.

(7) This section has effect subject to section 54B below.**]**

Textual Amendments

F188 Finance Act 1987 (No. 2) Sch. 7 para. 1,*with effect from* 17*March* 1987.

F189 S. 54(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **16(2)**

F190 Words in s. 54A(2)(c)(d)(i) repealed (22.3.2006 with effect as mentioned in Sch. 20 para. 16(4) of the amending Act) by Finance Act 2006 (c. 25), ss. 156, 160, **Sch. 20 para. 16(3)(a)(b)**, {Sch. 26 Pt. 6 Note 1}

F191 Word in s. 54A(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 110**

Modifications etc. (not altering text)

C19 S. 54A modified (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 2(4)(6)**

C20 S. 54A modified (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **20(4)**

[F192 54B Provisions supplementary to section 54A.

(1) The death of the settlor, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax determined in accordance with subsection (5) of that section is greater than the tax that would be chargeable apart from that section.

(2) The death of the person who was beneficially entitled to the relevant interest, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax that would be chargeable apart from that section is greater than the tax determined in accordance with subsection (5) of that section.

(3) Where the tax chargeable on the value transferred by a chargeable transfer to which section 54A above applies falls to be determined in accordance with subsection (5) of that section, the amount referred to in paragraph (a) of that subsection shall be treated for the purposes of this Act as tax attributable to the value of the property in which the relevant interest subsisted.

(4) Subsection (5) below shall apply if—

(a) during the period of seven years preceding the date on which a chargeable transfer to which section 54A above applies ("the current transfer") is made, there has been another chargeable transfer to which that section applied, and

(b) the person who is for the purposes of the current transfer the settlor mentioned in subsection (2)(a) of that section is the settlor for the purposes of the other transfer (whether or not the settlements are the same);

and in subsections (5) and (6) below the other transfer is referred to as the "previous transfer".

(5) Where this subsection applies, the appropriate amount in relation to the previous transfer (or, if there has been more than one previous transfer, the aggregate of the appropriate amounts in relation to each) shall, for the purposes of calculating the tax chargeable on the current transfer, be taken to be the value transferred by a chargeable transfer made by the settlor immediately before the potentially exempt transfer was made.

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(6) In subsection (5) above "the appropriate amount", in relation to a previous transfer, means so much of the value transferred by the previous transfer as was attributable to the value of property which was the special rate property in relation to that transfer.

(7) In this section—

"the relevant interest" has the meaning given by subsection (1) of section 54A above; and

"the special rate property" has the meaning given by subsection (3) of that section.**]**

Textual Amendments

F192 Finance Act 1987 (No. 2) Sch. 7 para. 1,*with effect from* 17*March* 1987.

[[F193]55A Purchased settlement powers

(1) Where a person makes a disposition by which he acquires a settlement power for consideration in money or money's worth—

(a) section 10(1) above shall not apply to the disposition;

(b) the person shall be taken for the purposes of this Act to make a transfer of value;

(c) the value transferred shall be determined without bringing into account the value of anything which the person acquires by the disposition; and

(d) sections 18 and 23 to 27 above shall not apply in relation to that transfer of value.

(2) For the purposes of this section, a person acquires a settlement power if he becomes entitled—

(a) to a settlement power,

(b) to exercise, or to secure or prevent the exercise of, a settlement power (whether directly or indirectly), or

(c) to restrict, or secure a restriction on, the exercise of a settlement power (whether directly or indirectly),

as a result of transactions which include a disposition (whether to him or another) of a settlement power or of any power of a kind described in paragraph (b) or (c) above which is exercisable in relation to a settlement power.**]**

Textual Amendments

F193 S. 55A inserted (24.7.2002 with effect as mentioned in s. 119(6) of the amending Act) by 2002 c. 23, **s. 119(3)(6)**

56 Exclusion of certain exemptions.

(1) Sections 18 and 23 to 27 above shall not apply in relation to property which is given in consideration of the transfer of a reversionary interest if, by virtue of section 55(1) above, that interest does not form part of the estate of the person acquiring it.

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(2) Where a person acquires a reversionary interest in any settled property for a consideration in money or money's worth, section 18 above shall not apply in relation to the property when it becomes the property of that person on the termination of the interest on which the reversionary interest is expectant.

(3) Sections 23 to 27 above shall not apply in relation to any property if—

(a) the property is an interest in possession in settled property and the settlement does not come to an end in relation to that settled property on the making of the transfer of value, or

(b) immediately before the time when it becomes the property of the exempt body it is comprised in a settlement 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 exempt body.

(4) In subsection (3)(b) above "exempt body" means a charity, political party or other body within sections 23 **[**[F195]to 25**]** above or the trustees of a settlement in relation to which a direction under paragraph 1 of Schedule 4 to this Act has effect; and for the purposes of subsection (3)(b) there shall be disregarded any acquisition from a charity, political party or body within sections 23 to 25.

(5) For the purposes of subsections (2) and (3) above, a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition **[**[F196]for such consideration**]** (whether to him or another) of that interest or of other property.

(6) Nothing in this section shall apply to a transfer of value if or to the extent that it is a disposition whereby the use of money or other property is allowed by one person to another.

(7) Subsection (2) above shall not apply where the acquisition of the reversionary interest was before 16th April 1976; and where the acquisition was on or after that date but before 12th April 1978 that subsection shall have effect—

(a) with the substitution for the words "section 18 above" of the words "sections 18 and 23 **[**[F195]to 25**]** above", and

(b) with the insertion after the word "person" in both places where it occurs of the words "or body".

(8) Subsection (3)(b) above shall not apply where the acquisition of the interest was before 12th April 1978; and subsection (5) above shall not apply where the person concerned became entitled to the interest before that date.

Textual Amendments

F195 Words in s. 56(4)(7) substituted (31.7.1998 with effect in relation to any property becoming the property of any person on or after 17.3.1998) by 1998 c. 36, **s. 143(3)**

F196 Finance Act 1987 (No. 2) Sch. 7, para. 2,*with effect from* 17*March* 1987.

57 Application of certain exemptions.

(1) Subject to subsection (3) below, references to transfers of value in sections 19 and 22 above shall be construed as including references to events on the happening of

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which tax is chargeable under section 52 above, and references to the transferor and (in section 22(3) and (4)) to a disposition shall be construed accordingly.

(2) For the purposes of its application, by virtue of subsection (1) above, to the termination of interests in possession in settled property, section 22 above shall have effect as if—
   (a) references to transfers of value made by gifts in consideration of marriage **[**[F197]or civil partnership**]** were references to the termination of such interests in consideration of marriage **[**[F197]or civil partnership**]**;
   (b) references to outright gifts were references to cases where the property ceases on the termination to be settled property; and
   (c) references to cases where the property is settled by the gift were references to cases where it remains settled property after the termination.

(3) Subsection (1) above shall not apply to a transfer of value—
   (a) unless the transferor has in accordance with subsection (4) below given to the trustees of the settlement a notice informing them of the availability of an exemption, and
   (b) except to the extent specified in that notice.

(4) A notice under subsection (3) above shall be in such form as may be prescribed by the Board and shall be given before the end of the period of six months beginning with the date of the transfer of value.

(5) Section 27 above shall apply where the value transferred by a transfer of value is attributable to property which immediately after the transfer remains comprised in a settlement as it applies where property becomes comprised in a settlement by virtue of the transfer.

Textual Amendments

F197 Words in s. 57(2)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **15**

[[F198]**57A Relief where property enters maintenance fund.**

(1) Subject to the following provisions, subsection (2) below applies where—
   (a) a person dies who immediately before his death was beneficially entitled to an interest in possession in property comprised in a settlement, and
   (b) within two years after his death the property becomes held on trusts (whether of that or another settlement) by virtue of which a direction under paragraph 1 of Schedule 4 to this Act is given in respect of the property.

[[F199](1A) Where the interest mentioned in subsection (1)(a) above is one to which the person became beneficially entitled on or after 22nd March 2006, subsection (2) below does not apply unless, immediately before the person's death, the interest was—
   (a) an immediate post-death interest,
   (b) a disabled person's interest, or
   (c) a transitional serial interest,

   [[F200]or fell within section 5(1B) above.**]]**

(2) Where this subsection applies, this Act shall have effect as if the property had on the death of the deceased become subject to the trusts referred to in subsection (1)(b)

above; and accordingly no disposition or other event occurring between the date of the death and the date on which the property becomes subject to those trusts shall, so far as it relates to the property, be a transfer of value or otherwise constitute an occasion for a charge to tax.

(3) Where property becomes held on trusts of the kind specified in paragraph (b) of subsection (1) above as the result of proceedings before a court and could not have become so held without such proceedings, that paragraph shall have effect as if it referred to three years instead of two.

(4) Subsection (2) above shall not apply if—

(a) the disposition by which the property becomes held on the trusts referred to in subsection (1)(b) above depends on a condition or is defeasible; or

(b) the property which becomes held on those trusts is itself an interest in settled property; or

(c) the trustees who hold the property on those trusts have, for a consideration in money or money's worth, acquired an interest under a settlement in which the property was comprised immediately before the death of the person referred to in subsection (1)(a) above or at any time thereafter; or

(d) the property which becomes held on those trusts does so for a consideration in money or money's worth, or is acquired by the trustees for such a consideration, or has at any time since the death of the person referred to in subsection (1)(a) above been acquired by any other person for such a consideration.

(5) If the value of the property when it becomes held on the trusts referred to in subsection (1)(b) above is lower than so much of the value transferred on the death of the person referred to in subsection (1)(a) as is attributable to the property, subsection (2) above shall apply to the property only to the extent of the lower value.

(6) For the purposes of this section, a person shall be treated as acquiring 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. [F198]]]

Textual Amendments

F198 Finance Act 1987 Sch. 9, para. 1,*in relation to deaths occurring on or after* 17*March* 1987.

F199 S. 57A(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **17**

F200 Words in s. 57A(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(5)**

CHAPTER III

SETTLEMENTS WITHOUT INTERESTS IN POSSESSION [[F201], AND CERTAIN SETTLEMENTS IN WHICH INTERESTS IN POSSESSION SUBSIST]

Textual Amendments

F201 Words in Pt. 3 Ch. 3 heading added (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 20(5)**

Status: *Point in time view as at 01/04/2011.*
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Modifications etc. (not altering text)

C21 *See* Finance Act 1990 s. 126—*exemption for pools payments to trustees for football ground improvements in respect of events on or after* 6*April* 1990.

C22 Pt. 3 Ch. 3 modified (22.7.2004) by Finance Act 2004 (c. 12), s. 283, **Sch. 36 para. 57(1)** (with s. 283(5))

C23 Pt. 3 Ch. 3 modified (22.7.2004) by Finance Act 2004 (c. 12), s. 283, **Sch. 36 para. 56(2)(b)** (with s. 283(5))

C24 Part III Chapter III (ss.58-85) excluded by Finance Act 1991 (c.31, SIF 63:1), **s. 121(4)**.
Pt. III Ch. III (ss. 58-85) restricted (3.5.1994) by 1994 c. 9, **s. 248**

Interpretation

58 Relevant property.

(1) In this Chapter "relevant property" means settled property in which no qualifying interest in possession subsists, other than—

(a) property held for charitable purposes only, whether for a limited time or otherwise;

(b) property to which section 71, **[**[F202]71A, 71D,**]** 73, 74 or 86 below applies **[**[F203](but see subsection (1A) below)**]** ;

(c) property held on trusts which comply with the requirements mentioned in paragraph 3(1) of Schedule 4 to this Act, and in respect of which a direction given under paragraph 1 of that Schedule has effect;

[[F204](d) property which is held for the purposes of a registered pension scheme **[**[F205], a qualifying non-UK pension scheme or a**]**section 615(3) scheme;**]**

(e) property comprised in a trade or professional compensation fund;

[[F206](ea) property comprised in an asbestos compensation settlement, [F207]. . . **]**

[[F208](eb) property comprised in a decommissioning security settlement; and**]**

(f) excluded property.

[[F209](1A) Settled property to which section 86 below applies is "relevant property" for the purposes of this Chapter if—

(a) an interest in possession subsists in that property, and

(b) that interest falls within subsection (1B) or (1C) below.

(1B) An interest in possession falls within this subsection if—

(a) an individual is beneficially entitled to the interest in possession,

(b) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and

(c) the interest in possession is—

(i) not an immediate post-death interest,

(ii) not a disabled person's interest, and

(iii) not a transitional serial interest.

(1C) An interest in possession falls within this subsection if—

(a) a company is beneficially entitled to the interest in possession,

(b) the business of the company consists wholly or mainly in the acquisition of interests in settled property,

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(c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it,

(d) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and

(e) immediately before the company acquired the interest in possession, the interest in possession was neither an immediate post-death interest nor a transitional serial interest.**]**

(2) The reference in subsection (1)(d) above to property which is [F210]. . . held for the purposes of a [F210]. . . scheme does not include a reference to a benefit which, having become payable under the [F210]. . . scheme, becomes comprised in a settlement.

[[F211](2A) For the purposes of subsection (1)(d) above—

(a) property applied to pay lump sum death benefits within section 168(1) of the Finance Act 2004 in respect of a member of a registered pension scheme is to be taken to be held for the purposes of the scheme from the time of the member's death until the payment is made, and

(b) property applied to pay lump sum death benefits in respect of a member of **[**[F212]a qualifying non-UK pension scheme or**]** a section 615(3) scheme is to be taken to be so held if the benefits are paid within the period of two years beginning with the earlier of the day on which the member's death was first known to the trustees or other persons having the control of the fund and the day on which they could first reasonably be expected to have known of it.**]**

(3) In subsection (1)(e) above "trade or professional compensation fund" means a fund which is maintained or administered by a representative association of persons carrying on a trade or profession and the only or main objects of which are compensation for or relief of losses or hardship that, through the default or alleged default of persons carrying on the trade or profession or of their agents or servants, are incurred or likely to be incurred by others.

[[F213](4) In subsection (1)(ea) above "asbestos compensation settlement" means a settlement—

(a) the sole or main purpose of which is making compensation payments to or in respect of individuals who have, or had before their death, an asbestos-related condition, and

(b) which is made before 24 March 2010 in pursuance of an arrangement within subsection (5) below.

(5) An arrangement is within this subsection if it is—

(a) a voluntary arrangement that has taken effect under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989,

(b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985, Article 418 of the Companies (Northern Ireland) Order 1986 or Part 26 of the Companies Act 2006, or

(c) an arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) above that has taken effect under, or as a result of, the law of a country or territory outside the United Kingdom.**]**

[[F214](6) For the purposes of subsection (1)(eb) above a settlement is a "decommissioning security settlement" if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.

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(7) In subsection (6)—

"abandonment programme" means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised);

"security" has the same meaning as in section 38A of that Act.**]**

Textual Amendments

F202 Words in s. 58(1)(b) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **18**

F203 Words in s. 58(1)(b) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **19(2)**

F204 S. 58(1)(d) substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(3)**, 284 (with Sch. 36)

F205 Words in s. 58(1)(d) substituted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(3)(a)(8)**

F206 S. 58(1)(ea) substituted (retrospective to 6.4.2006) for word at end of s. 58(1)(e) by Finance (No. 3) Act 2010 (c. 33), s. 31, **Sch. 14 para. 1(2)(4)**

F207 Word in s. 58(1) omitted (retrospective to 20.3.1993) by virtue of Finance Act 2013 (c. 29), **s. 86(2)(4)** (with s. 86(5)(6))

F208 S. 58(1)(eb) and word inserted (retrospective to 20.3.1993) by Finance Act 2013 (c. 29), **s. 86(2)(4)** (with s. 86(5)(6))

F209 S. 58(1A)-(1C) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **19(3)**

F210 Words in s. 58(2) repealed (6.4.2006) by Finance Act 2004 (c. 12), s. 326, **Sch. 42 Pt. 3** (with Sch. 36)

F211 S. 58(2A) inserted (with effect in relation to lump sum death benefits paid on or after 6.4.2006) by Finance Act 2007 (c. 11), s. 70, **Sch. 20 paras. 20**, 24(9)

F212 Words in s. 58(2A)(b) inserted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(3)(b)(8)**

F213 S. 58(4)(5) inserted (retrospective to 6.4.2006) by Finance (No. 3) Act 2010 (c. 33), s. 31, **Sch. 14 para. 1(3)(4)**

F214 S. 58(5)(6) inserted (retrospective to 20.3.1993) by Finance Act 2013 (c. 29), **s. 86(3)(4)** (with s. 86(5)(6))

Modifications etc. (not altering text)

C25 S. 58 applied (6.4.2006) by The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575), **reg. 33**

59 Qualifying interest in possession.

[[F215](1) In this Chapter "qualifying interest in possession" means—

(a) an interest in possession—

(i) to which an individual is beneficially entitled, and

(ii) which, if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, is an immediate post-death interest, a disabled person's interest or a transitional serial interest, or

(b) an interest in possession to which, where subsection (2) below applies, a company is beneficially entitled.**]**

(2) This subsection applies where—

(a) the business of the company consists wholly or mainly in the acquisisition of interests in settled property, and

(b) the company has acquired the interest for full consideration in money or money's worth from an individual who was beneficially entitled to it.**[**[F216], and

Status: *Point in time view as at 01/04/2011.*
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(c) if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, the interest is an immediate post-death interest, or a disabled person's interest within section 89B(1)(c) or (d) below or a transitional serial interest, immediately before the company acquires it.**]**

(3) Where the acquisition mentioned in paragraph (b) of subsection (2) above was before 14th March 1975—

(a) the condition set out in paragraph (a) of that subsection shall be treated as satisfied if the business of the company was at the time of the acquisition such as is described in that paragraph, and

(b) that condition need not be satisfied **[**[F217]if the company is an insurance company (within the meaning of Chapter I of Part XII of the [M10]Taxes Act 1988) and **[**[F218]has permission—

(i) under Part 4 of the Financial Services and Markets Act 2000, or

(ii) under paragraph 15 of Schedule 3 to that Act [F219] (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule),

to effect or carry out contracts of long-term insurance.**]**

[F220]**[** (4) In subsection (3)(b) above "contracts of long-term insurance" means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 [F221].**]]**

Textual Amendments

F215 S. 59(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 20(2)**

F216 S. 59(2)(c) and preceding word inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 20(3)**

F217 Words in s. 59(3) substituted (1.5.1995 with effect as mentioned in s. 52(5) of the amending Act) by 1995 c. 4, **s. 52(4)**

F218 Words in s. 59(3) substituted (1.12.2001 with effect as mentioned in art. 5(4) of the amending S.I.) by S.I. 2001/3629, **art. 5(1)(2)(4)**

F219 Schedule 3 was amended by regulation 8 of S.I. 2000/2952.

F220 S. 59(4) added (1.12.2001 with effect as mentioned in art. 5(4) of the amending S.I.) by S.I. 2001/3629, **art. 5(1)(3)(4)**

F221 S.I. 2001/544.

Marginal Citations

M10 1984 c. 51.

60 Commencement of settlement.

In this Chapter references to the commencement of a settlement are references to the time when property first becomes comprised in it.

61 Ten-year anniversary.

(1) In this Chapter "ten-year anniversary" in relation to a settlement means the tenth anniversary of the date on which the settlement commenced and subsequent anniversaries at ten-yearly intervals, but subject to subsections (2) to (4) below.

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(2) The ten-year anniversaries of a settlement treated as made under section 80 below shall be the dates that are (or would but for that section be) the ten-year anniversaries of the settlement first mentioned in that section.

(3) No date falling before 1st April 1983 shall be a ten-year anniversary.

(4) Where—

(a) the first ten-year anniversary of a settlement would apart from this subsection fall during the year ending with 31st March 1984, and

(b) during that year an event occurs in respect of the settlement which could not have occurred except as the result of some proceedings before a court, and

(c) the event is one on which tax was chargeable under Chapter II of Part IV of the [M11]Finance Act 1982 (or, apart from Part II of Schedule 15 to that Act, would have been so chargeable),

the first ten-year anniversary shall be taken to be 1st April 1984 (but without affecting the dates of later anniversaries).

Marginal Citations

M11 1982 c. 39.

62 Related settlements.

(1) For the purposes of this Chapter two settlements are related if and only if—

(a) the settlor is the same in each case, and

(b) they commenced on the same day,

but subject to subsection (2) below.

(2) Two settlements are not related for the purposes of this Chapter if all the property comprised in one or both of them was immediately after the settlement commenced held for charitable purposes only without limit of time (defined by a date or otherwise).

63 Minor interpretative provisions.

In this Chapter, unless the context otherwise requires—

"payment" includes a transfer of assets other than money;

"quarter" means period of three months.

Principal charge to tax

64 Charge at ten-year anniversary.

[[F222](1)**]** Where immediately before a ten-year anniversary all or any part of the property comprised in a settlement is relevant property, tax shall be charged at the rate applicable under sections 66 and 67 below on the value of the property or part at that time.

[[F223](2) For the purposes of subsection (1) above, a foreign-owned work of art which is situated in the United Kingdom for one or more of the purposes of public display, cleaning and restoration (and for no other purpose) is not to be regarded as relevant property.**]**

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Textual Amendments

F222 S. 64 renumbered (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) as s. 64(1) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(3)**

F223 S. 64(2) inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(3)**

65 Charge at other times.

(1) There shall be a charge to tax under this section—

(a) where the property comprised in a settlement or any part of that property ceases to be relevant property (whether because it ceases to be comprised in the settlement or otherwise); and

(b) in a case in which paragraph (a) above does not apply, where the trustees of the settlement make a disposition as a result of which the value of relevant property comprised in the settlement is less than it would be but for the disposition.

(2) The amount on which tax is charged under this section shall be—

(a) the amount by which the value of relevant property comprised in the settlement is less immediately after the event in question that it would be but for the event, or

(b) where the tax payable is paid out of relevant property comprised in the settlement immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(3) The rate at which tax is charged under this section shall be the rate applicable under section 68 or 69 below.

(4) Subsection (1) above does not apply if the event in question occurs in a quarter beginning with the day on which the settlement commenced or with a ten-year anniversary.

(5) Tax shall not be charged under this section in respect of—

(a) a payment of costs or expenses (so far as they are fairly attributable to relevant property), or

(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,

or in respect of a liability to make such a payment.

(6) Tax shall not be charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

(7) Tax shall not be charged under this section by reason only that property comprised in a settlement ceases to be situated in the United Kingdom and thereby becomes excluded property by virtue of section 48(3)(a) above.

[[F224](7A) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3A)(a) (holding in

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an authorised unit trust or a share in an open-ended investment company is excluded property unless settlor domiciled in UK when settlement made).**]**

(8) If the settlor of a settlement was not domiciled in the United Kingdom when the settlement was made, tax shall not be charged under this section by reason only that property comprised in the settlement is invested in securities issued by the Treasury subject to a condition of the kind mentioned in section 6(2) above and thereby becomes excluded property by virtue of section 48(4)(b) above.

(9) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

Textual Amendments

F224 S. 65(7A) inserted (retrospective to 16.10.2002) by Finance Act 2013 (c. 29), **s. 175**

Modifications etc. (not altering text)

C26 S. 65 restricted (31.7.1998 with effect as mentioned in s. 161(1) of the amending Act) by 1998 c. 36, **s. 161(3)**

C27 S. 65 restricted (retrospective to 20.3.1993) by Finance Act 2013 (c. 29), **s. 86(4)(6)**

Rates of principal charge

66 Rate of ten-yearly charge.

(1) Subject to subsection (2) below, the rate at which tax is charged under section 64 above at any time shall be three tenths of the effective rate (that is to say the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (3) below.

(2) Where the whole or part of the value mentioned in section 64 above is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period of ten years ending immediately before the ten-year anniversary concerned, the rate at which tax is charged on that value or part shall be reduced by one-fortieth for each of the successive quarters in that period which expired before the property became, or last became, relevant property comprised in the settlement.

(3) The chargeable transfer postulated in subsection (1) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (4) below;

(b) which is made immediately before the ten-year anniversary concerned by a transferor who has in the **[**[F225]preceding seven years**]** made chargeable transfers having an aggregate value determined in accordance with subsection (5) below; and

[[F226](c) on which tax is charged in accordance with section 7(2) of this Act**]**

(4) The amount referred to in subsection (3)(a) above is equal to the aggregate of—

(a) the value on which is charged under section 64 above;

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(b) the value immediately after it became comprised in the settlement of any property which was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement; and

(c) the value, immediately after a related settlement commenced, of the property then comprised in it;

but subject to subsection (6) below.

(5) The aggregate value referred to in subsection (3)(b) above is equal to the aggregate of—

(a) the values transferred by any chargeable transfers made by the settlor in the period of **[**[F227]seven**]** years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974, and

(b) the amounts on which any charges to tax were imposed under section 65 above in respect of the settlement in the ten years before the anniversary concerned;

but subject to subsection (6) and section 67 below.

(6) In relation to a settlement which commenced before 27th March 1974—

(a) subsection (4) above shall have effect with the omission of paragraphs (b) and (c); and

(b) subsection (5) above shall have effect with the omission of paragraph (a);

and where tax is chargeable under section 64 above by reference to the first ten-year anniversary of a settlement which commenced before 9th March 1982, the aggregate mentioned in subsection (5) above shall be increased by the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the [M12]Finance Act 1975) made out of settled property before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the [M13]Finance Act 1982 applied, 1st April 1983, or, as the case may be, 1st April 1984) and within the period of ten years before the anniversary concerned.

Textual Amendments

F225 Finance Act 1986 Sch. 19 para. 16(1), *with effect from* 18 *March* 1986 *originally* "preceding ten years".

F226 Finance Act 1986 Sch. 19 para. 16(2), *with effect from* 18 *March* 1986. *Originally* "(c) for which the appropriate Table of rates is the second Table in Schedule 1 to this Act."

F227 Finance Act 1986 Sch. 19 para. 16(3), *with effect from* 18 *March* 1986. *Originally* "ten".

Marginal Citations

M12 1975 c.7.

M13 1982 c.39.

67 Added property, etc.

(1) This subsection applies where, after the settlement commenced and after 8th March 1982, but before the anniversary concerned, the settlor made a chargeable transfer as a result of which the value of the property comprised in the settlement was increased.

(2) For the purposes of subsection (1) above, it is immaterial whether the amount of the property so comprised was increased as a result of the transfer, but a transfer as a result

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of which the value increased but the amount did not shall be disregarded if it is shown that the transfer—

(a) was not primarily intended to increase the value, and

(b) did not result in the value being greater immediately after the transfer by an amount exceeding five per cent. of the value immediately before the transfer.

(3) Where subsection (1) above applies in relation to a settlement which commenced after 26th March 1974, section 66(5)(a) above shall have effect as if it referred to the greater of—

(a) the aggregate of the values there specified, and

(b) the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of **[**[F228]seven**]** years ending with the day on which the chargeable transfer falling within subsection (1) above was made—

(i) disregarding transfers made on that day or before 27th March 1974, and

(ii) excluding the values mentioned in subsection (5) below;

and where the settlor made two or more chargeable transfers falling within subsection (1) above, paragraph (b) above shall be taken to refer to the transfer in relation to which the aggregate there mentioned is the greatest.

(4) Where subsection (1) above applies in relation to a settlement which commenced before 27th March 1974, the aggregate mentioned in section 66(5) above shall be increased (or further increased) by the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of **[**[F229]seven**]** years ending with the day on which the chargeable transfer falling within subsection (1) above was made—

(a) disregarding transfers made on that day or before 27th March 1974, and

(b) excluding the values mentioned in subsection (5) below; and where the settlor made two or more chargeable transfers falling within subsection (1) above, this subsection shall be taken to refer to the transfer in relation to which the aggregate to be added is the greatest.

(5) The values excluded by subsections (3)(b)(ii) and (4)(b) above are—

(a) any value attributable to property whose value is taken into account in determining the amount mentioned in section 66(4) above; and

(b) any value attributable to property in respect of which a charge to tax has been made under section 65 above and by reference to which an amount mentioned in section 66(5)(b) above is determined.

(6) Where the property comprised in a settlement immediately before the ten-year anniversary concerned, or any part of that property, had on any occasion within the preceding ten years ceased to be relevant property then, if on that occasion tax was charged in respect of the settlement under section 65 above, the aggregate mentioned in section 66(5) above shall be reduced by an amount equal to the lesser of—

(a) the amount on which tax was charged under section 65 (or so much of that amount as is attributable to the part in question), and

(b) the value on which tax is charged under section 64 above (or so much of that value as is attributable to the part in question);

and if there were two or more such occasions relating to the property or the same part of it, this subsection shall have effect in relation to each of them.

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(7) References in subsection (6) above to the property comprised in a settlement immediately before an anniversary shall, if part only of the settled property was then relevant property, be construed as references to that part.

Textual Amendments

F228 Finance Act 1986 Sch. 19 para. 17,*with effect from* 18*March* 1986.*Originally* "ten".

F229 Finance Act 1986 Sch. 19 para. 17,*with effect from* 18*March* 1986.*Originally* "ten".

68 Rate before first ten-year anniversary.

(1) The rate at which tax is charged under section 65 above on an occasion preceding the first ten-year anniversary after the settlement's commencement shall be the appropriate fraction of the effective rate at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (4) below (but subject to subsection (6) below).

(2) For the purposes of this section the appropriate fraction is three tenths multiplied by so many fortieths as there are complete successive quarters in the period beginning with the day on which the settlement commenced and ending with the day before the occasion of the charge, but subject to subsection (3) below.

(3) Where the whole or part of the amount on which tax is charged is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period referred to in subsection (2) above, then in determining the appropriate fraction in relation to that amount or part—

(a) no quarter which expired before the day on which the property became, or last became, relevant property comprised in the settlement shall be counted, but

(b) if that day fell in the same quarter as that in which the period ends, that quarter shall be counted whether complete or not.

(4) The chargeable transfer postulated in subsection (1) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (5) below;

(b) which is made at the time of the charge to tax under section 65 by a transferor who has in the period of **[**[F230]seven**]** years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of **[**[F231]seven**]** years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974; and

[[F232](c) on which tax is charged in accordance with section 7(2) of this Act.**]**

(5) The amount referred to in subsection (4)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the property then comprised in it;

(b) the value, immediately after a related settlement commenced, of the property then comprised in it; and

(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and

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before the occasion of the charge under section 65 (whether or not it has remained so comprised).

(6) Where the settlement commenced before 27th March 1974, subsection (1) above shall have effect with the substitution of a reference to three tenths for the reference to the appropriate fraction; and in relation to such a settlement the chargeable transfer postulated in that subsection is one—

(a) the value transferred by which is equal to the amount on which tax is charged under section 65 above;

(b) which is made at the time of that charge to tax by a transferor who has in the period of **[**[F233]seven**]** years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to the aggregate of—

(i) any amounts on which any charges to tax have been imposed under section 65 above in respect of the settlement in **[**[F234]the period of ten years ending with that day**]**; and

(ii) the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the [M14]Finance Act 1975) made out of the settled property before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the [M15]Finance Act 1982 applied, 1st April 1983, or, as the case may be, 1st April 1984) and within the said period of ten years; and

[[F235](c) on which tax is charged in accordance with section 7(2) of this Act.**]**

Textual Amendments

F230 Finance Act 1986 Sch. 19 para. 18(1),*with effect from* 18*March* 1986.*Originally* "ten".

F231 Finance Act 1986 Sch. 19 para. 18(1),*with effect from* 18*March* 1986.*Originally* "ten".

F232 Finance Act 1986 Sch. 19 para. 18(2),*with effect from* 18*March* 1986.*Originally* "(c) for which the appropriate Table of rates is the second Table in Schedule 1 to this Act.".

F233 Finance Act 1986 Sch. 19 para. 18(3)(a),*with effect from* 18*March* 1986.*Originally* "ten".

F234 Finance Act 1986 Sch. 19 para. 18(3)(b),*with effect from* 18*March* 1986.*Originally* "that period of ten years".

F235 Finance Act 1986 Sch. 19 para. 18(2),*with effect from* 18*March* 1986.*Originally* "for which the appropriate Table of rates is the second Table in Schedule 1 to this Act."

Marginal Citations

M14 1975 c. 7.

M15 1982 c. 39.

69 Rate between ten-year anniversaries.

(1) Subject to subsection (2) below, the rate at which tax is charged under section 65 above on an occasion following one or more ten-year anniversaries after the settlement's commencement shall be the appropriate fraction of the rate at which it was last charged under section 64 (or would have been charged apart from section 66(2)).

(2) If at any time before the occasion of the charge under section 65 and on or after the most recent ten-year anniversary—

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(a) property has become comprised in the settlement, or

(b) property which was comprised in the settlement immediately before the anniversary, but was not then relevant property, has become relevant property,

then, whether or not the property has remained comprised in the settlement or has remained relevant property, the rate at which tax is charged under section 65 shall be the appropriate fraction of the rate at which it would last have been charged under section 64 (apart from section 66(2)) if immediately before that anniversary the property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below.

(3) In the case of property within subsection (2)(a) above which either—

(a) was relevant property immediately after it became comprised in the settlement, or

(b) was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement,

the value to be attributed to it for the purposes of subsection (2) above is its value immediately after it became comprised in the settlement; and in any other case the value to be so attributed is the value of the property when it became (or last became) relevant property.

(4) For the purposes of this section the appropriate fraction is so many fortieths as there are complete successive quarters in the period beginning with the most recent ten-year anniversary and ending with the day before the occasion of the charge; but subsection (3) of section 68 above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) of that section.

Special cases—charges to tax

70 Property leaving temporary charitable trusts.

(1) This section applies to settled property held for charitable purposes only until the end of a period (whether defined by a date or in some other way).

(2) Subject to subsections (3) and (4) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, otherwise than by virtue of an application for charitable purposes, and

(b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by an application of property for charitable purposes) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3) Tax shall not be charged under this section in respect of—

(a) a payment of costs or expenses (so far as they are fairly attributable to property to which this section applies), or

(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,

or in respect of a liability to make such a payment.

(4) Tax shall not be charged under this section by virtue of subsection (2)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property,

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section 10 or section 16 above would prevent the disposition from being a transfer of value.

(5) The amount on which tax is charged under this section shall be—
- (a) the amount by which the value of property which is comprised in the settlement and to which this section applies is less immediately after the event giving rise to the charge than it would be but for the event, or
- (b) where the tax payable is paid out of settled property to which this section applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(6) The rate at which tax is charged under this section shall be the aggregate of the following percentages—
- (a) 0.25 per cent. for each of the first forty complete successive quarters in the relevant period,
- (b) 0.20 per cent. for each of the next forty,
- (c) 0.15 per cent. for each of the next forty,
- (d) 0.10 per cent. for each of the next forty, and
- (e) 0.05 per cent. for each of the next forty.

(7) Where the whole or part of the amount on which tax is charged under this section is attributable to property which was excluded property at any time during the relevant period then, in determining the rate at which tax is charged under this section in respect of that amount or part, no quarter throughout which that property was excluded property shall be counted.

(8) In subsections (6) and (7) above "the relevant period" means the period beginning with the later of—
- (a) the day on which the property in respect of which tax is chargeable became (or last became) property to which this section applies, and
- (b) 13th March 1975,

and ending with the day before the event giving rise to the charge.

(9) Where the property in respect of which tax is chargeable—
- (a) was relevant property immediately before 10th December 1981, and
- (b) became (or last became) property to which this section applies on or after that day and before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the [M16]Finance Act 1982 applied, 1st April 1983 or, as the case may be, 1st April 1984),

subsection (8) above shall have effect as if the day referred to in paragraph (a) of that subsection were the day on which the property became (or last became) relevant property before 10th December 1981.

(10) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

Marginal Citations

M16 1982 c.39.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

71 Accumulation and maintenance trusts.

(1) Subject to **[**[F236]subsections (1A) to**]**(2) below, this section applies to settled property if—

(a) one or more persons (in this section referred to as beneficiaries) will, on or before attaining a specified age not exceeding **[**[F237]eighteen**]** , become beneficially entitled to it [F238]. . . , and

(b) no interest in possession subsists in it and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.

[[F239](1A) This section does not apply to settled property at any particular time on or after 22nd March 2006 unless this section—

(a) applied to the settled property immediately before 22nd March 2006, and

(b) has applied to the settled property at all subsequent times up to the particular time.

(1B) This section does not apply to settled property at any particular time on or after 22nd March 2006 if, at that time, section 71A below applies to the settled property.**]**

(2) This section does not apply to settled property unless either—

(a) not more than twenty-five years have elapsed since the commencement of the settlement or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) of subsection (1) above became satisfied with respect to the property, or

(b) all the persons who are or have been beneficiaries are or were either—

(i) grandchildren of a common grandparent, or

(ii) children, widows or widowers **[**[F240]or surviving civil partners**]** of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in subsection (1)(a) above.

(3) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, and

(b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(4) Tax shall not be charged under this section—

(a) on a beneficiary's becoming beneficially entitled to, or to an interest in possession in, settled property on or before attaining the specified age, or

(b) on the death of a beneficiary before attaining the specified age.

(5) Subsections (3) to (8) and (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (3)(b) above for the reference in section 70(4) to section 70(2)(b)).

(6) Where the conditions stated in paragraphs (a) and (b) of subsection (1) above were satisfied on 15th April 1976 with respect to property comprised in a settlement which commenced before that day, subsection (2)(a) above shall have effect with the substitution of a reference to that day for the reference to the commencement of

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the settlement, and the condition stated in subsection (2)(b) above shall be treated as satisfied if—

(a) it is satisfied in respect of the period beginning with 15th April 1976, or

(b) it is satisfied in respect of the period beginning with 1st April 1977 and either there was no beneficiary living on 15th April 1976 or the beneficiaries on 1st April 1977 included a living beneficiary, or

(c) there is no power under the terms of the settlement whereby it could have become satisfied in respect of the period beginning with 1st April 1977, and the trusts of the settlement have not been varied at any time after 15th April 1976.

(7) In subsection (1) above "persons" includes unborn persons; but the conditions stated in that subsection shall be treated as not satisfied unless there is or has been a living beneficiary.

(8) For the purposes of this section a person's children shall be taken to include his illegitimate children, his adopted children and his stepchildren.

Textual Amendments

F236 Words in s. 71(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 2(2)(6)**

F237 Word in s. 71(1)(a) substituted (6.4.2008 in accordance with Sch. 20 para. 3(2) of the amending Act) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 3(1)(a)**

F238 Words in s. 71(1)(a) repealed (6.4.2008 in accordance with Sch. 20 para. 3(2) of the amending Act) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 3(1)(b), **Sch. 26 Pt. 6**

F239 S. 71(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 2(3)(6)**

F240 Words in s. 71(2)(b)(ii) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **16**

Modifications etc. (not altering text)

C28 S. 71 excluded (19.7.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 3(3)**

C29 S. 71 modified (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 2(5)(6)**

[F241 71A Trusts for bereaved minors

(1) This section applies to settled property (including property settled before 22nd March 2006) if—

(a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or

(b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts,

but this section does not apply to property in which a disabled person's interest subsists.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the bereaved minor, or

(b) established under the Criminal Injuries Compensation Scheme,[F242 or

(c) established under the Victims of Overseas Terrorism Compensation Scheme,]

which secure that the conditions in subsection (3) below are met.

(3) Those conditions are—

(a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—
  (i) the settled property,
  (ii) any income arising from it, and
  (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,

(b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and

(c) that, for so long as the bereaved minor is living and under the age of 18, either—
  (i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
  (ii) no such income may be applied for the benefit of any other person.

(4) Trusts such as are mentioned in paragraph (a) **[**[F243], (b) or (c)**]** of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—

(a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(5) In this section "the Criminal Injuries Compensation Scheme" means—

(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,

(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and

(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before "which" there were inserted the purposes of.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

F242 S. 71A(2)(c) and preceding word inserted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2)(b), {Sch. 2 para. 2(2)(a)}

F243 Words in s. 71A(4) substituted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2)(b), {Sch. 2 para. 2(2)(b)}

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

71B Charge to tax on property to which section 71A applies

(1) Subject to subsections (2) and (3) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which section 71A above applies, and

(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—

(a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or

(b) the death under that age of the bereaved minor, or

(c) being paid or applied for the advancement or benefit of the bereaved minor.

(3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—

(a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,

(b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,

(c) as if, for the purposes of section 70(8) above as applied by this subsection, property—

(i) which is property to which section 71A above applies,

(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and

(iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied,

had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and

(d) as if, for the purposes of section 70(8) above as applied by this subsection, property—

(i) which is property to which section 71A above applies,

(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and

(iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion ("the 71D-to-71A occasion") to be property to which section 71D below applied,

had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.

(4) In subsection (3)(d) above—

(a) "the relevant earlier occasion" means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but

(b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied

without ceasing to be settled property, "the relevant earlier occasion" means the occasion (or last occasion) when the property became property to which section 71 above applied.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

71C Sections 71A and 71B: meaning of "bereaved minor"

In sections 71A and 71B above "bereaved minor" means a person—

(a) who has not yet attained the age of 18, and

(b) at least one of whose parents has died.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

71D Age 18-to-25 trusts

(1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—

(a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,

(b) at least one of the person's parents has died, and

(c) subsection (2) below applies to the trusts.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or

(b) established under the Criminal Injuries Compensation Scheme,**[**[F244] or

(c) established under the Victims of Overseas Terrorism Compensation Scheme,**]**

which secure that the conditions in subsection (6) below are met.

(3) Subsection (4) has effect where—

(a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and

(b) immediately after the property ceases to be property to which section 71 above applies—

(i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and

(ii) the trusts secure that the conditions in subsection (6) below are met.

(4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—

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(a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and

(b) the trusts continue to secure that the conditions in subsection (6) below are met.

(5) This section does not apply—

(a) to property to which section 71A above applies,

(b) to property to which section 71 above, or section 89 below, applies, or

(c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—

(i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or

(ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.

(6) Those conditions are—

(a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above ("B"), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—

(i) the settled property,

(ii) any income arising from it, and

(iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,

(b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and

(c) that, for so long as B is living and under the age of 25, either—

(i) B is entitled to all of the income (if there is any) arising from any of the settled property, or

(ii) no such income may be applied for the benefit of any other person.

(7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—

(a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(8) In this section "the Criminal Injuries Compensation Scheme" means—

(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,

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(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and

(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(9) The preceding provisions of this section apply in relation to Scotland—

(a) as if, in subsection (2) above, before "which" there were inserted the purposes of, and

(b) as if, in subsections (3)(b)(ii) and (4)(b) above, before "trusts" there were inserted purposes of the.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

F244 S. 71D(2)(c) and preceding word inserted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2)(b), {Sch. 2 para. 2(3)}

71E Charge to tax on property to which section 71D applies

(1) Subject to subsections (2) to (4) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which section 71D above applies, or

(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—

(a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,

(b) the death, under the age of 18, of B,

(c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or

(d) being paid or applied for the advancement or benefit of B—

(i) at a time when B is living and under the age of 18, or

(ii) on B's attaining the age of 18.

(3) Tax is not charged under this section in respect of—

(a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or

(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,

or in respect of a liability to make such a payment.

(4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

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(5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

71F Calculation of tax charged under section 71E in certain cases

(1) Where—

(a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and

(b) that event happens after B has attained the age of 18,

the tax is calculated in accordance with this section.

(2) Those events are—

(a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,

(b) the death of B, and

(c) property being paid or applied for the advancement or benefit of B.

(3) The amount of the tax is given by—

$$\text{Chargeable amount} \times \text{Relevant fraction} \times \text{Settlement rate}$$

(4) For the purposes of subsection (3) above, the "Chargeable amount" is—

(a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(5) For the purposes of subsection (3) above, the "Relevant fraction" is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—

(a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and

(b) ending with the day before the occasion of the charge.

(6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in subsection (5) above then, in determining the "Relevant fraction" in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.

(7) For the purposes of subsection (3) above, the "Settlement rate" is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the

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amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.

(8) The chargeable transfer postulated in subsection (7) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,

(b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and

(c) on which tax is charged in accordance with section 7(2) above.

(9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the property then comprised in it,

(b) the value, immediately afer a related settlement commenced, of the property then comprised in it, and

(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised).

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

71G Calculation of tax charged under section 71E in all other cases

(1) Where—

(a) tax is charged under section 71E above, and

(b) the tax does not fall to be calculated in accordance with section 71F above,

the tax is calculated in accordance with this section.

(2) The amount on which the tax is charged is—

(a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—

(a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,

(b) if the other references in those subsections to section 70 above were references to section 71E above, and

(c) if, for the purposes of section 70(8) above, property—

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(i) which is property to which section 71D above applies,

(ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and

(iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property,

had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

71H Sections 71A to 71G: meaning of "parent"

(1) In sections 71A to 71G above "parent" includes step-parent.

(2) For the purposes of sections 71A to 71G above, a deceased individual ("D") shall be taken to have been a parent of another individual ("Y") if, immediately before D died, D had—

(a) parental responsibility for Y under the law of England and Wales,

(b) parental responsibilities in relation to Y under the law of Scotland, or

(c) parental responsibility for Y under the law of Northern Ireland.

(3) In subsection (2)(a) above "parental responsibility" has the same meaning as in the Children Act 1989.

(4) In subsection (2)(b) above "parental responsibilities" has the meaning given by section 1(3) of the Children (Scotland) Act 1995.

(5) In subsection (2)(c) above "parental responsibility" has the same meaning as in the Children (Northern Ireland) Order 1995.**]**

Textual Amendments

F241 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

72 Property leaving employee trusts and newspaper trusts.

(1) This section applies to settled property to which section 86 below applies **[**[F245] if—

(a) no interest in possession subsists in it to which an individual is beneficially entitled, and

(b) no company-purchased interest in possession subsists in it.**]** .

[[F246](1A) For the purposes of subsection (1)(b) above, an interest in possession is "company-purchased" if—

(a) a company is beneficially entitled to the interest in possession,

(b) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and

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(c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it.

(1B) Section 59(3) and (4) above apply for the purposes of subsection (1A)(c) above as for those of section 59(2)(b) above, but as if the references to the condition set out in section 59(2)(a) above were to the condition set out in subsection (1A)(b) above.**]**

(2) Subject to subsections (4) **[**[F247], (4A)**]** and (5) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property, and

(b) where a payment is made out of settled property to which this section applies for the benefit of a person within subsection (3) below, or a person connected with such a person, and

(c) in a case which paragraphs (a) and (b) above do not apply, where the trustees make a disposition (otherwise than by way of a payment out of the settled property) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3) A person is within this subsection if—

(a) he has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year; or

(b) in a case where the employment in question is employment by a close company, he is a participator in relation to that company and either—

(i) is beneficially entitled to, or to rights entitling him to acquire, not less than 5 per cent. of, or of any class of the shares comprised in, its issued share capital, or

(ii) would, on a winding-up of the company, be entitled to not less than 5 per cent. of its assets; or

(c) he has acquired an interest in the settled property for a consideration in money or money's worth.

(4) If the trusts are those of a profit sharing scheme approved in accordance with Schedule 9 to the **[**[F248]Taxes Act 1988**]**, tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares in pursuance of the scheme.

[[F249](4A) If the trusts are those of **[**[F250]a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003**]** , tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares to, or acquisition of shares on behalf of, an individual under the plan.**]**

(5) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (2)(c) above for the reference in section 70(4) to section 70(2)(b)).

(6) In this section—

(a) "close company" and "participator" have the same meanings as in Part IV of this Act; and

(b) "year" means the period beginning with 26th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April;

Status: *Point in time view as at 01/04/2011.*
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and a person shall be treated for the purposes of this section as acquiring an interest 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 interest or of other property.

Textual Amendments

F245 Words in s. 72(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **21(2)**

F246 S. 71(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **21(3)**

F247 Word in s. 72(2) inserted (28.7.2000) by 2000 c. 17, **s. 138(3)(a)**

F248 *Substituted by*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32. *Originally* "Finance Act 1978".

F249 S. 72(4A) inserted (28.7.2000) by 2000 c. 17, **s. 138(3)(b)**

F250 Words in s. 72(4A) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), **Sch. 6 para. 151(1)(b)(2)**

73 Pre-1978 protective trusts.

(1) This section applies to settled property which is held on trusts to the like effect as those specified in section 33(1)(ii) of the [M17]Trustee Act 1925 and which became held on those trusts on the failure or determination before 12th April 1978 of trusts to the like effect as those specified in section 33(1)(i).

(2) Subject to subsection (3) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit of the principal beneficiary within the meaning of section 33 of the Trustee Act 1925, and

(b) in a case which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.

Marginal Citations

M17 1925 c.19.

74 Pre-1981 trusts for disabled persons.

(1) This section applies to settled property transferred into settlement before 10th March 1981 and held on trusts under which, during the life of a disabled person, no interest in possession in the settled property subsists, and which secure that any of the settled property which is applied during his life is applied only or mainly for his benefit.

(2) Subject to subsection (3) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit of the person mentioned in subsection (1) above, and

(b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.

(4) In this section "disabled person" means a person who—

(a) is by reason of mental disorder (within the meaning of the [M18]Mental Health Act 1983) incapable of administering his property or managing his affairs, or

(b) is in receipt of an attendance allowance under section **[**[F251]64 of the Social Security Contributions and Benefits Act 1992 or**]**[[F252]section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**]**.

[[F253], or

(c) is in receipt of a disability living allowance under section **[**[F251]71 of the Social Security Contributions and Benefits Act 1992**]**[[F254]or **[**[F252]section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**]]**by virtue of entitlement to the care component at the highest or middle rate.**]**

Textual Amendments

F251 Words in s. 74(4)(b)(c) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 66(1)(2)**.

F252 Words in s. 74(4)(b)(c) substituted (1.7.1992) by virtue of Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 4, 7(2), **Sch. 2 para. 29** (1)(2).

F253 S. 74(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes and 6.4.1992) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21, SIF 113:1), s. 4(2), **Sch. 2 para. 14(1)**; S.I. 1991/2617, **art. 2(c)(f)**.

F254 Words in s. 74(4)(c) inserted (6.4.1992) by S.I. 1991/2874, **art. 4(2)**; S.R. 1992/94, **art. 2**.

Marginal Citations

M18 1983 c.20.

Special cases—reliefs

75 Property becoming subject to employee trusts.

(1) Tax shall not be charged under section 65 above in respect of shares in or securities of a company which cease to be relevant property on becoming held on trusts of the description specified in section 86(1) below if the conditions in subsection (2) below are satisfied.

(2) The conditions referred to in subsection (1) above are—

(a) that the persons for whose benefit the trusts permit the settled property to be applied include all or most of the persons employed by or holding office with the company;

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(b) that, at the date when the shares or securities cease to be relevant property or at a subsequent date not more than one year thereafter, both the conditions mentioned in subsection (2) of section 28 above (read with subsections (3) and (7)) are satisfied, without taking account of shares or securities held on other trusts; and

(c) that the trusts do not permit any of the property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of any of the persons mentioned in subsection (4) of section 28 above (read with subsections (5) to (7)) or for the benefit of the settlor or of any person connected with him.

(3) In its application for the purposes of subsection (2)(c) above, section 28(4) shall be construed as if—

(a) references to section 28(1) were references to subsection (2) above, and

(b) references to the time of the transfer of value were references to the time when the property ceases to be relevant property.

76 Property becoming held for charitable purposes, etc.

(1) Tax shall not be charged under this Chapter (apart from section 79 below) in respect of property which ceases to be relevant property, or ceases to be property to which section 70, 71, **[**[F255]71A, 71D,**]** 72, 73 or 74 above or paragraph 8 of Schedule 4 to this Act applies, on becoming—

(a) property held for charitable purposes only without limit of time (defined by a date or otherwise);

(b) the property of a political party qualifying for exemption under section 24 above; **[**[F256]or**]**

(c) the property of a body within Schedule 3 to this Act;. . .

[F257](d) . . . . . .

[F258](2) . . . . . .

(3) If the amount on which tax would be charged apart from this section in respect of any property exceeds the value of the property immediately after it becomes property of a description specified in paragraphs (a) **[**[F259]to (c)**]** of subsection (1) above (less the amount of any consideration for its transfer received by the trustees), that subsection shall not apply but the amount on which tax is charged shall be equal to the excess.

(4) The reference in subsection (3) above to the amount on which tax would be charged is a reference to the amount on which it would be charged—

(a) assuming (if it is not in fact so) that the tax is not paid out of settled property, and

(b) apart from Chapters I and II of Part V of this Act;

and the reference in that subsection to the amount on which tax is charged is a reference to the amount on which it would be charged on that assumption and apart from those Chapters.

(5) Subsection (1) above shall not apply in relation to any property if the disposition by which it becomes property of the relevant description is defeasible; but for this purpose a disposition which has not been defeated at a time twelve months after the property concerned becomes property of the relevant description and is not defeasible after that

time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.

(6) Subsection (1) above shall not apply in relation to any property if it or any part of it may become applicable for purposes other than charitable purposes or purposes of a body mentioned in subsection (1)(b), **[**[F260]or (c)**]** above.

(7) Subsection (1) shall not apply in relation to any property if, at or before the time when it becomes property of the relevant description, an interest under the settlement is or has been acquired for a consideration in money or money's worth by an exempt body otherwise than from a charity or a body mentioned in subsection (1)(b) or (c) above.

(8) In subsection (7) above "exempt body" means a charity or a body mentioned in subsection (1)(b), **[**[F260]or (c)**]** above; and for the purposes of subsection (7) above a body shall be treated as acquiring an interest for a consideration in money or money's worth if it becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to that body or to another person) of that interest or of other property.

Textual Amendments

F255 Words in s. 76(1) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **22**

F256 Word in s. 76(1)(b) inserted (31.7.1998 with effect as mentioned in s. 143(5) of the amending Act) by 1998 c. 36, **s. 143(4)(a)**

F257 S. 76(1)(d) and word "or"immediately preceding repealed (31.7.1998 with effect as mentioned in s. 143(5) of the amending Act) by 1998 c. 36, ss. 143(4)(a), 165, **Sch. 27 Pt. IV** note 1

F258 S. 76(2) repealed (31.7.1998 with effect as mentioned in s. 143(5) of the amending Act) by 1998 c. 36, ss. 143(4)(a), 165, **Sch. 27 Pt. IV** note 1

F259 Words in s. 76(3) substituted (31.7.1998 with effect as mentioned in s. 143(5) of the amending Act) by 1998 c. 36, **s. 143(4)(b)**

F260 Words in s. 76(6)(8) substituted (31.7.1998 with effect as mentioned in s. 143(5) of the amending Act) by 1998 c. 36, **s. 143(4)(c)**

Works of art, historic buildings, etc.

77 Maintenance funds for historic buildings, etc.

Schedule 4 to this Act shall have effect.

78 Conditionally exempt occasions.

(1) A transfer of property or other event shall not constitute an occasion on which tax is chargeable under any provision of this Chapter other than section 64 if the property in respect of which the charge would have been made has been comprised in the settlement throughout the six years ending with the transfer or event, and—

(a) the property is, on a claim made for the purpose, designated by the Treasury under section 31 above, and

(b) the requisite undertaking described in that section is given with respect to the property by such person as the Treasury think appropriate in the circumstances of the case **[**[F261]or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section are

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given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case.**]**

[[F262](1A) A claim under subsection (1) above must be made no more than two years after the date of the transfer or other event in question or within such longer period as the Board may allow.**]**

(2) References in this Chapter to a conditionally exempt occasion are to—

(a) a transfer or event which by virtue of subsection (1) above does not constitute an occasion on which tax is chargeable under this Chapter;

(b) a transfer or event which, by virtue of section 81(1) of the [M19]Finance Act 1976, did not constitute an occasion on which tax was chargeable under Chapter II of Part IV of the [M20]Finance Act 1982;

(c) a conditionally exempt distribution within the meaning given by section 81(2) of the Finance Act 1976 as it had effect in relation to events before 9th March 1982.

(3) Where there has been a conditionally exempt occasion in respect of any property, sections 32, **[**[F263]32A**]**, 33(1), 33(3) to (7) and 35(2) above shall have effect (and tax shall accordingly be chargeable under section 32 **[**[F263]or 32A**]**) as if—

(a) references to a conditionally exempt transfer and to such a transfer of property included references respectively to a conditionally exempt occasion and to such an occasion in respect of property;

(b) references to a disposal otherwise than by sale included references to any occasion on which tax is chargeable under any provision of this Chapter other than section 64;

(c) references to an undertaking given under section 30 above included references to an undertaking given under this section;

and the references in section 33(5) above to the person who made a conditionally exempt transfer shall have effect in relation to a conditionally exempt occasion as references to the person who is the settlor of the settlement in respect of which the occasion occurred (or if there is more than one such person, whichever of them the Board may select).

(4) Where by virtue of subsection (3) above the relevant person for the purposes of section 33 above is the settlor of a settlement, the rate (or each of the rates) mentioned in section 33(1)(b)(i) or (ii)—

(a) shall, if the occasion occurred before the first ten-year anniversary to fall after the property became comprised in the settlement concerned, be 30 per cent. of what it would be apart from this subsection, and

(b) shall, if the occasion occurred after the first and before the second ten-year anniversary to fall after the property became so comprised, be 60 per cent. of what it would be apart from this subsection;

[[F264]and the appropriate provision of section 7 for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, subsection (1) and, if not, subsection (2).**]**

(5) Where by virtue of subsection (3) above the relevant person for the purposes of section 33 above is the settlor of a settlement and that settlor died before 13th March 1975, section 33(1)(b) above shall have effect (subject to subsection (4) above) with the substitution for sub-paragraph (ii) of the following sub-paragraph:—

"(ii) the rate or rates that would have applied to that amount ("the chargeable amount") **[**[F265]in accordance with the appropriate

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provision of section 7 above**]** if the relevant person had died when the chargeable event occurred, the value transferred on his death had been equal to the amount on which estate duty was chargeable when he in fact died, and the chargeable amount had been added to that value and had formed the highest part of it."

(6) Section 34 above shall not apply to a chargeable event in respect of property if the last conditionally exempt transfer of the property has been followed by a conditionally exempt occasion in respect of it.

Textual Amendments

F261 Finance Act 1985 Sch. 26 para. 8(a),*in relation to events occurring after* 18*March* 1985.

F262 S. 78(1A) inserted (31.7.1998 with effect in relation to transfers of property made, and other events occurring, on or after 17.3.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 3(1)(2)**

F263 Finance Act 1985 Sch. 26 para. 8(b),*in relation to events occurring after* 18*March* 1985.

F264 Finance Act 1986 Sch. 19 para. 19(1),*with effect from* 18*March* 1986.*Originally*
"and the appropriate Table for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, the first Table in Schedule 1 to this Act and, if not, the second Table."

F265 Finance Act 1986 Sch. 19 para. 19(2),*with effect from* 18*March* 1986.*Originally*
"under the appropriate Table".

Modifications etc. (not altering text)

C30 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

Marginal Citations

M19 1976 c. 40.

M20 1982 c. 39.

79 Exemption from ten-yearly charge.

(1) Where property is comprised in a settlement and there has been a conditionally exempt transfer of the property on or before the occasion on which it became comprised in the settlement, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence after the transfer of a chargeable event with respect to the property.

(2) Where property is comprised in a settlement and there has been, on or before the occasion on which it became comprised in the settlement, a disposal of the property in relation to which subsection (4) of section **[**[F266]258 of the 1992 Act**]** (capital gains tax relief for works of art etc.) had effect, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence after the disposal of an event on the happening of which the property is treated as sold under subsection (5) of the said section **[**[F266]258**]**.

(3) Where property is comprised in a settlement and there has been no such transfer or disposal of the property as is mentioned in subsection (1) or (2) above on or before the occasion on which it became comprised in the settlement, then, if—

(a) the property has, on a claim made for the purpose, been designated by the Treasury under section 31 above,

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(b) the requisite undertaking described in that section has been given **[**[F267]with respect to the property**]** by such person as the Treasury think appropriate in the circumstances of the case, **[**[F267]or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section have been given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case**]**, and

(c) the property is relevant property,

section 64 above shall not have effect in relation to the property; but there shall be a charge to tax under this subsection on the first occurrence of an event which, if there had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under section 30 above, would be a chargeable event with respect to the property.

(4) Tax shall not be charged under subsection (3) above in respect of property if, after the occasion and before the occurrence there mentioned, there has been a conditionally exempt occasion in respect of the property.

(5) The amount on which tax is charged under subsection (3) above shall be an amount equal to the value of the property at the time of the event.

[[F268](5A) Where the event giving rise to a charge to tax under subsection (3) above is a disposal on sale, and the sale—

(a) was not intended to confer any gratuitous benefit on any person, and

(b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other,

the value of the property at the time of that event shall be taken for the purposes of subsection (5) above to be equal to the proceeds of the sale.**]**

(6) The rate at which tax is charged under subsection (3) above shall be the aggregate of the following percentages—

(a) 0·25 per cent. for each of the first forty complete successive quarters in the relevant period,

(b) 0·20 per cent. for each of the next forty,

(c) 0·15 per cent. for each of the next forty,

(d) 0·10 per cent. for each of the next forty, and

(e) 0·5 per cent. for each of the next forty.

[[F269](7) In subsection (6) above "the relevant period" means the period given by subsection (7A) below or, if shorter, the period given by subsection (7B) below.

(7A) The period given by this subsection is the period beginning with the latest of—

(a) the day on which the settlement commenced,

(b) the date of the last ten-year anniversary of the settlement to fall before the day on which the property became comprised in the settlement,

(c) the date of the last ten-year anniversary of the settlement to fall before the day on which the property was designated under section 31 above on a claim under this section, and

(d) 13th March 1975,

and ending with the day before the event giving rise to the charge.

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(7B) The period given by this subsection is the period equal in length to the number of relevant-property days in the period—

(a) beginning with the day that is the latest of those referred to in paragraphs (a) to (d) of subsection (7A) above, and

(b) ending with the day before the event giving rise to the charge.

(7C) For the purposes of subsection (7B) above, a day is a "relevant-property day" if at any time on that day the property was relevant property.**]**

(8) Subsection (9) below shall have effect where—

(a) by virtue of subsection (3) above, section 64 does not have effect in relation to property on the first ten-year anniversary of the settlement to fall after the making of the claim and the giving of the undertaking,

(b) on that anniversary a charge to tax falls to be made in respect of the settlement under section 64, and

(c) the property became comprised in the settlement, and the claim was made and the undertaking was given, within the period of ten years ending with that anniversary.

[[F270](9A) Subsection (9B) below applies where the same event gives rise—

(a) to a charge under subsection (3) above in relation to any property, and

(b) to a charge under section 32 or 32A above in relation to that property.

(9B) If the amount of each of the charges is the same, each charge shall have effect as a charge for one half of the amount that would be charged apart from this subsection; otherwise, whichever of the charges is lower in amount shall have effect as if it were a charge the amount of which is nil.**]**

(9) In calculating the rate at which tax is charged under section 64 above, the value of the consideration given for the property on its becoming comprised in the settlement shall be treated for the purposes of section 66(5)(b) above as if it were an amount on which a charge to tax was imposed in respect of the settlement under section 65 above at the time of the property becoming so comprised.

(10) In subsection (1) above, the reference to a conditionally exempt transfer of any property includes a reference to a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the [M21]Finance Act 1975 and, in relation to such property, the reference to a chargeable event includes a reference to an event on the occurrence of which tax becomes chargeable under Schedule 5 to this Act.

Textual Amendments

F266 Words in s. 79(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289 , 290, **Sch. 10 para. 8(3)** (with ss. 60, 101(1), 201(3)).

F267 Finance Act 1985 Sch. 26 para. 9,*in relation to events occurring after* 18*March* 1985.

F268 S. 79(5A) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 34(2)**

F269 S. 79(7)-(7C) substituted for s. 79(7) (19.7.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 34(3)**

F270 S. 79(9A)(9B) inserted (19.7.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 34(4)**

Status: *Point in time view as at 01/04/2011.*
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Modifications etc. (not altering text)

C31 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue ("the Board").*

Marginal Citations

M21 1975 c. 7.

[[F271]79A Variation of undertakings.

(1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.

(2) Where **[**[F272]the tribunal**]** is satisfied that—

(a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,

(b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and

(c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,

[[F273]the tribunal may direct that the undertaking is to have effect from a specified date**]** as if the proposed variation had been agreed to by the person bound by the undertaking.

(3) The date specified by the **[**[F274]tribunal**]** must not be less than sixty days after the date of **[**[F275]the tribunal's direction**]**.

(4) A direction under this section shall not take effect if, before the date specified by the **[**[F276]tribunal**]**, a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.**]**

Textual Amendments

F271 S. 79A inserted (31.7.1998 with effect as mentioned in Sch. 25 para. 8(4) of the amending Act) by 1998 c. 36, s. 142, **Sch. 25 para. 8(2)**

F272 Words in s. 79A(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 111(2)(a)**

F273 Words in s. 79A(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 111(2)(b)**

F274 Word in s. 79A(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 111(3)(a)**

F275 Words in s. 79A(3) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 111(3)(b)**

F276 Word in s. 79A(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 111(4)**

Miscellaneous

80 Initial interest of settlor or spouse [[F277]or civil partner].

(1) Where a settlor or his spouse **[**[F278]or civil partner**]** is beneficially entitled to an interest in possession in property immediately after it becomes comprised in the settlement,

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the property shall for the purposes of this Chapter be treated as not having become comprised in the settlement on that occasion; but when the property or any part of it becomes held on trusts under which neither of those persons is beneficially entitled to an interest in possession, the property or part shall for those purposes be treated as becoming comprised in a separate settlement made by that one of them who ceased (or last ceased) to be beneficially entitled to an interest in possession in it.

(2) References in subsection (1) above to the spouse **[**[F279]or civil partner**]** of a settlor include references to the widow or widower **[**[F280]or surviving civil partner**]** of a settlor.

(3) This section shall not apply if the occasion first referred to in subsection (1) above occurred before 27th March 1974.

[[F281](4) Where the occasion first referred to in subsection (1) above occurs on or after 22nd March 2006, this section applies—

(a) as though for "an interest in possession" in each place where that appears in subsection (1) above there were substituted a postponing interest, and

(b) as though, for the purposes of that subsection, each of the following were a "postponing interest"—

(i) an immediate post-death interest;

(ii) a disabled person's interest.**]**

Textual Amendments

F277 Words in s. 80 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **17(4)**

F278 Words in s. 80(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **17(2)**

F279 Words in s. 80(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **17(3)(a)**

F280 Words in s. 80(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **17(3)(b)**

F281 S. 80(4) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **23**

81 Property moving between settlements.

(1) Where property which ceases to be comprised in one settlement becomes comprised in another then, unless in the meantime any person becomes beneficially entitled to the property (and not merely to an interest in possession in the property), it shall for the purposes of this Chapter be treated as remaining comprised in the first settlement.

(2) Subsection (1) above shall not apply where the property ceased to be comprised in the first settlement before 10th December 1981; but where property ceased to be comprised in one settlement before 10th December 1981 and after 26th March 1974 and, by the same disposition, became comprised in another settlement, it shall for the purposes of this Chapter be treated as remaining comprised in the first settlement.

(3) Subsection (1) above shall not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the other settlement before 10th December 1981.

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[F282 81A Reversionary interests in relevant property

(1) Where a reversionary interest in relevant property to which—

(a) a person who acquired it for a consideration in money or money's worth, or

(b) the settlor or the spouse or civil partner of the settlor,

(a "relevant reversioner") is beneficially entitled comes to an end by reason of the relevant reversioner becoming entitled to an interest in possession in the relevant property, the relevant reversioner is to be treated as having made a disposition of the reversionary interest at that time.

(2) A transfer of value of a reversionary interest in relevant property to which a relevant reversioner is beneficially entitled is to be taken to be a transfer which is not a potentially exempt transfer.**]**

Textual Amendments

F282 S. 81A inserted (with effect as mentioned in s. 52(2) of the amending Act) by Finance Act 2010 (c. 13), **s. 52(1)**

82 Excluded property.

(1) For the purposes of this Chapter (except sections 78 and 79) property to which section 80 or 81 above applies shall not be taken to be excluded property by virtue of section 48(3)(a) above unless the condition in subsection (3) below is satisfied (in addition to the conditions in section 48(3) that the property is situated outside the United Kingdom and that the settlor was not domiciled there when the settlement was made).

(2) Section 65(8) above shall not have effect in relation to property to which section 80 or 81 applies unless the condition in subsection (3) below is satisfied (in addition to the condition in section 65(8) that the settlor was not domiciled in the United Kingdom when the settlement was made).

(3) The condition referred to in subsections (1) and (2) above is—

(a) in the case of property to which section 80 above applies, that the person who is the settlor in relation to the settlement first mentioned in that section, and

(b) in the case of property to which subsection (1) or (2) of section 81 above applies, that the person who is the settlor in relation to the second of the settlements mentioned in the subsection concerned,

was not domiciled in the United Kingdom when that settlement was made.

83 Property becoming settled on a death.

Property which becomes comprised in a settlement in pursuance of a will or intestacy shall for the purposes of this Chapter be taken to have become comprised in it on the death of the testator or intestate (whether it occurred before or after the passing of this Act).

84 Income applied for charitable purposes.

For the purposes of this Chapter (except sections 78 and 79) where the trusts on which settled property is held require part of the income of the property to be applied for

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charitable purposes, a corresponding part of the settled property shall be regarded as held for charitable purposes.

85 Credit for annual charges under Finance Act 1975.

Any tax charged under paragraph 12(2) of Schedule 5 to the [M22]Finance Act 1975 and not already allowed as a credit under paragraph 12(3) of that Schedule or under section 125 of the [M23]Finance Act 1982 or under this section shall be allowed as a credit against tax chargeable under this Chapter (apart from section 79) in respect of the settled property or part concerned.

Marginal Citations

M22 1975 c. 7.

M23 1982 c. 39.

CHAPTER IV

MISCELLANEOUS

86 Trusts for benefit of employees.

(1) Where settled property is held on trusts which, either indefinitely or until the end of a period (whether defined by a date or in some other way) do not permit any of the settled property to be applied otherwise than for the benefit of—

(a) persons of a class defined by reference to employment in a particular trade or profession, or employment by, or office with, a body carrying on a trade, profession or undertaking, or

(b) persons of a class defined by reference to marriage **[**[F283]to or civil partnership with,**]** or relationship to, or dependence on, persons of a class defined as mentioned in paragraph (a) above,

then, subject to subsection (3) below, this section applies to that settled property or, as the case may be, applies to it during that period.

(2) Where settled property is held on trusts permitting the property to be applied for the benefit of persons within paragraph (a) or (b) of subsection (1) above, those trusts shall not be regarded as outside the description specified in that subsection by reason only that they also permit the settled property to be applied for charitable purposes.

(3) Where any class mentioned in subsection (1) above is defined by reference to employment by or office with a particular body, this section applies to the settled property only if—

(a) the class comprises all or most of the persons employed by or holding office with the body concerned, or

(b) the trusts on which the settled property is held are those of a profit sharing scheme approved in accordance with Schedule 9 to the [M24]**[**[F284]Taxes Act 1988**]**. **[**[F285]; or**]**

[(c) the trusts on which the settled property is held are those of **[**[F286]a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003**]** .**]**

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(4) Where this section applies to any settled property—

(a) the property shall be treated as comprised in one settlement, whether or not it would fall to be so treated apart from this section, and

(b) an interest in possession in any part of the settled property shall be disregarded for the purposes of this Act (except section 55) if that part is less than 5 per cent. of the whole.

(5) Where any property to which this section applies ceases to be comprised in a settlement and, either immediately or not more than one month later, the whole of it becomes comprised in another settlement, then, if this section again applies to it when it becomes comprised in the second settlement, it shall be treated for all the purposes of this Act as if it had remained comprised in the first settlement.

Textual Amendments

F283 Words in s. 86(1)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **18**

F284 *Substituted by*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32. *Originally* "Finance Act 1978".

F285 S. 86(3)(c) and word "or" immediately preceding it inserted (28.7.2000) by 2000 c. 17, **s. 138(4)**

F286 Words in s. 86(3)(c) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), **Sch. 6 para. 151(1)(c)(2)**

Marginal Citations

M24 1988 c. 1.

87 Newspaper trusts.

(1) In relation to property comprised in a settlement to which this section applies, section 86 above shall have effect as if newspaper publishing companies were included among the persons within paragraphs (a) and (b) of subsection (1) of that section.

(2) This section applies to a settlement if shares in a newspaper publishing company or a newspaper holding company are the only or principal property comprised in the settlement.

(3) In this section—

"newspaper publishing company" means a company whose business consists wholly or mainly in the publication of newspapers in the United Kingdom;

"newspaper holding company" means a company which—

(a) has as its only or principal asset shares in a newspaper publishing company, and

(b) has powers of voting on all or most questions affecting the publishing company as a whole which if exercised would yield a majority of the votes capable of being exercised on them;

and for the purposes of this section shares shall be treated as the principal property comprised in a settlement or the principal asset of a company if the remaining property comprised in the settlement or the remaining assets of the

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company are such as may be reasonably required to enable the trustees or the company to secure the operation of the newspaper publishing company concerned.

88 Protective trusts.

(1) This section applies to settled property (other than property to which section 73 above applies) which is held on trusts to the like effect as those specified in section 33(1) of the [M25]Trustee Act 1925; and in this section "the principal beneficiary" and "the trust period" have the same meanings as in that section.

(2) For the purposes of this Act—

(a) there shall be disregarded the failure or determination, before the end of the trust period, of trusts to the like effect as those specified in paragraph (i) of the said section 33(1), and

(b) the principal beneficiary shall be treated as beneficially entitled to an interest in possession in any property which is for the time being held on trusts to the like effect as those specified in paragraph (ii) of the said section 33(1).

[[F287](3) Where—

(a) settled property became held before 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and

(b) as a result of the failure or determination of those trusts on or after 22nd March 2006, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession,

this Act shall apply in relation to that interest in possession as if the principal beneficiary became beneficially entitled to that interest in possession before 22nd March 2006.

(4) Subsection (5) below applies where—

(a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925,

(b) the interest of the principal beneficiary under those trusts is—

(i) an immediate post-death interest,

(ii) a disabled person's interest within section 89B(1)(c) or (d) below, or

(iii) a transitional serial interest, and

(c) as a result of the failure or determination of those trusts, the principal beneficiary is treated by subsection (2)(b) above as beneficially entitled to an interest in possession.

(5) This Act shall apply—

(a) as if that interest in possession were a continuation of the immediate post-death interest, disabled person's interest or transitional serial interest, and

(b) as if the immediate post-death interest, or disabled person's interest or transitional serial interest, had not come to an end on the failure or determination of the trusts.

(6) Subsection (2) above does not apply in a case where—

(a) settled property becomes held on or after 22nd March 2006 on trusts to the like effect as those specified in section 33(1)(i) of the Trustee Act 1925, and

(b) the interest of the principal beneficiary under those trusts is—

(i) not an immediate post-death interest,

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(ii) not a disabled person's interest within section 89B(1)(c) or (d) below, and

(iii) not a transitional serial interest.**]**

Textual Amendments

F287 S. 88(3)-(6) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **24**

Marginal Citations

M25 1925 c. 19.

89 Trusts for disabled persons.

(1) This section applies to settled property transferred into settlement after 9th March 1981 and held on trusts—

(a) under which, during the life of a disabled person, no interest in possession in the settled property subsists, and

(b) which secure that not less than half of the settled property which is applied during his life is applied for his benefit.

(2) For the purposes of this Act the person mentioned in subsection (1) above shall be treated as beneficially entitled to an interest in possession in the settled property.

(3) The trusts on which settled property is held shall not be treated as falling outside subsection (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the [M26]Trustee Act (Northern Ireland) 1958 (powers of advancement).

(4) The reference in subsection (1) above to a disabled person is, in relation to any settled property, a reference to a person who, when the property was transferred into settlement, was—

(a) incapable, by reason of mental disorder within the meaning of the [M27]Mental Health Act 1983, of administering his property or managing his affairs, or

(b) in receipt of an attendance allowance under **[**[F288]64 of the Social Security Contributions and Benefits Act 1992 or**]**[F289]section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**]**. **[**[F290], or

(c) in receipt of a disability living allowance under section **[**[F288]71 of the Social Security Contributions and Benefits Act 1992**]**[F291]or **[**[F289]section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992**]**by virtue of entitlement to the care component at the highest or middle rate.**]**

[[F292](5) The reference in subsection (1) above to a disabled person includes, in relation to any settled property, a reference to a person who, when the property was transferred into settlement,—

(a) would have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above had provision made by regulations under section 67(1) or (2) of that Act (non-satisfaction of conditions for attendance allowance where person is undergoing treatment for renal failure in a hospital or is provided with certain accommodation) been ignored, or

(b) would have been in receipt of disability living allowance by virtue of entitlement to the care component at the highest or middle rate had provision

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made by regulations under section 72(8) of either of the Acts mentioned in subsection (4)(c) above (no payment of disability living allowance for persons for whom certain accommodation is provided) been ignored.

(6) The reference in subsection (1) above to a disabled person also includes, in relation to any settled property, a reference to a person who satisfies the Commissioners for Her Majesty's Revenue and Customs—

(a) that he would, when the property was transferred into settlement, have been in receipt of attendance allowance under section 64 of either of the Acts mentioned in subsection (4)(b) above—

(i) had he met the conditions as to residence under section 64(1) of that Act, and

(ii) had provision made by regulations under section 67(1) or (2) of that Act been ignored, or

(b) that he would, when the property was transferred into settlement, have been in receipt of a disability living allowance by virtue of entitlement to the care component at the highest or middle rate—

(i) had he met the prescribed conditions as to residence under section 71(6) of either of the Acts mentioned in subsection (4)(c) above, and

(ii) had provision made by regulations under section 72(8) of that Act been ignored.**]**

Textual Amendments

F288 Words in s. 89(4)(b)(c) substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 66(1)(2)**.

F289 Words in s. 89(4)(b)(c) substituted (1.7.1992) by virtue of Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9), ss. 4, 7(2), **Sch. 2 para. 29(1)(2)**.

F290 S. 89(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes and 6.4.1992) by Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21, SIF 113:1), s. 4(2), **Sch. 2 para. 14(2)**; S.I. 1991/2617, **art. 2(c)(f)**.

F291 Words in s. 89(4)(c) inserted (6.4.1992) by S.I. 1991/2874, **art. 4(3)**; S.R. 1992/94, **art 2**.

F292 S. 89(5)-(6) inserted (22.3.2006 for certain purposes) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 6(2)(4)**

Marginal Citations

M26 1958 c. 23 (N.I.).

M27 1983 c. 20.

[F293 89A Self-settlement by person with condition expected to lead to disability

(1) This section applies to property transferred by a person ("A") into settlement on or after 22nd March 2006 if—

(a) A was beneficially entitled to the property immediately before transferring it into settlement,

(b) A satisfies the Commissioners for Her Majesty's Revenue and Customs that, when the property was transferred into settlement, A had a condition that it was at that time reasonable to expect would have such effects on A as to lead to A becoming—

(i) a person falling within section 89(4)(a) above,

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(ii) in receipt of an attendance allowance mentioned in section 89(4)(b) above, or

(iii) in receipt of a disability living allowance mentioned in section 89(4)(c) above by virtue of entitlement to the care component at the highest or middle rate, and

(c) the property is held on trusts—

(i) under which, during the life of A, no interest in possession in the settled property subsists, and

(ii) which secure that Conditions 1 and 2 are met.

(2) Condition 1 is that if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.

(3) Condition 2 is that any power to bring the trusts mentioned in subsection (1)(c) above to an end during A's life is such that, in the event of the power being exercised during A's life, either—

(a) A or another person will, on the trusts being brought to an end, be absolutely entitled to the settled property, or

(b) on the trusts being brought to an end, a disabled person's interest within section 89B(1)(a) or (c) below will subsist in the settled property.

(4) If this section applies to settled property transferred into settlement by a person, the person shall be treated as beneficially entitled to an interest in possession in the settled property.

(5) For the purposes of subsection (1)(b)(ii) above, assume—

(a) that A will meet the conditions as to residence under section 64(1) of whichever of the 1992 Acts is applicable, and

(b) that there will be no provision made by regulations under section 67(1) and (2) of that Act.

(6) For the purposes of subsection (1)(b)(iii) above, assume—

(a) that A will meet the prescribed conditions as to residence under section 71(6) of whichever of the 1992 Acts is applicable, and

(b) that there will be no provision made by regulations under section 72(8) of that Act.

(7) For the purposes of subsection (3) above, ignore—

(a) power to give directions as to the settled property that is exercisable jointly by the persons who between them are entitled to the entire beneficial interest in the property, and

(b) anything that could occur as a result of exercise of any such power.

(8) In this section "the 1992 Acts" means—

the Social Security Contributions and Benefits Act 1992, and

the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Textual Amendments

F293 Ss. 89A, 89B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 paras. 6(1)(3)**

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89B Meaning of "disabled person's interest"

(1) In this Act "disabled person's interest" means—

(a) an interest in possession to which a person is under section 89(2) above treated as beneficially entitled,

(b) an interest in possession to which a person is under section 89A(4) above treated as beneficially entitled,

(c) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a disabled person becomes beneficially entitled on or after 22nd March 2006, or

(d) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a person ("A") is beneficially entitled if—

(i) A is the settlor,

(ii) A was beneficially entitled to the property immediately before transferring it into settlement,

(iii) A satisfies Her Majesty's Commissioners for Revenue and Customs as mentioned in section 89A(1)(b) above,

(iv) the settled property was transferred into settlement on or after 22nd March 2006, and

(v) the trusts on which the settled property is held secure that, if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.

(2) Subsections (4) to (6) of section 89 above (meaning of "disabled person" in subsection (1) of that section) have effect for the purposes of subsection (1)(c) above as they have effect for the purposes of subsection (1) of that section.

(3) Section 71D above does not apply to property in which there subsists a disabled person's interest within subsection (1)(c) above (but see also section 71D(5) above).**]**

Textual Amendments

F293 Ss. 89A, 89B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 paras. 6(1)(3)**

90 Trustees' annuities, etc.

Where under the terms of a settlement a person is entitled by way of remuneration for his services as trustee to an interest in possession in property comprised in the settlement, then, except to the extent that the interest represents more than a reasonable amount of remuneration,—

(a) the interest shall be left out of account in determining for the purposes of this Act the value of his estate immediately before his death, and

(b) tax shall not be charged under section 52 above when the interest comes to an end.

91 Administration period.

(1) Where a person would have been entitled to an interest in possession in the whole or part of the residue of the estate of a deceased person had the administration of that estate been completed, the same consequences shall follow under this Act as if he had become entitled to an interest in possession in the unadministered estate and in the

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property (if any) representing ascertained residue, or in a corresponding part of it, on the date as from which the whole or part of the income of the residue would have been attributable to his interest had the residue been ascertained immediately after the death of the deceased person.

(2) In this section—

(a) "unadministered estate" means all the property for the time being held by personal representatives as such, excluding property devolving on them otherwise than as assets for the payment of debts and excluding property that is the subject of a specific disposition, and making due allowance for outstanding charges on residue and for any adjustments between capital and income remaining to be made in due course of administration;

(b) "ascertained residue" means property which, having ceased to be held by the personal representatives as such, is held as part of the residue;

[[F294](c) subject to subsection (3) below, "charges on residue" means, in relation to the estate of a deceased person, the following liabilities properly payable out of the estate and interest payable in respect of those liabilities—

(i) funeral, testamentary and administration expenses and debts,

(ii) general legacies, demonstrative legacies, annuities and any sum payable out of the residue of the estate to which a person is entitled under the law of intestacy of any part of the United Kingdom or any other country, and

(iii) any other liabilities of the deceased person's personal representatives as such,

(d) "specific disposition" has the meaning given in section 947(6) of the Corporation Tax Act 2009, and

(e) the reference to the completion of the administration of the estate shall be construed as if it were in Chapter 3 of Part 10 of that Act.**]**

[[F295](3) If, as between—

(a) persons interested under a specific disposition or in a general or demonstrative legacy or in an annuity, and

(b) persons interested in the residue of an estate,

any such liabilities as are mentioned in paragraph (c) of subsection (2) above fall exclusively or primarily on the property that is the subject of the specific disposition or on the legacy or annuity, only such part (if any) of those liabilities as falls ultimately on the residue shall be treated as charges on residue.

(4) In the application of this section to Scotland, "charges on residue" shall include, in addition to the liabilities specified in subsection (2)(c), any sums required to meet—

(a) claims in respect of prior rights or legal rights by a surviving spouse or civil partner, or

(b) claims in respect of legal rights by children.**]**

Textual Amendments

F294 S. 91(2)(c)-(e) substituted (1.4.2009 with effect as mentioned in s. 1329(1) of the amending Act) for s. 91(2)(c) by Corporation Tax Act 2009 (c. 4), s. 1322, **Sch. 1 para. 316(2)**

F295 S. 91(3)(4) inserted (1.4.2009 with effect as mentioned in s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1322, **Sch. 1 para. 316(3)**

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92 Survivorship clauses.

(1) Where under the terms of a will or otherwise property is held for any person on condition that he survives another for a specified period of not more than six months, this Act shall apply as if the dispositions taking effect at the end of the period or, if he does not survive until then, on his death (including any such disposition which has effect by operation of law or is a separate disposition of the income from the property) had had effect from the beginning of the period.

(2) Subsection (1) above does not affect the application of this Act in relation to any distribution or application of property occurring before the dispositions there mentioned take effect.

93 Disclaimers.

Where a person becomes entitled to an interest in settled property but disclaims the interest, then, if the disclaimer is not made for a consideration in money or money's worth, this Act shall apply as if he had not become entitled to the interest.

PART IV

CLOSE COMPANIES

Transfers by close companies

94 Charge on participators.

(1) Subject to the following provisions of this Part of this Act, where a close company makes a transfer of value, tax shall be charged as if each individual to whom an amount is apportioned under this section had made a transfer of value of such amount as after deduction of tax (if any) would be equal to the amount so apportioned, less the amount (if any) by which the value of his estate is more than it would be but for the company's transfer; but for this purpose his estate shall be treated as not including any rights or interests in the company.

(2) For the purposes of subsection (1) above the value transferred by the company's transfer of value shall be apportioned among the participators according to their respective rights and interests in the company immediately before the transfer, and any amount so apportioned to a close company shall be further apportioned among its participators, and so on; but—

(a) so much of that value as is attributable to any payment or transfer of assets to any person which falls to be taken into account in computing that person's profits or gains or losses for the purposes of income tax or corporation tax (or would fall to be so taken into account but for **[**[F296]section 1285 of the Corporation Tax Act 2009 (exemption for UK company distributions)**]**) shall not be apportioned, and

(b) if any amount which would otherwise be apportioned to an individual who is domiciled outside the United Kingdom is attributable to the value of any property outside the United Kingdom, that amount shall not be apportioned.

(3) In determining for the purposes of this section whether a disposition made by a close company is a transfer of value or what value is transferred by such a transfer no account

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shall be taken of the surrender by the company, in pursuance of section **[**[F297]240 or 402 of the [M28]Taxes Act 1988**]**, of any relief or of the benefit of any amount of advance corporation tax paid by it.

(4) Where the amount apportioned to a person under this section is 5 per cent. or less of the value transferred by the company's transfer of value then, notwithstanding section 3(4) above, tax chargeable under subsection (1) above shall be left out of account in determining, with respect to any time after the company's transfer, what previous transfers of value he has made.

(5) References in section 19 above to transfers of value made by a transferor and to the values transferred by them (calculated as there mentioned) shall be treated as including references to apportionments made to a person under this section and to the amounts for the tax on which (if charged) he would be liable.

Textual Amendments

F296 Words in s. 94(2)(a) substituted (1.4.2009 with effect as mentioned in s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1322, **Sch. 1 para. 317**

F297 *Substituted by*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32.*Originally* "258 of the Taxes Act or of section 92 of the Finance Act 1972".

Marginal Citations

M28 1988 c. 1.

95 Participator in two companies.

(1) Where—

(a) the value of the estate of a company ("the transferee company") is increased as the result of a transfer of value made by a close company ("the transferor company"), and

(b) an individual to whom part of the value transferred is apportioned under section 94 above has an interest in the transferee company (or in a company which is a participator of the transferee company or any of its participators, and so on),

subsection (2) below shall apply to the computation, for the purposes of section 94 above, of the amount to be offset, that is to say, the amount by which the value of his estate is more than it would be but for the transfer.

(2) Where this subsection applies—

(a) the increase in the value of the transferee company's estate shall be taken to be such part of the value transferred as accounts for the increase, and

(b) the increase so computed shall be apportioned among the transferee company's participators according to their respective rights and interests in the company immediately before the transfer (and, where necessary, further apportioned among their participators, and so on),

and the amount so apportioned to the individual shall be taken to be the amount to be offset.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

96 Preference shares disregarded.

Where part of a close company's share capital consists of preference shares (within the meaning of **[**[F298]section 1023(5) of the Corporation Tax Act 2010**]**) and a transfer of value made by that or any other close company has only a small effect on the value of those shares, compared with its effect on the value of other parts of the company's share capital, the preference shares shall be left out of account in determining the respective rights and interests of the participators for the purposes of sections 94 and 95 above.

Textual Amendments

F298 Words in s. 96 substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 190** (with Sch. 2)

97 Transfers within group, etc.

(1) Where a close company ("the transferor company") is a member, but not the principal **[**[F299]company**]**, of a group and—

[[F300](a) there is—

(i) a disposal of an asset by the transferor company, which is a disposal to which section 171(1) of the 1992 Act applies, or

(ii) by virtue of an election under section 171A(2) of that Act, a deemed transfer by the transferor company to another member of the group,**[**[F301] or

(iii) an election under section 179A of that Act as a result of which a chargeable gain is treated as accruing to the transferor company instead of to another member of the group, or an allowable loss is treated as accruing to another member of the group instead of to the transferor company,**]**

(aa) the disposal is also, or **[**[F302]the election**]** gives rise to, a transfer of value, and**]**

(b) the transfer of value has only a small effect on the value of the minority participators' rights and interests in that company compared with its effect on the value of the other participators' rights and interests in the company,

the rights and interests of the minority participators shall be left out of account in determining the respective rights and interests of the transferor company's participators for the purpose of apportioning the value transferred under section 94 above.

(2) For the purposes of subsection (1) above—

(a) **[**[F303]Section **[**[F304]170 of the 1992 Act**]** (groups of companies: definitions) applies as for the purposes of sections **[**[F304]171 to 181**]** of that Act**]**, and

(b) a minority participator is a participator of the transferor company who is not, and is not a person connected with, a participator of the principal **[**[F305]company**]** of the group or of any of the principal **[**[F305]company's**]** participators;

. . . . . [F306]

Status: *Point in time view as at 01/04/2011.*
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Textual Amendments

F299 Finance Act 1989 s. 138(6)(a),*with effect from* 14*March* 1989.*Originally*
"member".

F300 S. 97(1)(a)(aa) substituted for para. (a) (11.5.2001 with effect as mentioned in s. 106(3) of the amending Act) by 2001 c. 9, **s. 106**

F301 S. 97(1)(a)(iii) and preceding word inserted (24.7.2002 with application as mentioned in s. 42(4) of the amending Act) by 2002 c. 23, **s. 42(3)(a)**

F302 Words in s. 97(1)(aa) substituted (24.7.2002 with application as mentioned in s. 42(4) of the amending Act) by 2002 c. 23, **s. 42(3)(b)**

F303 Finance Act 1989 s. 138(6)(b),*with effect from* 14*March* 1989.*Originally*
"the principal member of a group is the member of which all the other members are 75 per cent subsidiaries".

F304 Words in s. 97 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(4)(b)** (with ss. 60, 101(1), 201(3)).

F305 Finance Act 1989 s. 138(6)(a),*with effect from* 14*March* 1989.*Originally*
"member"
and
"member's"
respectively.

F306 *Repealed by* Finance Act 1989 s. 138(6)(c)*and* Sch.17 Part VII,*with effect from* 14*March* 1989.

Modifications etc. (not altering text)

C32 S. 97 amended (28.7.2000 with effect on or after 1.4.2000) by 2000 c. 17, s. 102, Sch. 29 paras. 1, **14**

Alterations of capital, etc.

98 Effect of alterations of capital, etc

(1) Where there is at any time—

(a) an alteration in so much of a close company's share or loan capital as does not consist of **[**[F307]quoted shares or quoted securities**]**

(b) an alteration in any rights attaching to **[**[F308]unquoted shares in or unquoted debentures of a close company**]**,

the alteration shall be treated as having been made by a disposition made at that time by the participators, whether or not it would fall to be so treated apart from this section, and shall not be taken to have affected the value immediately before that time of the **[**[F309]unquoted shares or unquoted debentures**]**.

(2) In this section "alteration" includes extinguishment.

[[F310](3) The disposition referred to in subsection (1) above shall be taken to be one which is not a potentially exempt transfer**]**

Textual Amendments

F307 Finance Act 1987 Sch. 8 para. 2(a),*with effect from* 17*March* 1987.*Originally*
"shares or securities quoted on a recognised stock exchange".

F308 Finance Act 1987 Sch. 8 para. 2(b),*with effect from* 17*March* 1987.*Originally*
"shares in or debentures of a close company which are not so quoted".

Status: *Point in time view as at 01/04/2011.*
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F309 Finance Act 1987 Sch. 8 para. 2(c),*with effect from* 17*March* 1987.*Originally* "shares or debentures not so quoted".

F310 Finance Act 1986 Sch. 19 para. 20,*with effect from* 18*March* 1986.

Settled property

99 Transfers where participators are trustees.

(1) Subsection (1) of section 94 above shall not apply in relation to a person who is a participator in his capacity as trustee of a settlement, but—

(a) the reference in subsection (2) of that section to sub-section (1) shall have effect as including a reference to subsection (2) of this section, and

(b) in relation to tax chargeable by virtue of subsection (2) of this section, sections 94(4) and 95 above shall apply with the necessary modifications.

(2) Where any part of the value transferred by a close company's transfer of value is apportioned to a trustee of a settlement under section 94 above, then—

(a) if a qualifying interest in possession subsists in the settled property, a part of that interest corresponding to such part of the property as is of a value equal to the part so apportioned less the amount specified in subsection (3) below shall be treated for the purposes of Chapter II of Part III of this Act as having come to an end on the making of the transfer, and

(b) if no qualifying interest in possession subsists in the settled property, Chapter III of Part III of this Act shall have effect as if on the making of the transfer the trustee had made a disposition as a result of which the value of the settled property had been reduced by an amount equal to the part so apportioned less the amount specified in subsection (3) below;

and where a qualifying interest in possession subsists in part only of the settled property paragraphs (a) and (b) above shall apply with the necessary adjustments of the values and amounts referred to there.

(3) The amount referred to in paragraphs (a) and (b) of subsection (2) above is the amount (if any) by which the value of the settled property is more than it would be apart from the company's transfer, leaving out of account the value of any rights or interests in the company.

100 Alterations of capital, etc. where participators are trustees.

(1) This section applies where, by virtue of section 98 above, an alteration in a close company's share or loan capital or of any rights attaching to shares in or debentures of a close company is treated as a disposition made by the participators, and—

(a) a person is a participator in his capacity as trustee of a settlement, and

(b) the disposition would, if the trustee were beneficially entitled to the settled property, be a transfer of value made by him, and

(c) at the time of the alteration an individual is beneficially entitled to an interest in possession in the whole or part of so much of the settled property as consists of **[**[F311]unquoted shares in or unquoted securities of the close company**]**.

[[F312](1A) Where the interest in possession is one to which the individual became beneficially entitled on or after 22nd March 2006, this section applies only if the interest in possession is—

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(a) an immediate post-death interest,
(b) a disabled person's interest, or
(c) a transitional serial interest,

[[F313]or falls within section 5(1B) above.**]]**

(2) Where this section applies, such part of the individual's interest shall be treated for the purposes of Chapter II of Part III of this Act as having come to an end at the time of the alteration as corresponds to the relevant decrease of the value of the property in which the interest subsists, that is to say the decrease caused by the alteration.

Textual Amendments

F311 Finance Act 1987 Sch. 8 para. 3,*with effect from* 17*March* 1987.*Originally*
"shares in or securities of the close company which are not quoted on a recognised stock exchange".

F312 S. 100(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **25**

F313 Words in s. 100(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(6)**

101 Companies interests in settled property.

(1) Where a close company is entitled to an interest in possession in settled property the persons who are participators in relation to the company shall be treated for the purposes of this Act (except section 55) as being the persons entitled to that interest according to their respective rights and interests in the company.

[[F314](1A) Where the interest in possession mentioned in subsection (1) above is one to which the company became entitled on or after 22nd March 2006 (whether or not the company was a close company when it became entitled to the interest), subsection (1) above applies in relation to the interest only if it is—

(a) an immediate post-death interest, or
(b) a transitional serial interest,

[[F315]or falls within section 5(1B) above.**]**

(1B) Subsection (1C) below applies where any of the participators mentioned in subsection (1) above ("the prior participator") disposes of rights and interests of his in the company to another person ("the later participator").

(1C) If and so far as the later participator is a participator in the company by virtue of having any of the rights and interests disposed of, subsection (1) above is to be applied to him only as a participator in his own right (in particular, he is not to be treated by virtue of that subsection as having entitlement to the interest in possession as a result of disposal to him of entitlement that the prior participator was treated as having by virtue of that subsection, but this is without prejudice to the application of this Act in relation to the prior participator as the person making the disposal).**]**

(2) Where—

(a) the participators mentioned in subsection (1) above include the trustees of a settlement, and
(b) a person is beneficially entitled to an interest in possession in the whole or part of the settled property by virtue of which the trustees are participators,

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that person shall be treated for the said purposes as beneficially entitled to the whole or corresponding part of the interest to which the trustees would otherwise be treated as entitled under that subsection.

Textual Amendments

F314 S. 101(1A)-(1C) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **26**

F315 Words in s. 101(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), **s. 53(7)**

General

102 Interpretation.

(1) In this Part of this Act—

"close company" means a company within the meaning of the Corporation Tax Acts which is (or would be if resident in the United Kingdom) a close company for the purposes of those Acts;

"participator", in relation to any company, means any person who is (or would be if the company were resident in the United Kingdom) a participator in relation to that company **[**[F316]within the meaning given by section 454 of the Corporation Tax Act 2010**]**, other than a person who would be such a participator by reason only of being a loan creditor;

"qualifying interest in possession" has the meaning given by section 59 above.

(2) References in this Part of this Act to a person's rights and interests in a company include references to rights and interests in the assets of the company available for distribution among the participators in the event of a winding up or in any other circumstances.

Textual Amendments

F316 S. 102(1): words in definition of "participator" substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 191** (with Sch. 2)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART V

MISCELLANEOUS RELIEFS

CHAPTER I

BUSINESS PROPERTY

Modifications etc. (not altering text)

C33 Pt. V Ch. I (ss. 103-114) modified (16.7.1992) by Finance (No.2) Act 1992 (c. 48), s. 73, **Sch. 14**, para. 9(4).

103

(1) In this Chapter references to a transfer of value include references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), and

(a) references to the value transferred by a transfer of value include references to the amount on which tax is then chargeable, and

(b) references to the transferor include references to the trustees of the settlement concerned.

(2) For the purposes of this Chapter a company and all its subsidiaries are members of a group, and "holding company" and "subsidiary" have **[**[F317]the meaning given by section **[**[F318]1159 of and Schedule 6 to**]]** the **[**[F319]Companies Act **[**[F320]2006**]]**

(3) In this Chapter "business" includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.

Textual Amendments

F317 Companies Act 1989 s. 144(4)*and* Sch. 18 para. 30(3)*with effect from the appointed day—on and after* 1*November* 1990 (S.I. 1990 No. 1392).*Originally*
"the same meanings as in".

F318 Words in s. 103(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

F319 Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), **Sch. 2**,*with effect from* 1*July* 1985.

F320 Words in s. 103(2) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

104 The relief.

(1) Where the whole or part of the value transferred by a transfer of value is attributable to the value of any relevant business property, the whole or that part of the value transferred shall be treated as reduced—

(a) in the case of property falling within section 105(1)(a) or **[**[F321](b) or (bb)**]** below by **[**[F322]100 per cent**]**;

(b) in the case of other relevant business property, by **[**[F323]50 per cent**]**;

but subject to the following provisions of this Chapter.

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(2) For the purposes of this section, the value transferred by a transfer of value shall be calculated as a value on which no tax is chargeable.

Textual Amendments

F321 Finance Act 1987 Sch. 8, para. 4,*with effect from* 17*March* 1987.*Originally* "or (b)".

F322 Words in s. 104(1)(a) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 1(a), 8, **9**.

F323 Words in s. 104(1)(b) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 1(b), 8, **9**.

Modifications etc. (not altering text)

C34 S. 104 excluded (1.11.2004 with effect as mentioned in reg. 1 of the amending S.I.) by The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543), **reg. 4(7)**

C35 Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), **reg. 4(4)**
Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), **reg. 5(5)**

105 Relevant business property.

(1) Subject to the following provisions of this section and to sections 106, 108, [F324]. . ., 112(3) and 113 below, in this Chapter "relevant business property" means, in relation to any transfer of value,—

(a) property consisting of a business or interest in a business;

(b) [F325]. . . securities of a company which **[**[F326]are unquoted and which**]** (either by themselves or together with other such **[**[F327]securities owned by the transferor and any unquoted shares so owned**]**) gave the transferor control of the company immediately before the transfer;

[[F328](bb) any unquoted shares in a company;**]**

(c) . . . . . .

[[F329](cc) shares in or securities of a company which are quoted and which (either by themselves or together with other such shares or securities owned by the transferor) gave the transferor control of the company immediately before the transfer;**]**

(d) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by a company of which the transferor then had control or by a partnership of which he then was a partner; and

(e) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by the transferor and was settled property in which he was then beneficially entitled to an interest in possession.

[F330](1A) . . . . . .

[F330](1B) . . . . . .

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[[F331](1ZA) In subsection (1) above "quoted", in relation to any shares or securities, means **[**[F332]listed**]]** on a recognised stock exchange and "unquoted", in relation to any shares or securities, means not so **[**listed**]**.

(2) Shares in or securities of a company do not fall within subsection (1) [F333]. . . **[**[F334F333]. . . (cc)**]** above if—

(a) they would not have been sufficient, without other property, to give the transferor control of the company immediately before the transfer, and

(b) their value is taken by virtue of section 176 below to be less than the value previously determined.

[F335](2A) . . . . . .

(3) A business or interest in a business, or shares in or securities of a company, are not relevant business property if the business or, as the case may be, the business carried on by the company consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings or making or holding investments.

(4) Subsection (3) above—

[[F336](a) does not apply to any property if the business concerned is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom, and**]**

(b) does not apply to shares in or securities of a company if the business of the company consists wholly or mainly in being a holding company of one or more companies whose business does not fall within that subsection.

(5) Shares in or securities of a company are not relevant business property in relation to a transfer of value if at the time of the transfer a winding-up order has been made in respect of the company or the company has passed a resolution for voluntary winding-up or is otherwise in process of liquidation, unless the business of the company is to continue to be carried on after a reconstruction or amalgamation and the reconstruction or amalgamation either is the purpose of the winding-up or liquidation or takes place not later than one year after the transfer of value.

(6) Land, a building, machinery or plant owned by the transferor and used wholly or mainly for the purposes of a business carried on as mentioned in subsection (1)(d) or (e) above is not relevant business property in relation to a transfer of value, unless the business or the transferor's interest in it is, or shares or securities of the company carrying on the business immediately before the transfer are, relevant business property in relation to the transfer.

[[F337](7) In this section "market maker" means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.**]**

Textual Amendments

F324 Words in s. 105(1) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI** note 1

F325 Words in s. 105(1)(b) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, ss. 184(2)(a)(i), 205, **Sch. 41 Pt. VI**, note 1

F326 Words in s. 105(1)(b) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(2), 8, **9**.

F327 Words in s. 105(1)(b) substituted (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, **s. 184(2)(a)(ii)**

F328 S. 105(1)(bb) substituted (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, **s. 184(2)(b)**

F329 S. 105(1)(cc) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(3), 8, **9**.

F330 S. 105(1A)(1B) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI** note 1

F331 S. 105(1ZA) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(4), 8, **9**.

F332 Words in s. 105(1ZA) substituted (29.4.1996 with effect as mentioned in Sch. 38 para. 2(2) of the amending Act) by 1996 c. 8, s. 199, **Sch. 38 para. 2(1)(a)**

F333 Words in s. 105(2) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI** note 1

F334 Words in s. 105(2) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(5), 8, **9**.

F335 S. 105(2A) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI**, note 1

F336 Finance Act 1986 s. 106(1), 25*in relation to events on or after* 27*October* 1986*"the day of the Stock Exchange reforms"*—(*as defined in* s.106(8)).*Originally*
"(a) does not apply to any property if the business concerned is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom, and".

F337 Finance Act 1986 s. 106(2),*in relation to events on or after* 27*October* 1986—*"the day of The Stock Exchange reforms"*—(*as defined in* s.106(8)).

Modifications etc. (not altering text)

C36 S. 105(7) amended (6.1.1993) by S.I. 1992/3181, **reg. 4** as amended (1.12.2001) by S.I. 2001/3629, **art. 135**

106 Minimum period of ownership.

Property is not relevant business property in relation to a transfer of value unless it was owned by the transferor throughout the two years immediately preceding the transfer.

107 Replacements.

(1) Property shall be treated as satisfying the condition in section 106 above if—

(a) it replaced other property and it, that other property and any property directly or indirectly replaced by that other propery were owned by the transferor for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value, and

(b) any other property concerned was such that, had the transfer of value been made immediately before it was replaced, it would (apart from section 106) have been relevant business property in relation to the transfer.

(2) In a case falling within subsection (1) above relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.

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(3) For the purposes of subsection (2) above changes resulting from the formation, alteration or dissolution of a partnership, or from the acquisition of a business by a company controlled by the former owner of the business, shall be disregarded.

[[F338](4) Without prejudice to subsection (1) above, where any shares falling within section 105(1)(bb) above which are**]** owned by the transferor immediately before the transfer would under any of the provisions of sections **[**[F339]126 to 136 of the 1992 Act**]** be identified with other shares previously owned by him his period of ownership of the first-mentioned shares shall be treated for the purposes of section 106 above [F340]. . . as including his period of ownership of the other shares.

Textual Amendments

F338 Words in s. 107(4) and "(4)" substituted (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, **s. 184(3)**

F339 Words in s. 107(4) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(5)** (with ss. 60, 101(1), 201(3)).

F340 Words in s. 107(4) repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI** note 1

108 Successions.

For the purposes of sections 106 and 107 above, where the transferor became entitled to any property on the death of another person—

(a) he shall be deemed to have owned it from the date of the death, and

(b) if that other person was his spouse **[**[F341]or civil partner**]** he shall also be deemed to have owned it for any period during which the spouse **[**[F341]or civil partner**]** owned it.

Textual Amendments

F341 Words in s. 108(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), **regs. 1(1)**, {19)}

109 Successive transfers.

(1) Where—

(a) the whole or part of the value transferred by a transfer of value (in this section referred to as the earlier transfer) was eligible for relief under this Chapter (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time), and

(b) the whole or part of the property which, in relation to the earlier transfer, was relevant business property became, through the earlier transfer, the property of the person or of the spouse **[**[F342]or civil partner**]** of the person who is the transferor in relation to a subsequent transfer of value, and

(c) that property or part, or any property directly or indirectly replacing it, would (apart from section 106 above) have been relevant business property in relation to the subsequent transfer of value, and

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor,

the property which would have been relevant business property but for section 106 above shall be relevant business property notwithstanding that section.

(2) Where the property which, by virtue of subsection (1) above, is relevant business property replaced the property or part referred to in paragraph (c) of that subsection, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but section 107(3) above shall apply with the necessary modifications for the purposes of this subsection.

(3) Where, under the earlier transfer, the amount of the value transferred which was attributable to the property or part referred to in subsection (1)(c) above was part only of its value, a like part only of the value which (apart from this subsection) would fall to be reduced under this Chapter by virtue of this section shall be so reduced.

Textual Amendments

F342 Words in s. 109(1)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **20**

[F343]109A . . . . . .

Textual Amendments

F343 S. 109A repealed (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VI** note 1

110 Value of business.

For the purposes of this Chapter—

(a) the value of a business or of an interest in a business shall be taken to be its net value;

(b) the net value of a business is the value of the assets used in the business (including goodwill) reduced by the aggregate amount of any liabilities incurred for the purposes of the business;

(c) in ascertaining the net value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the entire business would fall to be ascertained.

111 Value of certain shares and securities.

Where a company is a member of a group and the business of any other company which is a member of the group falls within section 105(3) above, then, unless either—

(a) that business also falls within section 105(4), or

(b) that business consists wholly or mainly in the holding of land or buildings wholly or mainly occupied by members of the group whose business either does not fall within section 105(3) or falls within both section 105(3) and section 105(4),

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the value of shares in or securities of the company shall be taken for the purposes of this Chapter to be what it would be if that other company were not a member of the group.

112 Exclusion of value of excepted assets.

(1) In determining for the purposes of this Chapter what part of the value transferred by a transfer of value is attributable to the value of any relevant business property so much of the last-mentioned value as is attributable to any excepted assets within the meaning of subsection (2) below shall be left out of account.

(2) An asset is an excepted asset in relation to any relevant business property if it was neither—

(a) used wholly or mainly for the purposes of the business concerned throughout the whole or the last two years of the relevant period defined in subsection (5) below, nor

(b) required at the time of the transfer for future use for those purposes;

but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately before the transfer was also a member of that group shall be treated as use for the purposes of the business concerned, unless that other company's membership of the group falls to be disregarded under section 111 above.

(3) Subsection (2) above does not apply in relation to an asset which is relevant business property by virtue only of section 105(1)(d) above, and an asset is not relevant business property by virtue only of that provision unless either—

(a) it was used as mentioned in that provision throughout the two years immediately preceding the transfer of value, or

(b) it replaced another asset so used and it and the other asset and any asset directly or indirectly replaced by that other asset were so used for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value;

but in a case where section 109 above applies this condition shall be treated as satisfied if the asset (or it and the asset or assets replaced by it) was or were so used throughout the period between the earlier and the subsequent transfer mentioned in that section (or throughout the part of that period during which it or they were owned by the transferor or the transferor's spouse **[**[F344]or civil partner**]**).

(4) Where part but not the whole of any land or building is used exclusively for the purposes of any business and the land or building would, but for this subsection, be an excepted asset, or, as the case may be, prevented by subsection (3) above from being relevant business property, the part so used and the remainder shall for the purposes of this section be treated as separate assets, and the value of the part so used shall (if it would otherwise be less) be taken to be such proportion of the value of the whole as may be just.

(5) For the purposes of this section the relevant period, in relation to any asset, is the period immediately preceding the transfer of value during which the asset (or, if the relevant business property is an interest in a business, a corresponding interest in the asset) was owned by the transferor or, if the business concerned is that of a company, was owned by that company or any other company which immediately before the transfer of value was a member of the same group.

Status: *Point in time view as at 01/04/2011.*
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(6) For the purposes of this section an asset shall be deemed not to have been used wholly or mainly for the purposes of the business concerned at any time when it was used wholly or mainly for the personal benefit of the transferor or of a person connected with him.

Textual Amendments

F344 Words in s. 112(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **21**

113 Contracts for sale.

Where any property would be relevant business property in relation to a transfer of value but a binding contract for its sale has been entered into at the time of the transfer, it is not relevant business property in relation to the transfer unless—

(a) the property is a business or interest in a business and the sale is to a company which is to carry on the business and is made in consideration wholly or mainly of shares in or securities of that company, or

(b) the property is shares in or securities of a company and the sale is made for the purpose of reconstruction or amalgamation.

[F345 113A Transfers within seven years before death of transferor.

(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.

(2) Where—

(a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and

(b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) above are—

(a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor; and

(b) **[**F346 except to the extent that the original property consists of shares or securities to which subsection (3A) below applies**]** that, in relation to a notional transfer of value made by the transferee immediately before the death, the original property would (apart from section 106 above) be relevant business property.

F346 (3A) **[** This subsection applies to shares or securities—

(a) which were quoted at the time of the chargeable transfer referred to in subsection (1) or subsection (2) above; or

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(b) which fell within paragraph (b) **[**[F347]or (bb)**]** of section 105(1) above in relation to that transfer and were unquoted throughout the period referred to in subsection (3)(a) above.**]**

[F348]**[** (3B) In subsection (3A) above "quoted", in relation to any shares or securities, means **[**[F349]listed**]** on a recognised stock exchange and "unquoted", in relation to any shares or securities, means not so **[**[F349]listed**]**.**]**

(4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—

(a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and

(b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

(a) would under any of the provisions of sections **[**[F350]126 to 136 of the 1992 Act**]** be identified with the original property (or part of it), or

(b) were issued to him in consideration of the transfer of a business or interest in a business consisting of the original property (or part of it),

they shall be treated for the purposes of this section as if they were the original property (or that part of it).

(7) This section has effect subject to section 113B below.

[F351]**[** (7A) The provisions of this Chapter for the reduction of value transferred shall be disregarded in any determination for the purposes of this section of whether there is a potentially exempt or chargeable transfer in any case.**]**

(8) In this section—

"the original property" means the property which was relevant business property in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above; and

"the transferee" means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.**]**

Textual Amendments

F345 Finance Act 1986 Sch. 19, para. 21,*with respect to transfers of value made, and other events occurring, on or after* 18*March* 1986.

F346 Finance Act 1987 Sch. 8, para. 8,*in relation to transfers of value made on or after* 17*March* 1987.

F347 Words in s. 113A(3A)(b) inserted (29.4.1996 with effect as mentioned in s. 184(6)(b) of the amending Act) by 1996 c. 8, **s. 184(4)**

F348 S. 113A(3A)(b) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 3, 8, **9**.

Status: *Point in time view as at 01/04/2011.*
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F349 Words in s. 113A(3B) substituted (29.4.1996 with effect as mentioned in Sch. 38 para. 2(2) of the amending Act) by 1996 c. 8, s. 199, **Sch. 38 para. 2(1)(a)**

F350 Words in s. 113A(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(5)** (with ss. 60, 101(1), 201(3)).

F351 S. 113A(7A) inserted (29.4.1996 with effect as mentioned in s. 184(6)(a) of the amending Act) by 1996 c. 8, **s. 184(5)**

Modifications etc. (not altering text)

C37 S. 113A amended (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, **Sch. 14 para. 9(2)(4)** (with Sch. 14 para. 8).

[F352 113B Application of section 113A to replacement property.

(1) Subject to subsection (2) below, this section applies where—

(a) the transferee has disposed of all or part of the original property before the death of the transferor; and

(b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as "the replacement property").

(2) This section does not apply unless—

(a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within **[**F353 the allowed period**]** after the disposal of the original property (or, as the case may be, the part concerned); and

(b) the disposal and acquisition are both made in transactions at arm's length or on terms such as might be expected to be included in a transaction at arm's length.

(3) Where this section applies, the conditions in section 113A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—

(a) the replacement property is owned by the transferee immediately before the death of the transferor; and

(b) throughout the period beginning with the date of the chargeable transfer and ending with the death (disregarding any period between the disposal and acqusition) either the original property or the replacement property was owned by transferee; and

(c) in relation to a notional transfer of value made by the transferee immediately before the death, the replacement property would (apart from section 106 above) be relevant business property.

(4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

(a) all or part of the original property has been disposed of before the death of the transferor or is excluded by section 113 above from being relevant business property in relation to the notional transfer of value referred to in section 113A(3)(b) above, and

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(b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within **[**[F353]the allowed period**]** after the disposal of the original property or part, and

(c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraph (a), and as if any reference to a time immediately before the death of the transferor or to the death were a reference to the time when the replacement property is acquired.

(6) Section 113A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section "the original property" and "the transferee" have the same meaning as in section 113A above **[**[F354]and "allowed period" means the period of three years or such longer period as the Board may allow**].]**

Textual Amendments

F352 Finance Act 1986 Sch. 19, para. 21,*with respect to transfers of value made, and other events occurring, on or after* 18*March* 1986.

F353 Words in s. 113B(2)(a)(5)(b) substituted (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, **s. 247(1)(a)(3)**

F354 Words in s. 113B(8) added (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, **s. 247(1)(b)(3)**

Modifications etc. (not altering text)

C38 S. 113B amended (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, **Sch. 14 para. 9(2)(4)** (with Sch. 14 para. 8).

114 Avoidance of double relief.

(1) Where any part of the value transferred by a transfer of value is reduced under Chapter II of this Part of this Act by reference to the agricultural value of any property, or would be so reduced but for section 121(3), such part of the value transferred as is or would be so reduced under that Chapter shall not be reduced under this Chapter.

(2) Where the value transferred by a transfer of value is reduced under section 129 below by reference to the tax chargeable on the disposal of any trees or underwood, the value to be reduced under section 104 above shall be the value as reduced under section 129 (but subject to section 104(2) above).

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CHAPTER II

AGRICULTURAL PROPERTY

Modifications etc. (not altering text)

C39 *See* Part II*of this volume*—Finance Act 1975 Sch. 8—*for the transitional relief provisions under* Finance Act 1981 s. 96*and* Sch. 14.

115 Preliminary.

(1) In this Chapter references to a transfer of value include references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79) and—

(a) references to the value transferred by a transfer of value include references to the amount on which tax is then chargeable, and

(b) references to the transferor include references to the trustees of the settlement concerned.

(2) In this Chapter "agricultural property" means agricultural land or pasture and includes woodland and any building used in connection with the intensive rearing of livestock or fish if the woodland or building is occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture; and also includes such cottages, farm buildings and farmhouses, together with the land occupied with them, as are of a character appropriate to the property.

(3) For the purposes of this Chapter the agricultural value of any agricultural property shall be taken to be the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property **[**[F355](or, in the case of property outside the United Kingdom, the Channel Islands and the Isle of Man, if it were subject to provisions equivalent in effect to such a covenant)**]**.

(4) For the purposes of this Chapter the breeding and rearing of horses on a stud farm and the grazing of horses in connection with those activities shall be taken to be agriculture and any buildings used in connection with those activities to be farm buildings.

[[F356](5) This Chapter applies to agricultural property only if it is in—

(a) the United Kingdom, the Channel Islands or the Isle of Man, or

(b) a state, other than the United Kingdom, which is an EEA state (within the meaning given by Schedule 1 to the Interpretation Act 1978) at the time of the transfer of value in question.**]**

Textual Amendments

F355 Words in s. 115(3) inserted (with effect as mentioned in s. 122(7)(8) of the amending Act) by Finance Act 2009 (c. 10), **s. 122(2)**

F356 S. 115(5) substituted (with effect as mentioned in s. 122(7)(8) of the amending Act) by Finance Act 2009 (c. 10), **s. 122(3)**

Status: *Point in time view as at 01/04/2011.*
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116 The relief.

(1) Where the whole or part of the value transferred by a transfer of value is attributable to the agricultural value of agricultural property, the whole or that part of the value transferred shall be treated as reduced by the appropriate percentage, but subject to the following provisions of this Chapter.

(2) The appropriate percentage is **[**[F357]100 per cent**]**. if [F358]. . .—

(a) the interest of the transferor in the property immediately before the transfer carries the right to vacant possession or the right to obtain it within the next twelve months, or

(b) the transferor has been beneficially entitled to that interest since before 10th March 1981 and the conditions set out in subsection (3) below are satisfied; **[**[F359]or

[F359](c) the interest of the transferor in the property immediately before the transfer does not carry either of the rights mentioned in paragraph (a) above because the property is let on a tenancy beginning on or after 1st September 1995;**]**

and, subject to subsection (4) below, it is **[**[F360]50 per cent**]**. in any other case.

[F361](2A) . . . . . .

(3) The conditions referred to in subsection (2)(b) above are—

(a) that if the transferor had disposed of his interest by a transfer of value immediately before 10th March 1981 and duly made a claim under paragraph 1 of Schedule 8 to the [M29]Finance Act 1975, the value transferred would have been computed in accordance with paragraph 2 of that Schedule and relief would not have been limited by paragraph 5 of that Schedule (restriction to £250,000 or one thousand acres); and

(b) that the transferor's interest did not at any time during the period beginning with 10th March 1981 and ending with the date of the transfer carry a right mentioned in subsection (2)(a) above, and did not fail to do so by reason of any act or deliberate omission of the transferor during that period.

(4) Where the appropriate percentage would be **[**[F357]100 per cent.**]** but for a limitation on relief that would have been imposed (as mentioned in subsection (3)(a) above) by paragraph 5 of Schedule 8 to the Finance Act 1975, the appropriate percentage shall be **[**[F357]100 per cent.**]** in relation to a part of the value transferred equal to the amount which would have attracted relief under that Schedule and **[**[F360]50 per cent.**]** in relation to the remainder.

(5) In determining for the purposes of subsections (3)(a) and (4) above whether or to what extent relief under Schedule 8 to the Finance Act 1975 would have been limited by paragraph 5 of that Schedule, that paragraph shall be construed as if references to relief given under that Schedule in respect of previous chargeable transfers included references to—

(a) relief given under this Chapter by virtue of subsection (2)(b) or (4) above, and

(b) relief given under Schedule 14 to the [M30]Finance Act 1981 by virtue of paragraph 2(2)(b) or (4) of that Schedule,

in respect of previous chargeable transfers made on or after 10th March 1981.

[[F362](5A) Where, in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, the tenancy—

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(a) becomes vested in a person, as a result of his being a person beneficially entitled under the deceased tenant's will or other testamentary writing or on his intestacy, and

(b) is or becomes binding on the landlord and that person as landlord and tenant respectively,

subsection (2)(c) above shall have effect as if the tenancy so vested had been a tenancy beginning on the date of the death.

(5B) Where in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, a tenancy of the property or of any property comprising the whole or part of it—

(a) is obtained by a person under or by virtue of an enactment, or

(b) is granted to a person in circumstances such that he is already entitled under or by virtue of an enactment to obtain such a tenancy, but one which takes effect on a later date, or

(c) is granted to a person who is or has become the only or only remaining applicant, or the only or only remaining person eligible to apply, under a particular enactment for such a tenancy in the particular case,

subsection (2)(c) above shall have effect as if the tenancy so obtained or granted had been a tenancy beginning on the date of the death.

(5C) Subsection (5B) above does not apply in relation to property situate in Scotland.

(5D) If, in a case where the transferor dies on or after 1st September 1995,—

(a) the tenant of any property has, before the death, given notice of intention to retire in favour of a new tenant, and

(b) the tenant's retirement in favour of the new tenant takes place after the death but not more than thirty months after the giving of the notice,

subsection (2)(c) above shall have effect as if the tenancy granted or assigned to the new tenant had been a tenancy beginning immediately before the transfer of value which the transferor is treated by section 4(1) above as making immediately before his death.

(5E) In subsection (5D) above and this subsection—

"the new tenant" means—

(a) the person or persons identified in a notice of intention to retire in favour of a new tenant as the person or persons who it is desired should become the tenant of the property to which that notice relates; or

(b) the survivor or survivors of the persons so identified, whether alone or with any other person or persons;

"notice of intention to retire in favour of a new tenant" means, in the case of any property, a notice or other written intimation given to the landlord by the tenant, or (in the case of a joint tenancy or tenancy in common) all of the tenants, of the property indicating, in whatever terms, his or their wish that one or more persons identified in the notice or intimation should become the tenant of the property;

"the retiring tenant's tenancy" means the tenancy of the person or persons giving the notice of intention to retire in favour of a new tenant;

"the tenant's retirement in favour of the new tenant" means—

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(a) the assignment, or (in Scotland) assignation, of the retiring tenant's tenancy to the new tenant in circumstances such that the tenancy is or becomes binding on the landlord and the new tenant as landlord and tenant respectively; or

(b) the grant of a tenancy of the property which is the subject of the retiring tenant's tenancy, or of any property comprising the whole or part of that property, to the new tenant and the acceptance of that tenancy by him;

and, except in Scotland, "grant" and "acceptance" in paragraph (b) above respectively include the deemed grant, and the deemed acceptance, of a tenancy under or by virtue of any enactment.**]**

(6) For the purposes of this Chapter the interest of one of two or more joint tenants or tenants in common (or, in Scotland, joint owners or owners in common) shall be taken to carry a right referred to in subsection (2)(a) above if the interests of all of them together carry that right.

(7) For the purposes of this section, the value transferred by a transfer of value shall be calculated as a value on which no tax is chargeable.

[[F363](8) In its application to property outside the United Kingdom, the Channel Islands and the Isle of Man, this section has effect as if any reference to a right or obligation under the law of any part of the United Kingdom were a reference to an equivalent right or obligation under the law governing dispositions of that property.**]**

Textual Amendments

F357 Words in s. 116(2)(4) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 4(a), 8, **9**.

F358 Word in s. 116(2) repealed (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by 1995 c. 4, ss. 155(1)(3), 162, **Sch. 29 Pt. XI**

F359 S. 116(2)(c) and word inserted (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by 1995 c. 4, **s. 155(1)(3)**

F360 Words in s. 116(2)(4) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 4(b), 8, **9**.

F361 S. 116(2A) repealed (29.4.1996 with effect as mentioned in s. 185(6) of the amending Act) by 1996 c. 8, ss. 185(3), 205, **Sch. 41 Pt. VI** note 2

F362 S. 116(5A)-(5E) inserted (29.4.1996 with effect as mentioned in s. 185(5) of the amending Act) by 1996 c. 8, **s. 185(2)**

F363 S. 116(8) inserted (with effect as mentioned in s. 122(7)(8) of the amending Act) by Finance Act 2009 (c. 10), **s. 122(4)**

Modifications etc. (not altering text)

C40 S. 116 excluded (1.11.2004 with effect as mentioned in reg. 1 of the amending S.I.) by The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543), **reg. 4(7)**

C41 Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), **reg. 4(4)**
Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), **reg. 5(5)**

Marginal Citations

M29 1975 c.7.

M30 1981 c.35.

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117 Minimum period of occupation or ownership.

Subject to the following provisions of this Chapter, section 116 above does not apply to any agricultural property unless—

(a) it was occupied by the transferor for the purposes of agriculture throughout the period of two years ending with the date of the transfer, or

(b) it was owned by him throughout the period of seven years ending with that date and was throughout that period occupied (by him or another) for the purposes of agriculture.

118 Replacements.

(1) Where the agricultural property occupied by the transferor on the date of the transfer replaced other agricultural property, the condition stated in section 117(a) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were occupied by the transferor for the purposes of agriculture for periods which together comprised at least two years falling within the five years ending with that date.

(2) Where the agricultural property owned by the transferor on the date of the transfer replaced other agricultural property, the condition stated in section 117(b) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were, for periods which together comprised at least seven years falling within the ten years ending with that date, both owned by the transferor and occupied (by him or another) for the purposes of agriculture.

(3) In a case falling within subsection (1) or (2) above relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.

(4) For the purposes of subsection (3) above changes resulting from the formation, alteration or dissolution of a partnership shall be disregarded.

119 Occupation by company or partnership.

(1) For the purposes of sections 117 and 118 above, occupation by a company which is controlled by the transferor shall be treated as occupation by the transferor.

(2) For the purposes of sections 117 and 118 above, occupation of any property by a Scottish partnership shall, notwithstanding section 4(2) of the [M31]Partnership Act 1890, be treated as occupation of it by the partners.

Marginal Citations
M31 1890 c.39.

120 Successions.

(1) For the purposes of section 117 above, where the transferor became entitled to any property on the death another person—

(a) he shall be deemed to have owned it (and, if he subsequently occupies it, to have occupied it) from the date of the death, and

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(b) if that other person was his spouse **[**[F364]or civil partner**]** he shall also be deemed to have occupied it for the purposes of agriculture for any period for which it was so occupied by his spouse **[**[F364]or civil partner**]** , and to have owned it for any period for which his spouse **[**[F364]or civil partner**]** owned it.

(2) Where the transferor became entitled to his interest on the death of his spouse **[**[F364]or civil partner**]** on or after 10th March 1981—

(a) he shall for the purposes of section 116(2)(b) above be deemed to have been beneficially entitled to it for any period for which his spouse **[**[F364]or civil partner**]**was beneficially entitled to it;

(b) the condition set out in section 116(3)(a) shall be taken to be satisfied if and only if it is satisfied in relation to his spouse **[**[F364]or civil partner**]**; and

(c) the condition set out in section 116(3)(b) shall be taken to be satisfied only if it is satisfied both in relation to him and in relation to his spouse **[**[F364]or civil partner**]**.

Textual Amendments

F364 Words in s. 120(1)(b)(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **22**

121 Successive transfers.

(1) Where—

(a) the whole or part of the value transferred by a transfer of value (in this section referred to as the earlier transfer) was eligible for relief under this Chapter (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time), and

(b) the whole or part of the property which, in relation to the earlier transfer, was or would have been eligible for relief became, through the earlier transfer, the property of the person (or of the spouse **[**[F365]or civil partner**]** of the person) who is the tranferor in relation to a subsequent transfer of value and is at the time of the subsequent transfer occupied for the purposes of agriculture either by that person or by the personal representative of the transferor in relation to the earlier transfer, and

(c) that property or part or any property directly or indirectly replacing it would (apart from section 117 above) have been eligible for relief in relation to the subsequent transfer of value, and

(d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor,

the property which would have been eligible for relief but for section 117 above shall be eligible for relief notwithstanding that section.

(2) Where the property which, by virtue of subsection (1) above, is eligible for relief replaced the property or part referred to in paragraph (c) of that subsection, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but section 118(4) above shall apply for the purposes of this subsection as it applies for the purposes of section 118(3).

(3) Where, under the earlier transfer the amount of the value transferred which was attributable to the property or part referred to in subsection (1)(c) above was part only

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of its value, a like part only of the value which (apart from this subsection) would fall to be reduced under this Chapter by virtue of this section shall be so reduced.

Textual Amendments

F365 Words in s. 121(1)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **23**

122 Agricultural property of companies.

(1) Where the whole or part of the value transferred is attributable to the value of shares in or securities of a company it shall be taken for the purposes of this Chapter to be attributable (so far as appropriate) to the agricultural value of agricultural property if and only if—

(a) the agricultural property forms part of the company's assets and part of the value of the shares or securities can be attributed to the agricultural value of the agricultural property, and

(b) the shares or securities gave the transferor control of the company immediately before the transfer.

(2) Shares or securities shall not be regarded for the purposes of subsection (1)(b) above as giving the transferor control of a company if—

(a) they would not have been sufficient, without other property, to give him control of the company immediately before the transfer, and

(b) their value is taken by virtue of section 176 below to be less than the value previously determined.

(3) Where subsection (1) above applies—

(a) the references in section 116(2)(a) and (3)(b) above to the transferor's interest shall be construed as references to the company's interest, and

(b) section 123(1) below shall apply instead of section 117 above.

123 Provisions supplementary to section 122.

(1) Section 116 above shall not apply by virtue of section 122(1) above unless—

(a) the agricultural property—

(i) was occupied by the company for the purposes of agriculture throughout the period of two years ending with the date of the transfer, or

(ii) was owned by the company throughout the period of seven years ending with that date and was throughout that period occupied (by the company or another) for the purposes of agriculture, and

(b) the shares or securities were owned by the transferor—

(i) in a case within paragraph (a)(i) above, throughout the period there mentioned, or

(ii) in a case within paragraph (a)(ii) above, throughout the period there mentioned.

(2) Subsections (1) and (2) of section 118 above shall apply in relation to the conditions stated in subsection (1)(a) above as they apply in relation to the conditions stated in section 117 taking references to the transferor as references to the company.

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(3) Where the shares or securities owned by the transferor on the date of the transfer replaced other eligible property (that is to say, agricultural property or shares or securities the value of which is wholly or partly attributable to the value of such property) the condition stated in subsection (1)(b) above shall be treated as satisfied if the shares or securities, the other eligible property which they replaced and any eligible property directly or indirectly replaced by the other eligible property were owned by the transferor for periods which together comprised—

(a) in a case within subsection (1)(a)(i) above, at least two years falling within the five years ending with that date, or

(b) in a case within subsection (1)(a)(ii) above, at least seven years falling within the ten years ending with that date.

(4) Subsections (3) and (4) of section 118 above shall have effect in relation to a case falling within subsections (2) and (3) above as they have effect in relation to a case falling within subsections (1) and (2) of that section.

(5) For the purposes of subsection (1) above, a company shall be treated as having occupied the agricultural property at any time when it was occupied by a person who subsequently controls the company.

124 Contracts for sale.

(1) Section 116 above shall not apply to agricultural property if at the time of the transfer the transferor has entered into a binding contract for its sale, except where the sale is to a company and is made wholly or mainly in consideration of shares in or securities of the company which will give the transferor control of the company.

(2) Section 116 above shall not apply by virtue of section 122(1) above if at the time of the transfer the transferor has entered into a binding contract for the sale of the shares or securities concerned, except where the sale is made for the purpose of reconstruction or amalgamation.

[F366 124A Transfers within seven years before death of transferor.

(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.

(2) Where—

(a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and

(b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) above are—

(a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death

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of the transferor (in this subsection referred to as "the relevant period") and it is not at the time of the death subject to a binding contract for sale; and

(b) except in a case falling within paragraph (c) below, that the original property is agricultural property immediately before the death and has been occupied (by the transferee or another) for the purposes of agriculture throughout the relevant period; and

(c) where the original property consists of shares in or securities of a company, that throughout the relevant period the agricultural property to which section 116 above applied by virtue of section 122(1) above on the chargeable transfer was owned by the company and occupied (by the company or another) for the purposes of agriculture.

(4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—

(a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and

(b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

(a) would under any of the provisions of sections **[**[F367]126 to 136 of the 1992 Act**]** be identified with the original property (or part of it), or

(b) were issued to him in consideration of the transfer of agricultural property consisting of the original property (or part of it),

[[F368]his period of ownership of the original property shall be treated as including his period of ownership of the shares.**]**

(7) This section has effect subject to section 124B below.

[F369]**[** (7A) The provisions of this Chapter for the reduction of value transferred shall be disregarded in any determination for the purposes of this section of whether there is a potentially exempt or chargeable transfer in any case.**]**

(8) In this section—

"the original property" means the property which, in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above, was either agricultural property to which section 116 above applied or shares or securities of a company owning agricultural property to which that section applied by virtue of section 122(1) above; and

"the transferee" means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.**]**

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Textual Amendments

F366 Finance Act 1986 Sch. 19, para. 22,*with respect to transfers of value made, and other events occurring, on or after* 18*March* 1986.

F367 Words in s. 124A(6) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(5)** (with ss. 60, 101(1), 201(3)).

F368 Finance Act 1987 Sch. 8, para. 9,*with effect from* 17*March* 1987.*Originally*
"they shall be treated for the purposes of this section as if they were the original property (or that part of it)".

F369 S. 124A(7A) inserted (29.4.1996 with effect in relation to any transfer of value on or after 28.11.1995) by 1996 c. 8, **s. 185(4)(7)**

[[F370]124BApplication of section 124A to replacement property.

(1) Subject to subsection (2) below, this section applies where—

(a) the transferee has disposed of all or part of the original property before the death of the transferor; and

(b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as "the replacement property").

(2) This section does not apply unless—

(a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within **[**[F371]the allowed period**]** after the disposal of the original property (or, as the case may be, the part concerned); and

(b) the disposal and acquisition are both made in transactions at arm's length or on terms such as might be expected to be included in a transaction at arm's length.

(3) Where this section applies, the conditions in section 124A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—

(a) the replacement property is owned by the transferee immediately before the death of the transferor and is not at that time subject to a binding contract for sale; and

(b) throughout the period beginning with the date of the chargeable transfer and ending with the disposal, the original property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and

(c) throughout the period beginning with the date when the transferee acquired the replacement property and ending with the death, the replacement property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and

(d) the replacement property is agricultural property immediately before the death.

(4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

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(a) all or part of the original property has been disposed of before the death of the transferor or is subject to a binding contract for sale at the time of the death, and

(b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within **[**[F371]the allowed period**]** after the disposal of the original property or part, and

(c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraphs (a) and (c), and as if any reference to a time immediately before the death of the transferor were a reference to the time when the replacement property is acquired.

(6) Section 124A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section "the original property" and "the transferee" have the same meaning as in section 124A above **[**[F372]and "allowed period" means the period of three years or such longer period as the Board may allow**].]**

Textual Amendments

F370 Finance Act 1986 Sch. 19, para. 22,*with respect to transfers of value made, and other events occurring, on or after* 18*March* 1986.

F371 Words in s. 124B(2)(a)(5)(b) substituted (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, **s. 247(2)(a)(3)**

F372 Words in s. 124B(8) added (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, **s. 247(2)(b)(3)**

[[F373]**124CLand in habitat schemes.**

(1) For the purposes of this Chapter, where any land is in a habitat scheme—

(a) the land shall be regarded as agricultural land;

(b) the management of the land in accordance with the requirements of the scheme shall be regarded as agriculture; and

(c) buildings used in connection with such management shall be regarded as farm buildings.

(2) For the purposes of this section land is in a habitat scheme at any time if—

(a) an application for aid under one of the enactments listed in subsection (3) below has been accepted in respect of the land; and

(b) the undertakings to which the acceptance relates have neither been terminated by the expiry of the period to which they relate nor been treated as terminated.

(3) Those enactments are—

(a) regulation 3(1) of the [M32]Habitat (Water Fringe) Regulations 1994;

(b) the [M33]Habitat (Former Set-Aside Land) Regulations 1994;

(c) the [M34]Habitat (Salt-Marsh) Regulations 1994;

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(d) the [M35]Habitats (Scotland) Regulations 1994, if undertakings in respect of the land have been given under regulation 3(2)(a) of those Regulations;

(e) the [M36]Habitat Improvement Regulations (Northern Ireland) 1995, if an undertaking in respect of the land has been given under regulation 3(1)(a) of those Regulations.

(4) The Treasury may by order made by statutory instrument amend the list of enactments in subsection (3) above.

(5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.

(6) This section has effect—

(a) in relation to any transfer of value made on or after 26th November 1996; and

(b) in relation to transfers of value made before that date, for the purposes of any charge to tax, or to extra tax, which arises by reason of an event occurring on or after 26th November 1996.**]**

Textual Amendments

F373 S. 124C inserted (19.3.1997) by 1997 c. 16, **s. 94**

Marginal Citations

M32 S.I. 1994/1291.
M33 S.I. 1994/1292.
M34 S.I. 1994/1293.
M35 S.I. 1994/2710 (S.138).
M36 S.R. (N.I.) 1995 No.134.

CHAPTER III

WOODLANDS

125 The relief.

(1) This section applies where—

(a) part of the value of a person's estate immediately before his death is attributable to the value of land [F374]. . . on which trees or underwood are growing but which is not agricultural property within the meaning of Chapter II of this Part of this Act, and

(b) either he was beneficially entitled to the land throughout the five years immediately preceding his death, or he became beneficially entitled to it otherwise than for a consideration in money or money's worth.

[[F375](1A) But this section applies only if the land is in the United Kingdom or another state which is an EEA state (within the meaning given by Schedule 1 to the Interpretation Act 1978) at the time of the person's death.**]**

(2) Where this section applies and the person liable for the whole or part of the tax so elects—

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(a) the value of the trees or underwood shall be left out of account in determining the value transferred on the death, but

(b) tax shall be charged in the circumstances mentioned in section 126 below.

(3) An election under this section must be made by notice in writing to the Board within two years of the death or such longer time as the Board may allow.

Textual Amendments

F374 Words in s. 125(1)(a) omitted (with effect as mentioned in s. 122(7)-(9) of the amending Act) by virtue of Finance Act 2009 (c. 10), **s. 122(5)**

F375 S. 125(1A) inserted (with effect as mentioned in s. 122(7)-(9) of the amending Act) by virtue of Finance Act 2009 (c. 10), **s. 122(6)**

126 Charge to tax on disposal of trees or underwood.

(1) Where under section 125 above the value of any trees or underwood has been left out of account in determining the value transferred on the death of any person, and the whole or any part of the trees or underwood is disposed of (whether together with or apart from the land on which they were growing) then, if the disposal occurs before any part of the value transferred on the death of any other person is attributable to the value of that land, tax shall be charged in accordance with sections 127 and 128 below.

(2) Subsection (1) above shall not apply to a disposal made by any person to his spouse **[**[F376]or civil partner**]** .

(3) Where tax has been charged under this section on the disposal of any trees or underwood tax shall not again be charged in relation to the same death on a further disposal of the same trees or underwood.

Textual Amendments

F376 Words in s. 126(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), reg. 1(1), **24**

127 Amount subject to charge.

(1) The amount on which tax is charged under section 126 above on a disposal of trees or underwood shall be—

(a) if the disposal is a sale for full consideration in money or money's worth, an amount equal to the net proceeds of the sale, and

(b) in any other case, an amount equal to the net value of the trees or underwood at the time of the disposal.

(2) Where, if the value of the trees or underwood had not been left out of account in determining the value transferred on the death of the person in question—

(a) it would have been taken into account in determining the value of any relevant business property for the purposes of relief under Chapter I of this Part of this Act in relation to the transfer of value made on his death, or

(b) it would have been so taken into account if this Act had then been in force,

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the amount on which tax is charged under section 126 above shall be reduced by 50 per cent.

128 Rate of charge.

Tax charged under section 126 above on an amount determined under section 127 above shall be charged at the rate or rates at which it would have been charged on the death first mentioned in section 126 if—

(a) that amount, and any amount on which tax was previously charged under section 126 in relation to that death, had been included in the value transferred on death, and

(b) the amount on which the tax is charged had formed the highest part of that value.

129 Credit for tax charged.

Where a disposal on which tax is chargeable under section 126 above is a chargeable transfer, the value transferred by it shall be calculated as if the value of the trees or underwood had been reduced by the tax chargeable under that section.

130 Interpretation.

(1) In this Chapter—

(a) references to the value transferred on a death are references to the value transferred by the chargeable transfer made on that death;

(b) references to the net proceeds of sale or the net value of any trees or underwood are references to the proceeds of sale or value after deduction of any expenses allowable under this Chapter so far as those expenses are not allowable for the purposes of income tax; and

(c) references to the disposal of any trees or underwood include references to the disposal of any interest in the trees or underwood (and references to a disposal of the same trees or underwood shall, where the case so requires, be construed as referring to a disposal of the same interest).

(2) The expenses allowable under this Chapter are, in relation to any trees or underwood the value of which has been left out of account on any death,—

(a) the expenses incurred in disposing of the trees or underwood; and

(b) the expenses incurred in replanting within three years of a disposal (or such longer time as the Board may allow) to replace the trees or underwood disposed of; and

(c) the expenses incurred in replanting to replace trees or underwood previously disposed of, so far as not allowable on the previous disposal.

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CHAPTER IV

TRANSFERS WITHIN THREE YEARS BEFORE DEATH

131 The relief.

(1) Subject to section 132 below, this section applies where **[**[F377]because of the transferor's death within seven years of the transfer, tax becomes chargeable in respect of the value transferred by a potentially exempt transfer or (by virtue of section 7(4) above) additional tax becomes chargeable in respect of the value transferred by any other chargeable transfer and (in either case)**]** all or part of the value transferred is attributable to the value of property ("the transferred property") which—

(a) is, at the date of the death, the property of the person ("the transferee") whose property it became on the transfer or of his spouse **[**[F378]or civil partner**]** , or

(b) has, before that date, been sold by the transferee or his spouse **[**[F378]or civil partner**]** by a qualifying sale;

and in the following provisions of this section "the relevant date" means, in a case within paragraph (a) above, the date of the death, and in a case within paragraph (b), the date of the qualifying sale.

(2) If—

(a) the market value of the transferred property at the time of the chargeable transfer exceeds its market value on the relevant date, and

(b) a claim is made by a person liable to pay the whole or part of **[**[F379]the tax or, as the case may be, additional tax**]**,

[[F379]the tax or, as the case may be, additional tax**]** shall be calculated as if the value transferred were reduced by the amount of the excess.

[[F380](2ZA) A claim under subsection (2)(b) must be made not more than 4 years after the transferor's death.**]**

[[F381](2A) Where so much of the value transferred as is attributable to the value, or agricultural value, of the transferred property is reduced by any percentage (in this subsection referred to as "the appropriate percentage"), in accordance with Chapter I or Chapter II of this Part of this Act, references in subsection (2) above to the market value of the transferred property at any time shall have effect—

(a) in a case within Chapter I, as references to that market value reduced by the appropriate percentage; and

(b) in a case within Chapter II, as references to that market value less the appropriate percentage of the agricultural value of the transferred property at that time.**]**

(3) A sale is a qualifying sale for the purposes of this section if—

(a) it is at arm's length for a price freely negotiated at the time of the sale, and

(b) no person concerned as vendor (or as having an interest in the proceeds of the sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase), and

(c) no provision is made, in or in connection with the agreement for the sale, that the vendor (or any person having an interest in the proceeds of sale) is to have any right to acquire some or all of the property sold or some interest in or created out of it.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F377 Finance Act 1986 Sch. 19, para. 23(1),*with effect from* 18*March* 1986.*Originally*
"(by virtue of section 7(2) above) additional tax becomes chargeable in respect of the value transferred by a chargeable transfer because of the transferor's death within three years of the transfer and".

F378 Words in s. 131(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **25**

F379 Finance Act 1986 Sch. 19, para. 23(2),*with effect from* 18*March* 1986.*Originally*
"the additional tax".

F380 S. 131(2ZA) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 6**; S.I. 2010/867, **art. 2(2)**

F381 Finance Act 1986 Sch. 19, para. 23(3),*with effect from* 18*March* 1986.

132 Wasting assets.

(1) Section 131 above shall not apply if the transferred property is tangible movable property that is a wasting asset.

(2) The transferred property is a wasting asset for the purposes of this section if, immediately before the chargeable transfer, it had a predictable useful life not exceeding fifty years, having regard to the purpose for which it was held by the transferor; and plant and machinery shall in every case be regarded as having a predictable useful life of less than fifty years.

133 Shares—capital receipts.

(1) If the transferred property consists of shares and at any time before the relevant date the transferee or his spouse **[**[F382]or civil partner**]** becomes entitled to a capital payment is respect of them, then for the purposes of section 131 above the market value of the transferred property on the relevant date shall (except where apart from this section it reflects a right to the payment) be taken to be increased by an amount equal to the payment.

(2) If at any time before the relevant date the transferee or his spouse **[**[F382]or civil partner**]** receives or becomes entitled to receive in respect of the transferred property a provisional allotment of shares and disposes of the rights, the amount of the consideration for the disposal shall be treated for the purposes of this section as a capital payment in respect of the transferred property.

(3) In this section "capital payment" means any money or money's worth which does not constitute income for the purposes of income tax.

Textual Amendments

F382 Words in s. 133(1)(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **26**

134 Payments of calls.

If the transferred property consists of shares and at any time before the relevant date the transferee or his spouse **[**[F383]or civil partner**]** becomes liable to make a payment

Status: *Point in time view as at 01/04/2011.*
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in pursuance of a call in respect of them, then for the purposes of section 131 above the market value of the transferred property on the relevant date shall (except where apart from this section it reflects the liability) be taken to be reduced by an amount equal to the payment.

Textual Amendments

F383 Words in s. 134 inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **27**

135 Reorganisation of share capital, etc.

(1) This section has effect where the transferred property consists of shares in relation to which there occurs before the relevant date a transaction to which **[**[F384]127 of the 1992 Act**]** applies or would apply but for section **[**[F385]134**]** of that Act, that is to say—

(a) a reorganisation within the meaning of section **[**[F385]126(1)**]** of that Act,

(b) the conversion of securities within the meaning of section **[**[F385]132**]** of that Act,

(c) the issue by a company of shares in exchange for shares in another company in such circumstances that section **[**[F385]135**]** of that Act applies, or

(d) the issue by a company of shares under such an arrangement as is referred to in section **[**[F385]136**]**of that Act,

or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraph (a) to (d) above and to which section **[**[F385]127**]** of that Act applies by virtue of section **[**[F385]99**]** of that Act.

(2) In the following provisions of this section "the original shares" and "the new holding" shall be construed in accordance with section **[**[F385]126(1)**]**.

(3) Where this section has effect the original shares and the new holding shall be treated as the same property for the purposes of this Chapter.

(4) Where this section has effect and, as part of or in connection with the transaction concerned, the transferee or his spouse **[**[F386]or civil partner**]** becomes liable to give any consideration for the new holding or any part of it, then for the purposes of section 131 above the market value of the transferred property on the relevant date shall (except where apart from this section it reflects the liability) be taken to be reduced by an amount equal to that consideration.

(5) For the purposes of subsection (4) above, there shall not be treated as consideration given for the new holding or any part of it—

(a) any surrender, cancellation or other alteration of any of the original shares or of the rights attached thereto, or

(b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

Textual Amendments

F384 S. 135: "127 of the 1992 Act" substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) for "section 78 of the Capital Gains Tax Act 1979" by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(6)** (with ss. 60, 101(1), 201(3)).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F385 Words in s. 135 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(6)** (with ss. 60, 101(1), 201(3)).

F386 Words in s. 135(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **28**

136 Transactions of close companies.

(1) This section applies where the transferred property consists of shares in a close company and at any time after the chargeable transfer and before the relevant date there is a relevant transaction in relation to the shares; and for this purpose "relevant transaction" means a transaction which is—

(a) the making of a transfer of value by the company, or

(b) an alteration in so much of the company's share or loan capital as does not consist of **[**[F387]quoted shares**]** or an alteration in any rights attaching to **[**[F388]unquoted shares in or unquoted debentures of the company**]**,

but which does not give rise to an adjustment, under any of the preceding sections of this Chapter, in the market value of the transferred property on the relevant date.

(2) Subject to subsections (3) and (4) below, where this section applies the market value of the transferred property on the relevant date shall for the purposes of section 131 above be taken to be increased by an amount equal to the difference between—

(a) the market value of the transferred property at the time of the chargeable transfer, and

(b) what that value would have been if the relevant transaction had occurred before rather than after that time.

(3) Where the relevant transaction is the making by the company of a transfer of value by which the value of the estate of the person who made the chargeable transfer or, if his spouse **[**[F389]or civil partner**]** is domiciled in the United Kingdom, his spouse **[**[F389]or civil partner**]** is increased by any amount, the increase provided for by subsection (2) above shall be reduced by that amount.

(4) Where the market value of the transferred property at the time of the chargeable transfer is less than it would have been as mentioned in subsection (2) above, that subsection shall apply as if, instead of providing for an increase, it provided for the market value on the relevant date to be reduced to what it would have been if the relevant transaction had not occurred.

Textual Amendments

F387 Finance Act 1987 Sch. 8, para. 10,*with effect from* 17*March* 1987.*Originally* "shares quoted on a recognised stock exchange".

F388 Finance Act 1987 Sch. 8, para. 10,*with effect from* 17*March* 1987.*Originally* "shares in or debentures of the company which are not so quoted".

F389 Words in s. 136(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **29**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

137 Interests in land.

(1) Where the transferred property is an interest in land in relation to which the conditions mentioned in subsection (2) below are not satisfied, then, subject to subsections (3) and (4) below, the market value of the transferred property on the relevant date shall for the purposes of section 131 above be taken to be increased by an amount equal to the difference between—

(a) the market value of the interest at the time of the chargeable transfer, and

(b) what that market value would have been if the circumstances prevailing on the relevant date and by reason of which the conditions are not satisfied had prevailed at the time of the chargeable transfer.

(2) The conditions referred to in subsection (1) above are—

(a) that the interest was the same in all respects and with the same incidents at the time of the chargeable transfer and on the relevant date, and

(b) that the land in which the interest subsists was in the same state and with the same incidents at the time of the chargeable transfer and on the relevant date.

(3) If after the date of the chargeable transfer but before the relevant date compensation becomes payable under any enactment to the transferee or his spouse **[**[F390]or civil partner**]**—

(a) because of the imposition of a restriction on the use or development of the land in which the interest subsists, or

(b) because the value of the interest is reduced for any other reason,

the imposition of the restriction or the other cause of the reduction in value shall be ignored for the purposes of subsections (1) and (2) above, but the market value of the interest on the relevant date shall be taken to be increased by an amount equal to the amount of the compensation.

(4) Where the market value of the interest at the time of the chargeable transfer is less than it would have been as mentioned in subsection (1) above, that subsection shall apply as if, instead of providing for an increase, it provided for the market value on the relevant date to be reduced to what it would have been if the change in circumstances by reason of which the conditions mentioned in subsection (2) above are not satisfied had not occurred.

Textual Amendments

F390 Words in s. 137(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **30**

138 Leases.

(1) Where the transferred property is the interest of a lessee under a lease the duration of which at the time of the chargeable transfer does not exceed fifty years, then for the purposes of section 131 above the market value of the interest on the relevant date shall be taken to be increased by an amount equal to the appropriate fraction of the market value of the interest at the time of the chargeable transfer.

(2) In subsection (1) above, “the appropriate fraction” means the fraction—

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$$\frac{P(1)-P(2)}{P(1)}$$

where

P(1) is the percentage that would be derived from the Table in paragraph 1 of Schedule **[**[F391]8 to the 1992 Act**]**for the duration of the lease at the time of the chargeable transfer, and

P(2) is the percentage that would be so derived for the duration of the lease on the relevant date.

Textual Amendments

F391 Words in s. 138 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(7)** (with ss. 60, 101(1), 201(3)).

139 Other property.

(1) Where the transferred property is neither shares nor an interest in land and the condition mentioned in subsection (2) below is not satisfied in relation to it, then, subject to subsections (3) and (4) below, the market value of the property on the relevant date shall for the purposes of section 131 above be taken to be increased by an amount equal to the difference between—

(a) the market value of the property at the time of the chargeable transfer, and

(b) what that value would have been if the circumstances prevailing at the relevant date and by reason of which the condition is not satisfied had prevailed at the time of the chargeable transfer.

(2) The condition referred to in subsection (1) above is that the transferred property was the same in all respects at the time of the chargeable transfer and on the relevant date.

(3) Where the market value of the transferred property at the time of the chargeable transfer is less than it would have been as mentioned in subsection (1) above, that subsection shall apply as if, instead of providing for an increase, it provided for the market value on the relevant date to be reduced to what it would have been if the property had remained the same in all respects as it was at the time of the chargeable transfer.

(4) Where the transferred property is neither shares nor an interest in land and during the period between the time of the chargeable transfer and the relevant date benefits in money or money's worth are derived form it which exceed a reasonable return on its market value at the time of the chargeable transfer, then—

(a) any effect of the benefits on the transferred property shall be ignored for the purposes of the preceding provisions of this section, but

(b) the market value of the transferred property on the relevant date shall be taken for the purposes of section 131 above to be increased by an amount equal to the said excess.

Status: *Point in time view as at 01/04/2011.*
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140 Interpretation.

(1) In this Chapter—

"close company" has the same meaning as in Part IV of this Act;

"interest in land" does not include any estate, interest or right by way of mortgage or other security;

"shares" includes securities;

and "the relevant date", "the transferee" and "the transferred property" shall be construed in accordance with section 131(1) above.

(2) For the purposes of this Chapter the market value at any time of any property is the price which the property might reasonably be expected to fetch if sold in the open market at that time; but—

(a) that price shall not be assumed to be reduced on the ground that the whole property is on the market at one and the same time, and

(b) in the case of **[**[F392]unquoted shares**]**, it shall be assumed that in that market there is available to any prospective purchaser of the shares all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.

Textual Amendments

F392 Finance Act 1987 Sch. 8, para. 11,*with effect from* 17*March* 1987.*Originally* "shares not quoted on a recognised stock exchange".

CHAPTER V

MISCELLANEOUS

Successive charges

141 Two or more transfers within five years.

(1) Where the value of a person's estate was increased by a chargeable transfer ("the first transfer") made not more than five years before—

(a) his death, or

(b) a chargeable transfer which is made by him otherwise than on his death and as to which the conditions specified in subsection (2) below are satisfied,

the tax chargeable on the value transferred by the transfer made on his death or, as the case may be, referred to in paragraph (b) above ("the later transfer") shall be reduced by an amount calculated in accordance with subsection (3) below.

(2) The conditions referred to in subsection (1)(b) above are—

(a) that the value transferred by the later transfer falls to be determined by reference to the value of settled property in which there subsists an interest in possession to which the transferor is entitled;

(b) that the value transferred by the first transfer also fell to be determined by reference to the value of that property; and

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(c) that the first transfer either was or included the making of the settlement or was made after the making of the settlement.

(3) The amount referred to in subsection (1) above is a percentage of the tax charged on so much of the value transferred by the first transfer as is attributable to the increase mentioned in that subsection; and the percentage is—

(a) 100 per cent. if the period beginning with the date of the first transfer and ending with the date of the later does not exceed one year;

(b) 80 per cent. if it exceeds one year but does not exceed two years;

(c) 60 per cent. if it exceeds two years but does not exceed three years;

(d) 40 per cent. if it exceeds three years but does not exceed four years; and

(e) 20 per cent. if it exceeds four years.

(4) Where in relation to the first transfer there is more than one later transfer, the reduction provided for by this section shall be given only in respect of the earliest of them, unless the reduction represents less than the whole of the tax charged as mentioned in subsection (3) above; and in that case a reduction may be made in respect of subsequent transfers (in chronological order) until reductions representing the whole of that tax have been made.

(5) For the purposes of subsection (4) above, a reduction made in accordance with paragraph (a) of subsection (3) above represents an equivalent amount of tax, a reduction made in accordance with paragraph (b) represents the amount of tax of which it is 80 per cent., and so on.

(6) In determining for the purposes of this section whether or to what extent the value of the transferor's estate was increased by a chargeable transfer, there shall be disregarded any excluded property consisting of a reversionary interest to which he became entitled on the occasion of or before the chargeable transfer.

(7) Where—

(a) the value of the transferor's estate was increased in consequence of—

(i) a gift inter vivos, or

(ii) a disposition or determination of a beneficial interest in possession in property comprised in a settlement, and

(b) tax under section 22(5) of the [M37]Finance Act 1975 was by reason of the gift or interest payable on a subsequent death,

this section shall apply as if the increase had been by the chargeable transfer made on the occasion of the death.

Marginal Citations

M37 1975 c. 7.

Changes in distribution of deceased's estate, etc.

142 Alteration of dispositions taking effect on death.

(1) Where within the period of two years after a person's death—

Status: *Point in time view as at 01/04/2011.*
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(a) any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property comprised in his estate immediately before his death are varied, or

(b) the benefit conferred by any of those dispositions is disclaimed,

by an instrument in writing made by the persons or any of the persons who benefit or would benefit under the dispositions, this Act shall apply as if the variation had been effected by the deceased or, as the case may be, the disclaimed benefit had never been conferred.

[[F393](2) Subsection (1) above shall not apply to a variation unless the instrument contains a statement, made by all the relevant persons, to the effect that they intend the subsection to apply to the variation.

(2A) For the purposes of subsection (2) above the relevant persons are—

(a) the person or persons making the instrument, and

(b) where the variation results in additional tax being payable, the personal representatives.

Personal representatives may decline to make a statement under subsection (2) above only if no, or no sufficient, assets are held by them in that capacity for discharging the additional tax.**]**

(3) Subsection (1) above shall not apply to a variation or disclaimer made for any consideration in money or money's worth other than consideration consisting of the making, in respect of another of the dispositions, of a variation or disclaimer to which that subsection applies.

(4) Where a variation to which subsection (1) above applies results in property being held in trust for a person for a period which ends not more than two years after the death, this Act shall apply as if the disposition of the property that takes effect at the end of the period had had effect from the beginning of the period; but this subsection shall not affect the application of this Act in relation to any distribution or application of property occurring before that disposition takes effect.

(5) For the purposes of subsection (1) above the property comprised in a person's estate includes any excluded property but not any property to which he is treated as entitled by virtue of section 49(1) above **[**[F394]or section 102 of the Finance Act 1986**]**.

(6) Subsection (1) above applies whether or not the administration of the estate is complete or the property concerned has been distributed in accordance with the original dispositions.

(7) In the application of subsection (4) above to Scotland, property which is subject to a proper liferent shall be deemed to be held in trust for the liferenter.

Textual Amendments

F393 S. 142(2)(2A) substituted for s. 142(2) (24.7.2002 with application as mentioned in s. 120(4) of the amending Act) by 2002 c. 23, **s. 120(1)(4)**

F394 Finance Act 1986 Sch. 19, para. 24,*with effect from* 18*March* 1986.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

143 Compliance with testator's request.

Where a testator expresses a wish that property bequeathed by his will should be transferred by the legatee to other persons, and the legatee transfers any of the property in accordance with that wish within the period of two years after the death of the testator, this Act shall have effect as if the property transferred had been bequeathed by the will to the transferee.

144 Distribution etc. from property settled by will.

(1) **[**[F395]Subsection (2) below applies**]** where property comprised in a person's estate immediately before his death is settled by his will and, within the period of two years after his death and before any interest in possession has subsisted in the property, there occurs—

(a) an event on which tax would **[**[F396](apart from subsection (2) below)**]** be chargeable under any provision, other than section 64 or 79, of Chapter III of Part III of this Act, or

(b) an event on which tax would be so chargeable but for section 75 or 76 above or paragraph 16(1) of Schedule 4 to this Act.

[[F397](1A) Where the testator dies on or after 22nd March 2006, subsection (1) above shall have effect as if the reference to any interest in possession were a reference to any interest in possession that is—

(a) an immediate post-death interest, or

(b) a disabled person's interest.**]**

(2) Where **[**[F398]this subsection**]** applies by virtue of an event within paragraph (a) of subsection (1) above, tax shall not be charged under the provision in question on that event; and in every case in which **[**[F398]this subsection**]** applies in relation to an event, this Act shall have effect as if the will had provided that on the testator's death the property should be held as it is held after the event.

[[F399](3) Subsection (4) below applies where—

(a) a person dies on or after 22nd March 2006,

(b) property comprised in the person's estate immediately before his death is settled by his will, and

(c) within the period of two years after his death, but before an immediate post-death interest or a disabled person's interest has subsisted in the property, there occurs an event that involves causing the property to be held on trusts that would, if they had in fact been established by the testator's will, have resulted in—

(i) an immediate post-death interest subsisting in the property, or

(ii) section 71A or 71D above applying to the property.

(4) Where this subsection applies by virtue of an event—

(a) this Act shall have effect as if the will had provided that on the testator's death the property should be held as it is held after the event, but

(b) tax shall not be charged on that event under any provision of Chapter 3 of Part 3 of this Act.

(5) Subsection (4) above also applies where—

(a) a person dies before 22nd March 2006,

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(b) property comprised in the person's estate immediately before his death is settled by his will,

(c) an event occurs—

(i) on or after 22nd March 2006, and

(ii) within the period of two years after the testator's death,

that involves causing the property to be held on trusts within subsection (6) below,

(d) no immediate post-death interest, and no disabled person's interest, subsisted in the property at any time in the period beginning with the testator's death and ending immediately before the event, and

(e) no other interest in possession subsisted in the property at any time in the period beginning with the testator's death and ending immediately before 22nd March 2006.

(6) Trusts are within this subsection if they would, had they in fact been established by the testator's will and had the testator died at the time of the event mentioned in subsection (5)(c) above, have resulted in—

(a) an immediate post-death interest subsisting in the property, or

(b) section 71A or 71D above applying to the property.**]**

Textual Amendments

F395 Words in s. 144(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **27(2)(a)**

F396 Words in s. 144(1)(a) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **27(2)(b)**

F397 S. 144(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **27(3)**

F398 Words in s. 144(2) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **27(4)**

F399 S. 144(3)-(6) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **27(5)**

145 Redemption of surviving spouse's [F400or civil partner's] life interest.

Where an election is made by a surviving spouse **[**F401or civil partner**]** under section 47A of the Administration of M38Estates Act 1925, this Act shall have effect as if the surviving spouse **[**F401or civil partner**]** , instead of being entitled to the life interest, had been entitled to a sum equal to the capital value mentioned in that section.

Textual Amendments

F400 Words in s. 145 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **31(3)**

F401 Words in s. 145 inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **31(2)**

Marginal Citations

M38 1925 c. 23.

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Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

146 Inheritance (Provision for Family and Dependants) Act 1975.

(1) Where an order is made under section 2 of the [M39]Inheritance (Provision for Family and Dependants) Act 1975 ("the 1975 Act") in relation to any property forming part of the net estate of a deceased person, then, without prejudice to section 19(1) of that Act, the property shall for the purposes of this Act be treated as if it had on his death devolved subject to the provisions of the order.

(2) Where an order is made under section 10 of the 1975 Act requiring a person to provide any money or other property by reason of a disposition made by the deceased, then—

(a) if that disposition was a chargeable transfer and the personal representatives of the deceased make a claim for the purpose **[**[F402]not more than 4 years after the date on which the order is made**]**—

(i) tax paid or payable on the value transferred by that chargeable transfer (whether or not by the claimants) shall be repaid to them by the Board or, as the case may be, shall not be payable, and

(ii) the rate or rates of tax applicable to the transfer of value made by the deceased on his death shall be determined as if the values previously transferred by chargeable transfers made by him were reduced by that value;

(b) the money or property shall be included in the deceased's estate for the purpose of the transfer of value made by him on his death.

(3) Where the money or other property ordered to be provided under section 10 of the 1975 Act is less than the maximum permitted by that section, subsection (2)(a) above shall have effect in relation to such part of the value there mentioned as is appropriate.

(4) The adjustment in consequence of the provisions of this section or of section 19(1) of the 1975 Act of the tax payable in respect of the transfer of value made by the deceased on his death shall not affect—

(a) the amount of any deduction to be made under section 8 of that Act in respect of tax borne by the person mentioned in subsection (3) of that section, or

(b) the amount of tax to which regard is to be had under section 9(2) of that Act;

and where a person is ordered under that Act to make a payment or transfer property by reason of his holding property treated as part of the deceased's net estate under section 8 or 9 and tax borne by him is taken into account for the purposes of the order, any repayment of that tax shall be made to the personal representatives of the deceased and not to that person.

(5) Tax repaid under paragraph (a)(i) of subsection (2) above shall be included in the deceased's estate for the purposes of the transfer of value made by him on his death; and tax repaid under that paragraph or under subsection (4) above shall form part of the deceased's net estate for the purposes of the 1975 Act.

(6) Anything which is done in compliance with an order under the 1975 Act or occurs on the coming into force of such an order, and which would (apart from this subsection) consistitute an occasion on which tax is chargeable under any provision, other than section 79, of Chapter III of Part III of this Act, shall not constitute such an occasion; and where an order under the 1975 Act provides for property to be settled or for the variation of a settlement, and (apart from this subsection) tax would be charged under section 52(1) above on the coming into force of the order, section 52(1) shall not apply.

(7) In subsections (2)(a) and (5) above references to tax include references to interest on tax.

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(8) Where an order is made staying or dismissing proceedings under the 1975 Act 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.

(9) In this section any reference to, or to any provision of, the 1975 Act includes a reference to, or to the corresponding provision of, the [M40]Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979.

Textual Amendments

F402 Words in s. 146(2)(a) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 7**; S.I. 2010/867, **art. 2(2)**

Marginal Citations

M39 1975 c. 63.

M40 S.I. 1979/924 (N.I. 8.).

147 Scotland; legitim. [[F403]etc.]

(1) Where a testator dies leaving a surviving spouse **[**[F404]or civil partner**]** and a person under the age of 18 entitled to claim legitim**[**[F405] or rights under section 131 of the Civil Partnership Act 2004 ("section 131 rights")**]**, and provision is made in his will or other testamentary document for a disposition to his spouse **[**[F404]or civil partner**]** which, if it could take effect, would leave insufficient property in the estate to satisfy the entitlement of that person in respect of legitim **[**[F406]or to section 131 rights**]** , the following provisions of this section shall apply.

(2) Subject to subsections (3) and (4) below, tax shall be charged at the testator's death as if the disposition to the spouse **[**[F407]or civil partner**]** did not include any amount in respect of legitim **[**[F408]or section 131 rights**]** , but if within the period mentioned in subsection (6) below the person or persons concerned renounce their claim to legitim **[**[F408]or section 131 rights**]** , tax shall be repaid to the estate calculated on the basis that the disposition to the spouse **[**[F407]or civil partner**]** did include the amount renounced.

(3) The executors or judicial factor of the testator may, in accordance with the provisions of this section, elect that subsection (2) above shall not apply but that subsection (4) below shall apply.

(4) Tax shall be charged at the testator's death as if the disposition to the spouse **[**[F409]or civil partner**]** had taken effect, but where the person or persons concerned claim legitim **[**[F410]or section 131 rights**]** within the period mentioned in subsection (6) below, tax shall be charged on the amount so claimed calculated on the basis that the legitim fund had been paid out in full at the testator's death (excluding any part of the fund renounced before any claim has been made) **[**[F411]or on the basis that all section 131 rights had been claimed in full at the testator's death (excluding any rights renounced before any claim has been made)**]** and the tax chargeable thereon had been apportioned rateably among the persons entitled to claim legitim **[**[F410]or section 131 rights**]**(excluding any who have renounced as aforesaid).

(5) Where the executors or judicial factor of the testator decide to make an election under subsection (3) above they shall give notice in writing of that election to the Board

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within two years from the date of death of the testator or such longer period as the Board may permit.

(6) For the purposes of subsections (2) and (4) above, a person shall be treated as having claimed legitim **[**[F412]or section 131 rights**]** unless he has renounced his claim before attaining the age of 18 or he renounces his claim within two years of his attaining that age or such longer period as the Board may permit.

(7) Where a person dies before attaining the age of 18 or before making a renunciation under subsection (6) above the provisions of this section shall apply in relation to that person's executors or judicial factor as they would have applied in relation to that person if that person had attained the age of 18 with the substitution of the date of death of that person for the date on which a person attained that age; but where the executors or factor renounce a claim to legitim **[**[F413]or section 131 rights**]** in respect of a person the amount renounced shall not be treated as part of that person's estate.

(8) Where subsection (2) above applies in relation to any estate, then notwithstanding anything in section 241 below the Board may repay tax under that subsection without limit of time.

(9) Where subsection (4) above applies in relation to any estate, then notwithstanding anything in section 239 below a certificate of discharge may be given under that section in respect of the whole estate, and notwithstanding anything in section 240 below the giving of the certificate shall not preclude the Board from claiming tax under subsection (4) above without limit of time.

[[F414](10) Where the application of subsection (4) in relation to the estate of a person means that too great an increase has been made under subsection (3) of section 8A above in the case of another person, the claim under that section in that case may be amended accordingly by the Commissioners for Her Majesty's Revenue and Customs.**]**

Textual Amendments

F403 Word in s. 147 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(7)**

F404 Words in s. 147(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(2)(a)**

F405 Words in s. 147(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(2)(b)**

F406 Words in s. 147(1) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(2)(c)**

F407 Words in s. 147(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(3)(a)**

F408 Words in s. 147(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(3)(b)**

F409 Words in s. 147(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(4)(a)**

F410 Words in s. 147(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(4)(b)**

F411 Words in s. 147(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(4)(c)**

F412 Words in s. 147(6) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(5)**

F413 Words in s. 147(7) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **32(6)**

F414 S. 147(10) inserted (with effect as mentioned in Sch. 4 para. 9(1) of the amending Act) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 para. 3**

Mutual and voidable transfers

148, 149. . . . . . [F415]

Textual Amendments

F415 Finance Act 1986 s. 101(3), Sch. 19, para. 25, and Sch. 23, Part X,*repealed* ss.148*and* 149 (*exemption for mutual transfers*)*where the donee's transfer is made on or after* 18*March* 1986.

150 Voidable transfers.

(1) Where on a claim made for the purpose it is shown that the whole or any part of a chargeable transfer ("the relevant transfer") has by virtue of any enactment or rule of law been set aside as voidable or otherwise defeasible—

(a) tax paid or payable by the claimant (in respect of the relevant transfer or any other chargeable transfer made before the claim) that would not have been payable if the relevant transfer had been void ab initio shall be repaid to him by the Board, or as the case may be shall not be payable, and

(b) the rate or rates of tax applicable to any chargeable transfer made after the claim by the person who made the relevant transfer shall be determined as if that transfer or that part of it had been void as aforesaid.

(2) In subsection (1)(a) above the reference to tax includes a reference to interest on tax.

[[F416](3) A claim under this section must be made not more than 4 years after the claimant knew, or ought reasonably to have known, that the relevant transfer has been set aside.**]**

Textual Amendments

F416 S. 150(3) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 8**; S.I. 2010/867, **art. 2(2)**

Pension schemes, etc

151 Treatment of pension rights, etc.

(1) [F417] . . . . . .

(1A) [F417] . . . . . .

(2) **[**[F418]Subject to sections 151A and 151C below,**]** an interest in or under a **[**[F419]registered pension scheme **[**[F420], a qualifying non-UK pension scheme or a section**]** 615(3) scheme**]** which comes to an end on the death of the person entitled to it shall be left

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out of account in determining for the purposes of this Act the value of his estate immediately before his death, if the interest—

(a) is, or is a right to, a pension or annuity, and

(b) is not an interest resulting (whether by virtue of the instrument establishing the **[**[F421]scheme**]** or otherwise) from the application of any benefit provided under the **[**[F421]scheme**]** otherwise than by way of a pension or annuity.

(3) Sections 49 to 53 above shall not apply in relation to an interest satisfying the conditions of paragraphs (a) and (b) of subsection (2) above.

(4) In relation to an interest in or under a **[**[F419]registered pension scheme **[**[F420], a qualifying non-UK pension scheme or a section**]** 615(3) scheme**]**, section 5(2) above shall apply as if the words "other than settled property" were omitted (in both places).

(5) Where a benefit has become payable under a **[**[F419]registered pension scheme **[**[F420], a qualifying non-UK pension scheme or a section**]** 615(3) scheme**]**, and the benefit becomes comprised in a settlement made by a person other than the person entitled to the benefit, the settlement shall for the purposes of this Act be treated as made by the person so entitled.

Textual Amendments

F417 S. 151(1)(1A) repealed (6.4.2006) by Finance Act 2004 (c. 12), ss. 203(4)(a), 284, 326, **Sch. 42 Pt. 3** (with Sch. 36)

F418 Words in s. 151(2) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 3**

F419 Words in s. 151(2)(4)(5) substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(4)(b)**, 284 (with Sch. 36)

F420 Words in s. 151(2)(4)(5) substituted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(4)(8)**

F421 Word in s. 151(2)(b) substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(4)(c)**, 284 (with Sch. 36)

Modifications etc. (not altering text)

C42 S. 151 applied (6.4.2006) by The Pension Protection Fund (Tax) Regulations 2006 (S.I. 2006/575), **reg. 34**

151A Person dying with alternatively secured pension fund

(1) This section applies where a member of a registered pension scheme has an alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death.

[[F422](2) Tax shall be charged on the relevant amount as if it were part of the value transferred by the transfer of value made on the member's death at the rate or rates at which it would be charged if it **[**[F423]and any amount on which tax was previously charged under this section in relation to the member**]** formed the highest part of that value.**]**

(3) The relevant amount is—

(a) the aggregate of the amount of the sums and the value of the assets forming part of the member's alternatively secured pension fund immediately before his death **[**[F424]but reduced by the amount of any previously charged income tax**]**, less

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(b) the aggregate of the amount of the sums and the value of the assets expended on dependants' benefits within the period of six months beginning with the end of the month in which his death occurs.

(4) For this purpose sums or assets are expended on dependants' benefits at any time if they (or sums or assets directly or indirectly deriving from them) are at that time—

(a) applied towards the provision of a dependants' scheme pension for a relevant dependant,

(b) applied towards the provision of a dependants' annuity for a relevant dependant,

(c) designated as available for the payment of dependants' unsecured pension to a relevant dependant, or

(d) designated as available for the payment of dependants' alternatively secured pension to a relevant dependant,

or if the sums (or sums directly or indirectly deriving from the sums or assets) are at that time paid as a charity lump sum death benefit.

[[F425](4A) In subsection (3)(a) above "the amount of any previously charged income tax" means the amount of any liability to income tax which (after the member's death but before the time when tax is charged on the transfer of value treated as made by the member on death) has arisen by virtue of the making of an unauthorised member payment under Part 4 of the Finance Act 2004 relating to the member's alternatively secured pension fund.

(4B) Subsection (4C) below applies where the maximum **[**[F426]amount that could be transferred by a chargeable transfer made (under section 4 above) on the member's death if it were to be wholly chargeable at the rate of nil per cent. (assuming, if necessary, that the value of the member's estate were sufficient but otherwise having regard to the circumstances of the member)**]** exceeds—

(a) the value actually transferred by **[**[F427]the chargeable transfer so made**]**(or nil if there is no such chargeable transfer), less

(b) any previously untaxed alternatively secured pension fund amount.

(4C) Where this subsection applies, tax is to be charged on the previously untaxed alternatively secured pension fund amount as if the nil rate band maximum were—

$$\frac{\text{UNRB} \times 100}{100 - \text{MUPR}}$$

where—

UNRB is the unused nil-rate band, that is the excess mentioned in subsection (4B) above, and

MUPR is the maximum unauthorised payment rate, that is the maximum aggregate rate at which tax is chargeable under Part 4 of the Finance Act 2004 in respect of an unauthorised member payment.**]**

(5) In this section—

"alternatively secured pension fund" has the same meaning as in Part 4 of the Finance Act 2004 (see paragraph 11 of Schedule 28 to that Act);

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"charity lump sum death benefit" has the meaning given by paragraph 18 of Schedule 29 to that Act;

"dependants' alternatively secured pension" has the meaning given by paragraph 19 of Schedule 28 to that Act;

"dependants' annuity" has the same meaning as in Part 4 of that Act (see paragraph 17 of that Schedule);

"dependants' scheme pension" has the same meaning as in that Part of that Act (see paragraph 16 of that Schedule);

"dependants' unsecured pension" has the meaning given by paragraph 18 of that Schedule

[[F428]"previously untaxed alternatively secured pension fund amount" means so much of the aggregate mentioned in subsection (3)(a) above as has not given rise to any liability to tax by virtue of Part 4 of the Finance Act 2004 before tax is charged on the transfer treated as made by the member on death**]**; and

"relevant dependant", in relation to a member of a registered pension scheme who dies, means a dependant (within the meaning of paragraph 15 of that Schedule) who—

(a) is the person's spouse or civil partner immediately before his death; or

(b) is financially dependent on the person at that time.

[[F429](6) This section applies in relation to a member who would have an alternatively secured pension fund immediately before death but for sub-paragraphs (6) and (7) of paragraph 11 of Schedule 28 to the Finance Act 2004 as if those sub-paragraphs were omitted (but subject as follows).

(7) In the case of such a member the references in subsection (3)(a) and (b) to the member's death are to the date on which the scheme administrator becomes aware of the member's death.**]**

Textual Amendments

F422 S. 151A(2) substituted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 20(2)**

F423 Words in s. 151A(2) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 7(2)**

F424 Words in s. 151A(3)(a) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 20(3)**

F425 S. 151A(4A)-(4C) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 20(4)**

F426 Words in s. 151A(4B) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 7(3)(a)**

F427 Words in s. 151A(4B) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 7(3)(b)**

F428 Words in s. 151A(5) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 20(5)**

F429 S. 151A(6)(7) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 20(6)**

151B Relevant dependant with pension fund inherited from member over 75

(1) This section applies where—

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(a) a relevant dependant of a person who, immediately before his death, was a member of a registered pension scheme has a dependant's unsecured pension fund, or a dependant's alternatively secured pension fund, in respect of an arrangement under the pension scheme immediately before his death or immediately before ceasing to be a relevant dependant of the member,

(b) the member had reached the age of 75 at the time of his death and had an alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death **[**[F430](or would have but for paragraph 11(6) and (7) of Schedule 28 to the Finance Act 2004)**]** , and

(c) sums or assets forming part of that fund were designated as available for the payment of dependants' unsecured pension, or dependants' alternatively secured pension, to the relevant dependant within the period of six months beginning with the end of the month in which the member's death occurs.

(2) Where this section applies tax shall be charged under this section.

(3) The amount on which tax is charged under this section shall be the aggregate of the amount of the sums and the value of the assets forming part of the dependant's unsecured pension fund, or the dependant's alternatively secured pension fund, in respect of the arrangement immediately before the relevant dependant died or ceased to be a relevant dependant of the member.

(4) But where tax is chargeable under this section by reason of the death of the relevant dependant, that amount is reduced by so much of sums forming part of the dependant's unsecured pension fund, or the dependant's alternatively secured pension fund, (or sums directly or indirectly deriving from sums or assets forming part of that fund) as are paid to a charity within the period of six months beginning with the end of the month in which his death occurs.

(5) [F431] . . . . . .

(6) In this section—

"alternatively secured pension fund" has the same meaning as in Part 4 of the Finance Act 2004 (see paragraph 11 of Schedule 28 to that Act);

"dependants' alternatively secured pension" has the meaning given by paragraph 19 of that Schedule;

"dependant's alternatively secured pension fund" has the same meaning as in that Part of that Act (see paragraph 25 of that Schedule);

"dependants' unsecured pension" has the meaning given by paragraph 18 of that Schedule;

"dependant's unsecured pension fund" has the same meaning as in that Part of that Act (see paragraph 22 of that Schedule); and

"relevant dependant", in relation to a member of a registered pension scheme who dies, means a dependant (within the meaning of paragraph 15 of that Schedule) who—

(a) is the person's spouse or civil partner immediately before his death; or

(b) is financially dependent on the person at that time.

Textual Amendments

F430 Words in s. 151B(1)(b) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 21(2)**

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F431 S. 151B(5) omitted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by virtue of Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 21(3)**

[F432 151BA Rate or rates of charge under section 151B

(1) Tax charged under section 151B above shall be charged at the rate or rates at which it would be charged on the death of the member if the amount mentioned in subsection (3) of that section (as reduced under subsection (4) of that section) **[**F433 less the amount of any previously charged income tax (within the meaning of subsection (4A) of section 151A) constituted the relevant amount for the purposes of subsection (2) of that section, but subject as follows.**]**

(2) F434 . . . . . .

(3) The rate or rates at which tax is charged **[**F435 is to be determined on the assumption that the references in section 151A(4A) and (5)**]** to the time when tax is charged on the transfer treated as made by the member on death were to the time when tax is charged under **[**F436 section 151B above**]**.

(4) Subsection (5) below applies where, before the time when the dependant dies or ceases to be a relevant dependant, there have been one or more reductions of tax by virtue of the coming into force of a substitution of a new Table in Schedule 1 to this Act since the member's death.

(5) The rate or rates at which tax is charged under section 151B above is to be determined as if the new Table effecting the reduction of tax (or the most recent reduction of tax) **[**F437 ("the applicable Table") had been in force at the time of the member's death, but subject to subsections (6) and (9) below.**]**.

F438 **[** (6) The nil-rate band maximum in the applicable Table is to be treated for the purposes of this section as reduced by the used-up percentage of the difference between—

(a) that nil-rate band maximum, and

(b) the nil-rate band maximum which was actually in force at the time of the member's death.

(7) For the purposes of subsection (6) above "the used-up percentage" is—

$$100 - \left(\frac{E}{\text{NRBM}} \times 100\right)$$

where—

E is the amount by which M is greater than VT under section 8A(2) above in the case of the member; and

NRBM is the nil-rate band maximum at the time of the member's death.**]**

F439 **[** (8) The following provisions apply where—

(a) tax is charged under section 151B above, and

(b) immediately before the member's death, the member had a spouse or civil partner ("the survivor").

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(9) If the survivor died before the event giving rise to the charge, tax is charged as if the personal nil-rate band maximum of the member were appropriately reduced.

(10) In subsection (9) above—

"the personal nil-rate band maximum of the member" is the nil rate band maximum in the applicable Table, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the member (as a survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the member.

(11) If the survivor did not die before the event giving rise to the charge, tax is to be charged on the death of the survivor as if the percentage referred to in section 8A(3) above in the case of the member were that specified in subsection (12) below.

(12) That percentage is—

$$\frac{\text{AE}}{\text{ANRBM}} \times 100$$

where—

AE is the adjusted excess, that is the amount by which M would be greater than VT under section 8A(2) above in the case of the member if—

(a) the taxable amount were included in the value transferred by the chargeable transfer made on the member's death, and

(b) the nil-rate band maximum at the time of the member's death were ANRBM; and

ANRBM is the adjusted nil-rate band maximum, that is the nil-rate band maximum in the applicable Table (as reduced under subsection (6) above where that subsection applies).**]]**

Textual Amendments

F432 S. 151BA inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 22**

F433 Words in s. 151BA(1) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 8(2)**

F434 S. 151BA(2) omitted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by virtue of Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 8(3)**

F435 Words in s. 151BA(3) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 8(4)(a)**

F436 Words in s. 151BA(3) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 8(4)(b)**

F437 Words in s. 151BA(5) substituted (with effect as mentioned in Sch. 4 para. 9(2) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 4 para. 4(2)**

F438 S. 151BA(6)(7) inserted (with effect as mentioned in Sch. 4 para. 9(2) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 4 para. 4(3)**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F439 S. 151BA(8)-(12) inserted (with effect as mentioned in Sch. 4 para. 9(1) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 4 para. 4(4)**

151C Dependant dying with other pension fund

(1) This section applies where—

(a) a dependant of a member of a registered pension scheme has a dependant's alternatively secured pension fund in respect of an arrangement under the pension scheme immediately before his death, and

(b) section 151B above does not apply.

[[F440](2) Tax shall be charged on the relevant amount as if it were part of the value transferred by the transfer of value made on the dependant's death at the rate or rates at which it would be charged if it formed the highest part of that value.**]**

(3) The relevant amount is—

(a) the aggregate of the amount of the sums and the value of the assets forming part of the dependant's alternatively secured pension fund immediately before his death **[**[F441]but reduced by the amount of any previously charged income tax**]** , less

(b) so much of sums forming part of the dependant's alternatively secured pension fund (or sums directly or indirectly deriving from sums or assets forming part of that fund) as are paid as a charity lump sum death benefit within the period of six months beginning with the end of the month in which his death occurs.

[[F442](3A) In subsection (3)(a) above "the amount of any previously charged income tax" means the amount of any liability to income tax which (after the dependant's death but before the time when tax is charged on the transfer of value treated as made by the dependant on death) has arisen by virtue of the making of an unauthorised member payment under Part 4 of the Finance Act 2004 relating to the dependant's alternatively secured pension fund.

(3B) Subsection (3C) below applies where the maximum **[**[F443]amount that could be transferred by a chargeable transfer made (under section 4 above) on the dependant's death if it were to be wholly chargeable at the rate of nil per cent. (assuming, if necessary, that the value of the dependant's estate were sufficient but otherwise having regard to the circumstances of the dependant)**]** exceeds—

(a) the value actually transferred by **[**[F444]the chargeable transfer so made**]**, less

(b) any previously untaxed dependant's alternatively secured pension fund amount.

(3C) Where this subsection applies, tax is to be charged on the previously untaxed dependant's alternatively secured pension fund amount as if the nil rate band maximum were—

$$\frac{\text{UNRB} \times 100}{100 - \text{MUPR}}$$

where—

UNRB is the unused nil rate band, that is the excess mentioned in subsection (3B) above; and

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MUPR is the maximum unauthorised payment rate, that is the maximum aggregate rate at which tax is chargeable under Part 4 of the Finance Act 2004 in respect of an unauthorised member payment.

(3D) The relevant amount is to be reduced by the aggregate of so much of the sums and the value of the assets of the dependant's alternatively secured pension fund as arises, or (directly or indirectly) derives, from sums or assets forming part of an alternatively secured pension fund of the member which were designated as available for the payment of—

(a) dependants' unsecured pension, or

(b) dependants' alternatively secured pension,

to the dependant under the arrangement.**]**

(4) In this section—

"charity lump sum death benefit" has the meaning given by paragraph 18 of Schedule 29 to the Finance Act 2004;

"dependant" has the meaning given by paragraph 15 of that Schedule 28 to that Act; [F445]. . .

[[F446]"dependants' alternatively secured pension" has the meaning given by paragraph 19 of that Schedule;**]**

"dependant's alternatively secured pension fund" has the same meaning as in Part 4 of that Act (see paragraph 25 of **[**[F447]that Schedule**]**).

[[F448]"dependants' unsecured pension" has the meaning given by paragraph 18 of that Schedule;**]**

[[F449]"previously untaxed dependant's alternatively secured pension fund amount" means so much of the aggregate mentioned in subsection (3)(a) above as has not given rise to any liability to tax by virtue of Part 4 of the Finance Act 2004 before tax is charged on the transfer treated as made by the dependant on death.**]**

Textual Amendments

F440 S. 151C(2) substituted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 23(2)**

F441 Words in s. 151C(3)(a) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act (c. 11), s. 69, {Sch. 19 para. 23(3)}

F442 S. 151C(3A)-(3D) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 23(4)**

F443 Words in s. 151C(3B) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 9(2)(a)**

F444 Words in s. 151C(3B) substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 9(2)(b)**

F445 Word in s. 151C(4) repealed (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), ss. 69, 114, Sch. 19 para. 23(5), **Sch. 27 Pt. 3(1)**

F446 S. 151C(4): definition of "dependants' alternatively secured pension" inserted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 9(3)**

F447 S. 151C(4): words in definition of "dependants' alternatively secured pension fund" substituted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 9(3)**

F448 S. 151C(4): definition of "dependants' unsecured prnsion" inserted (21.7.2008) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 9(3)**

F449 Words in s. 151C(4) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 23(5)**

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[F450 151D Unauthorised payment where person dies over 75 with pension or annuity

(1) This section applies where—

(a) a member of a registered pension scheme, or a dependant of such a member, dies after reaching the age of 75;

(b) immediately before death the member or dependant has under the pension scheme an actual right to payments under a relevant pension or relevant annuity or a prospective right to payments under a relevant pension; and

(c) at any time after the death a relevant unauthorised payment is made by the pension scheme.

(2) Where this section applies tax shall be charged under this section.

(3) The amount on which tax is charged under this section shall be the difference between—

(a) the amount of the relevant unauthorised payment; and

(b) the amount of any liability to income tax which has arisen under Part 4 of the Finance Act 2004 by virtue of the making of the relevant unauthorised payment.

(4) In this section—

"dependant" has the meaning given by paragraph 15 of Schedule 28 to the Finance Act 2004;

"dependants' annuity" has the same meaning as in that Part of that Act (see paragraph 17 of that Schedule);

"dependants' scheme pension" has the same meaning as in that Part of that Act (see paragraph 16 of that Schedule);

"lifetime annuity" has the same meaning as in that Part of that Act (see paragraph 3 of that Schedule);

"relevant annuity" means a lifetime annuity or dependants' annuity purchased by the application of sums or assets held for the purposes of the pension scheme;

"relevant pension" means a scheme pension or dependants' scheme pension provided by the scheme administrator or as a result of the application of sums or assets held for the purposes of the pension scheme;

"relevant unauthorised payment" means an unauthorised payment (within the meaning of Part 4 of the Finance Act 2004: see section 160(5) of that Act) which—

(a) consists of the payment of a lump sum in respect of the dead member or dependant; or

(b) is treated as made by virtue of the operation of section 172B of that Act by reason of the death; and

"scheme pension" has the same meaning as in Part 4 of that Act (see paragraph 2 of Schedule 28 to that Act).]

Textual Amendments

F450 Ss. 151D, 151E inserted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 10**

Status: *Point in time view as at 01/04/2011.*
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[F450 151E Rate or rates of charge under section 151D

(1) Tax charged under section 151D above shall be charged at the rate or rates at which it would be charged if the amount on which it is charged, and any amount on which tax was previously charged under that section in relation to the death of the member or dependant, were part of the value transferred by the transfer of value made on the death of the member or dependant.

(2) The rate or rates at which tax is charged on that amount shall be determined as if that amount had formed the highest part of that value.

(3) Subsection (4) below applies where, before the time when the unauthorised payment is made, there have been one or more reductions of tax by virtue of the coming into force of a substitution of a new Table in Schedule 1 to this Act since the death of the member or dependant.

(4) The rate or rates at which tax is charged under section 151D above is to be determined as if the new Table effecting the reduction of tax (or the most recent reduction of tax) ("the applicable Table") had been in force at the time of the death of the member or dependant, but subject to subsections (5) and (8) below.

(5) The nil-rate band maximum in the applicable Table is to be treated for the purposes of this section as reduced by the used-up percentage of the difference between—
   (a) that nil-rate band maximum, and
   (b) the nil-rate band maximum which was actually in force at the time of the death of the member or dependant.

(6) For the purposes of subsection (5) above "the used-up percentage" is—

$$100 - \left(\frac{E}{\text{NRBM}} \times 100\right)$$

where—

E is the amount by which M is greater than VT under section 8A(2) above in the case of the member or dependant; and

NRBM is the nil-rate band maximum at the time of the death of the member or dependant.

(7) The following provisions apply where—
   (a) tax is charged under section 151D above, and
   (b) immediately before the death of the member or dependant, the member or dependant had a spouse or civil partner ("the survivor").

(8) If the survivor died before the time when the unauthorised payment is made, tax is charged as if the personal nil-rate band maximum of the member or dependant were appropriately reduced.

(9) In subsection (8) above—

"the personal nil-rate band maximum of the member or dependant" is the nil rate band maximum in the applicable Table, increased in accordance with section 8A above where that section effected an increase in that nil-rate band

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maximum in the case of the member or dependant (as a survivor of another deceased person), and

"appropriately reduced" means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the member or dependant.

(10) If the survivor did not die before the time when the unauthorised payment is made, tax is to be charged on the death of the survivor as if the percentage referred to in section 8A(3) above in the case of the member or dependant were that specified in subsection (11) below.

(11) That percentage is—

$$\frac{\text{AE}}{\text{ANRBM}} \times 100$$

where—

AE is the adjusted excess, that is the amount by which M would be greater than VT under section 8A(2) above in the case of the member or dependant if—

(a) the amount on which tax is charged under section 151D above were included in the value transferred by the chargeable value made on the death of the member or dependant, and

(b) the nil-rate band maximum at the time of the death were ANRBM; and

ANRBM is the adjusted nil-rate band maximum, that is the nil-rate band maximum in the applicable Table (as reduced under subsection (5) above where that subsection applies).**]**

Textual Amendments

F450 Ss. 151D, 151E inserted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 10**

152 Cash options.

[[F451]Where on a person's death an annuity becomes payable under a registered pension scheme **[**[F452], a qualifying non-UK pension scheme or a section**]** 615(3) scheme to a widow, widower or dependant of that person and under the terms of the scheme**]** a sum of money might at his option have become payable instead to his personal representatives, he shall not, by virtue of section 5(2) above, be treated as having been beneficially entitled to that sum.

Textual Amendments

F451 Words in s. 152 substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(5)**, 284 (with Sch. 36)

F452 Words in s. 152 substituted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(5)(8)**

Status: *Point in time view as at 01/04/2011.*
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153 Overseas pensions.

(1) In determining for the purposes of this Act the value of a person's estate immediately before his death there shall be left out of account any pension payable under the regulations or rules relating to any fund vested in Commissioners under section 273 of the [M41]Government of India Act 1935 or to any fund administered under a scheme made under section 2 of the [M42]Overseas Pensions Act 1973 which is certified by the Secretary of State for the purpose of this section to correspond to an Order in Council under subsection (1) of the said section 273.

(2) For the purposes of this Act—

(a) a pension paid under the authority of a scheme made under section 2 of the Overseas Pensions Act 1973 which is constituted by the [M43]Pensions (India, Pakistan and Burma) Act 1955 or is certified by the Secretary of State for the purposes of this section to correspond to the said Act of 1955 shall be treated as if it had been paid by the Government of India or the Government of Pakistan (according as the arrangements in pursuance of which the pension was first paid under the said Act of 1955 were made with the one or the other Government);

(b) a pension paid out of any fund established in the United Kingdom by the Government of any country which, at the time when the fund was established, was, or formed part of, a colony, protectorate, protected state or United Kingdom trust territory shall, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under the Government be treated as if it had been paid by the Government by which the fund was established;

(c) a pension paid out of the Central African Pension Fund established by section 24 of the [M44]Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 shall be treated as if it had been paid by the Government of a territory outside the United Kingdom; and

(d) so much of any pension paid to or in respect of any person under—

(i) the scheme which by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973 is constituted under that section by section 2 or subsection (2) of section 4 of the [M45]Overseas Service Act 1958, or

(ii) such other scheme made under section 2 of the Overseas Pensions Act 1973 as is certified by the Secretary of State for the purposes of the Taxes Act to correspond to section 2 or subsection (2) of section 4 of the Overseas Service Act 1958,

as is certified by the Secretary of State to be attributable to service under the Government of an overseas territory shall be treated as if it had been paid by the Government of that territory.

(3) Subsection (1) above shall be construed as if contained in section 273 of the [M46]Government of India Act 1935; and for the purposes of subsection (2) above—

(a) "pension" includes a gratuity and any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any other addition thereto;

(b) "United Kingdom trust territory" means a territory administered by the Government of the United Kingdom under the trusteeship system of the United Nations;

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(c) "overseas territory" means any country or territory outside the United Kingdom;

(d) references to the Government of any such country or territory as is mentioned in paragraph (b) or (d) of that subsection include a Government constituted for two or more such countries or territories and any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such countries or territories.

(4) If, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for a pension, allowance or gratuity within the meaning of section 1 of the [M47]Overseas Pensions Act 1973, payments in respect of it are made under that section, this section shall apply in relation to the pension, allowance or gratuity, exclusive of so much (if any) of it as is paid by virtue of the application to it of any provisions of the [M48]Pensions (Increase) Act 1971 or any enactment repealed by that Act, as if it continued to be paid by the Government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

Marginal Citations

M41 1935 c. 2.
M42 1973 c. 21.
M43 1955 c. 22.
M44 S.I. 1963/2085.
M45 1958 c. 14.
M46 1935 c. 2.
M47 1973 c. 21.
M48 1971 c. 56.

Armed forces

154 Death on active service, etc.

(1) Section 4 above shall not apply in relation to the death of a person in whose case it is certified by the Defence Council or the Secretary of State—

(a) that he died from a wound inflicted, accident occurring or disease contracted at a time when the conditions specified in subsection (2) below were satisfied, or

(b) that he died from a disease contracted at some previous time, the death being due to or hastened by the aggravation of the disease during a period when those conditions were satisfied.

(2) The conditions referred to in subsection (1) above are that the deceased was a member of any of the armed forces of the Crown or **[**[F453]a civilian subject to service discipline within the meaning of the Armed Forces Act 2006**]** and (in any case) was either—

(a) on active service against an enemy, or

(b) on other service of a warlike nature or which in the opinion of the Treasury involved the same risks as service of a warlike nature.

(3) In relation to any time before 28th July 1981 (the date of the passing of the [M49]Armed Forces Act 1981), the reference in subsection (2) above to membership of the armed forces of the Crown shall include a reference to employment as a person of any of

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the descriptions specified in paragraph 1(3) of Schedule 7 to the [M50]Finance Act 1975 (women's services).

Textual Amendments

F453 Words in s. 154(2) substituted (28.3.2009 for certain purposes and 31.10.2009 otherwise) by Armed Forces Act 2006 (c. 52), ss. 378, 383, **Sch. 16 para. 99**; S.I. 2009/812, **art. 3**; S.I. 2009/1167, **art. 4** (with saving in S.I. 2009/1059, arts. 1, 2, Sch. 1 para. 27)

Marginal Citations

M49 1981 c. 55.

M50 1975 c. 7.

155 Visiting forces, etc.

(1) Section 6(4) above applies to—

(a) the emoluments paid by the Government of any designated country to a member of a visiting force of that country, not being a British citizen, a British Dependent Territories citizen, **[**[F454]a British National (Overseas)**]** or a British Overseas citizen, and

(b) any tangible movable property the presence of which in the United Kingdom is due solely to the presence in the United Kingdom of such a person while serving as a member of the force.

(2) A period during which any such member of a visiting force as is referred to in subsection (1) above is in the United Kingdom by reason solely of his being such a member shall not be treated for the purposes of this Act as a period of residence in the United Kingdom or as creating a change of his residence or domicile.

(3) References in subsections (1) and (2) above to a visiting force shall apply to a civilian component of a visiting force as they apply to the force itself, and those subsections shall be construed as one with Part I of the [M51]Visiting Forces Act 1952, but so that for the purposes of this section references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.

(4) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by subsections (1) and (2) above on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.

(5) In the case of persons of any category for the time being agreed between Her Majesty's Government in the United Kingdom and the other members of the North Atlantic Council, employment by a designated allied headquarters shall be treated for the purposes of subsections (1)(b) and (2) above as if it were service as a member of a visiting force of a designated country.

(6) For the purposes of this section—

"allied headquarters" means any international military headquarters established under the North Atlantic Council;

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"designated" means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.

(7) Any Order in Council made under section 73 of the [M52]Finance Act 1960 which is in force immediately before the passing of this Act shall have effect for the purposes of this section as if it had also been made under this section, and may be varied or revoked accordingly.

Textual Amendments

F454 Hong Kong (British National) Order 1986, S.I. 1986/948 (*not reproduced*)*with effect from* 1*July* 1986.

Marginal Citations

M51 1952 c. 67.
M52 1960 c.44

Apsley House and Chevening Estate

156 Apsley House and Chevening Estate.

This Act shall not apply in respect of—

(a) the rights conferred by section 3 of the [M53]Wellington Museum Act 1947, or

(b) property held on the trusts of the trust instrument set out in the Schedule to the [M54]Chevening Estate Act 1959.

Marginal Citations

M53 1947 c.46
M54 1959 c.49

Non-residents' bank accounts

157 Non-residents' bank accounts.

(1) In determining for the purposes of this Act the value of the estate immediately before his death of a person to whom this section applies there shall be left out of account the balance on—

(a) any qualifying foreign currency account of his, and

(b) subject to subsection (3) below, any qualifying foreign currency account of the trustees of settled property in which he is beneficially entitled to an interest in possession.

(2) This section applies to a person who is not domiciled in the United Kingdom immediately before his death, and is neither resident nor ordinarily resident at that time.

(3) Subsection (1)(b) above does not apply in relation to settled property if the settlor was domiciled in the United Kingdom when he made the settlement, or if the trustees are domiciled, resident or ordinarily resident in the United Kingdom immediately before the beneficiary's death.

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(4) For the purposes of this section—

(a) the question whether a person is resident or ordinarily resident in the United Kingdom shall, subject to paragraph (b) below, be determined as for the purposes of income tax; but

(b) the trustees of a settlement shall be regarded as not resident or ordinarily resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are resident and ordinarily resident there.

(5) In this section "qualifying foreign currency account" means a foreign currency account with **[**[F455]a bank [F456]. . .**]**; and for this purpose—

(a) "foreign currency account" means any account other than one denominated in sterling, [F457]. . .

[F457](b) . . . . . .

[[F458](6) In this section "bank" has the meaning given by **[**[F459]section 991 of the Income Tax Act 2007**]** .**]**

Textual Amendments

F455 Words in s. 157(5) substituted (29.4.1996 with effect in relation to deaths occurring on or after 29.4.1996) by 1996 c. 8, s. 198, **Sch. 37 para. 12(1)(3)**

F456 Words in s. 157(5) repealed (26.3.2001) by S.I. 2001/1149, art. 3(2), **Sch. 2** (with art. 4(4))

F457 S. 157(5)(b) and the preceding "and" repealed (29.4.1996 with effect as mentioned in Sch. 37 of the amending Act) by 1996 c. 8, s. 205, **Sch. 41 Pt. VIII(2)**, note

F458 S. 157(6) inserted (29.4.1996 with effect in relation to deaths occurring on or after 29.4.1996) by 1996 c. 8, s. 198, **Sch. 37 para. 12(2)(3)**

F459 Words in s. 157(6) substituted (with effect as mentioned in s. 1034 of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 269** (with transitional provisions and savings in Sch. 2)

Double taxation relief

158 Double taxation conventions.

(1) If Her Majesty by Order in Council declares—

(a) that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to **[**[F460]inheritance tax**]** payable under the laws of the United Kingdom and any tax imposed under the laws of that territory which is of a similar character or is chargeable on or by reference to death or gifts inter vivos, and

(b) that it is expedient that those arrangements should have effect;

the arrangements shall, notwithstanding anything in this Act, have effect so far as they provide for relief from **[**[F461]inheritance tax**]**, or for determining the place where any property is to be treated as situated for the purposes of the tax.

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[[F462](1ZA) For the purposes of this section, arrangements made with a view to affording relief from double taxation include any arrangements which modify the effect of arrangements so made.

(1ZB) Arrangements to which effect is given under this section may include provision conferring (with or without other functions) functions relating to the determination of matters arising under the arrangements on a public authority in the United Kingdom or in a territory outside the United Kingdom.**]**

(1A) [F463] . . . . . .

(2) Any arrangements to which effect is given under this section may include provision for relief in cases occurring before the making of the arrangements and provisions as to property which is not itself subject to double taxation.

(3) Any Order in Council under this section which revokes an earlier Order may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.

(4) An Order under this section shall not be submitted to Her Majesty in Council unless a draft of it has been laid before, and approved by resolution of, the House of Commons.

(5) Where any arrangements have effect by virtue of this section, no obligation as to secrecy shall prevent the Board or an authorised officer of the Board from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.

(6) Where arrangements with the government of any territory outside the United Kingdom are specified under any Order in Council which—

(a) was made, or has effect as made, under section 54 of the [M55]Finance (No.2) Act 1945 or section 2 of the [M56]Finance Act (Northern Ireland) 1946, and

(b) had effect immediately before the passing of this Act,

the Order shall notwithstanding the repeal of that section by the [M57]Finance Act 1975, remain in force and have effect as if any provision made by those arrangements in relation to estate duty extended to **[**[F464]inheritance tax**]** chargeable by virtue of section 4 above; but the Order may be amended or revoked by an Order in Council made under this section.

Textual Amendments

F460 *See* Finance Act 1986 s. 100(1) *and* (2)— *for any liability to tax arising on and after* 25 *July* 1986 *any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F461 *See* Finance Act 1986 s. 100(1) *and* (2)— *for any liability to tax arising on and after* 25 *July* 1986 *any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F462 S. 158(1ZA)(1ZB) inserted (retrospectively and with application in accordance with s. 32(6)) by Finance Act 2018 (c. 3), **s. 32(3)(4)**

F463 S. 158(1A) repealed (19.7.2006) by Finance Act 2006 (c. 25), s. 187, **Sch. 26 Pt. 8(2)**

F464 *See* Finance Act 1986 s. 100(1) *and* (2)— *for any liability to tax arising on and after* 25*July* 1986 *any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

Marginal Citations

M55 1945 c.13.

M56 1946 c.1 (N.I.).

M57 1975 c.7.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

159 Unilateral relief.

(1) Where the Board are satisfied that in any territory outside the United Kingdom (an "overseas territory") any amount of tax imposed by reason of any disposition or other event is attributable to the value of any property, then, if—

(a) that tax is of a character similar to that of **[**[F465]inheritance tax**]** or is chargeable on or by reference to death or gifts inter vivos, and

(b) any **[**[F465]inheritance tax**]** chargeable by reference to the same disposition or other event is also attributable to the value of that property,

they shall allow a credit in respect of that amount ("the overseas tax") against that **[**[F465]inheritance tax**]** in accordance with the following provisions.

(2) Where the property is situated in the overseas territory and not in the United Kingdom, the credit shall be of an amount equal to the overseas tax.

(3) Where the property—

(a) is situated neither in the United Kingdom nor in the overseas territory, or

(b) is situated both in the United Kingdom and in the overseas territory,

the credit shall be of an amount calculated in accordance with the following formula—

$$\frac{A}{A+B} \times C$$

where A is the amount of the **[**[F465]inheritance tax**]**, B is the overseas tax and C is whichever of A and B is the smaller.

(4) Where tax is imposed in two or more overseas territories in respect of property which—

(a) is situated neither in the United Kingdom nor in any of those territories, or

(b) is situated both in the United Kingdom and in each of those territories,

subsection (3) above shall apply as if, in the formula there set out, B were the aggregate of the overseas tax imposed in each of those territories and C were the aggregate of all, except the largest, of A and the overseas tax imposed in each of them.

(5) Where credit is allowed under subsection (2) above or section 158 above in respect of overseas tax imposed in one overseas territory, any credit under subsection (3) above in respect of overseas tax imposed in another shall be calculated as if the **[**[F466]inheritance tax**]** were reduced by the credit allowed under subsection (2) or section 158; and where, in the case of any overseas territory mentioned in subsection (3) or (4) above, credit is allowed against the overseas tax for tax charged in a territory in which the property is situated, the overseas tax shall be treated for the purposes of those provisions as reduced by the credit.

(6) In this section references to tax imposed in an overseas territory are references to tax chargeable under the law of that territory and paid by the person liable to pay it.

(7) Where relief can be given both under this section and under section 158 above, relief shall be given under whichever section provides the greater relief.

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Textual Amendments

F465 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F466 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

PART VI

VALUATION

CHAPTER I

GENERAL

160 Market value.

Except as otherwise provided by this Act, the value at any time of any property shall for the purposes of this Act be the price which the property might reasonably be expected to fetch if sold in the open market at that time; but that price shall not be assumed to be reduced on the ground that the whole property is to be placed on the market at one and the same time.

161 Related property.

(1) Where the value of any property comprised in a person's estate would be less than the appropriate portion of the value of the aggregate of that and any related property, it shall be the appropriate portion of the value of that aggregate.

(2) For the purposes of this section, property is related to the property comprised in a person's estate if—

(a) it is comprised in the estate of his spouse **[**[F467]or civil partner**]** ; or

(b) it is or has within the preceding five years been—

(i) the property of a charity, or held on trust for charitable purposes only, or

(ii) the property of a body mentioned in section 24, **[**[F468]24A,**][**[F469]or 25**]** above,

and became so on a transfer of value which was made by him or his spouse **[**[F467]or civil partner**]** after 15th April 1976 and was exempt to the extent that the value transferred was attributable to the property.

(3) The appropriate portion of the value of the aggregate mentioned in subsection (1) above is such portion thereof as would be attributable to the value of the first-mentioned property if the value of that aggregate were equal to the sums of the values of that and any related property, the value of each property being determined as if it did not form part of that aggregate.

(4) For the purposes of subsection (3) above the proportion which the value of a smaller number of shares of any class bears to the value of a greater number shall be taken

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to be that which the smaller number bears to the greater; and similarly with stock, debentures and units of any other description of property.

(5) Shares shall not be treated for the purposes of subsection (4) above as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

Textual Amendments

F467 Words in s. 161(2) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **34**

F468 Finance Act 1989 s. 171(4),*with effect from* 14*March* 1989.

F469 Words in s. 161(2)(b) substituted (31.7.1998 with effect in relation to any property becoming property of a body on a transfer of value made on or after 17.3.1998) by 1998 c. 36, **s. 143(6)**

162 Liabilities.

(1) A liability in respect of which there is a right to reimbursement shall be taken into account only to the extent (if any) that reimbursement cannot reasonably be expected to be obtained.

(2) Subject to subsection (3) below, where a liability falls to be discharged after the time at which it is to be taken into account it shall be valued as at the time at which it is to be taken into account.

(3) In determining the value of a transferor's estate immediately after a transfer of value, his liability for **[**[F470]inheritance tax**]** shall be computed—

(a) without making any allowance for the fact that the tax will not be due immediately, and

(b) as if any tax recovered otherwise than from the transferor (or a person liable for it under section 203(1) below) were paid in discharge of a liability in respect of which the transferor had a right to reimbursement.

(4) A liability which is an incumbrance on any property shall, so far as possible, be taken to reduce the value of that property.

(5) Where a liability taken into account is a liability to a person resident outside the United Kingdom which neither—

(a) falls to be discharged in the United Kingdom, nor

(b) is an incumbrance on property in the United Kingdom,

it shall, so far as possible, be taken to reduce the value of property outside the United Kingdom.

Textual Amendments

F470 *See* Finance Act 1986 s. 100(1)*and* (2)—*for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

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163 Restriction on freedom to dispose.

(1) Where, by a contract made at any time, the right to dispose of any property has been excluded or restricted, then, in determining the value of the property for the purpose of the first relevant event happening after that time,—

(a) the exclusion or restriction shall be taken into account only to the extent (if any) that consideration in money or money's worth was given for it, but

(b) if the contract was a chargeable transfer or was part of associated operations which together were a chargeable transfer, an allowance shall be made for the value transferred thereby (calculated as if no tax had been chargeable on it) or for so much of the value transferred as is attributable to the exclusion or restriction.

(2) Where the contract was made before 27th March 1974 subsection (1) above applies only if the first relevant event is a transfer made on death.

(3) In this section "relevant event", in relation to any property, means—

(a) a chargeable transfer in the case of which the whole or part of the value transferred is attributable to the value of the property; and

(b) anything which would be such a chargeable transfer but for this section.

164 Transferor's expenses.

In determining the value transferred by a transfer of value, expenses incurred by the transferor in making the transfer (but not his liability for **[**[F471]inheritance tax**]**)—

(a) shall, if borne by him, be left out of account;

(b) shall, if borne by a person benefiting from the transfer, be treated as reducing the value transferred.

Textual Amendments

F471 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

165 Tax on capital gains.

(1) Where a chargeable transfer is or includes a disposal of an asset and on the disposal a gain accrues to the transferor for the purposes of the **[**[F472]1992 Act**]**, then if—

(a) the whole or part of the gain is a chargeable gain or a development gain, and

(b) the whole or part of any capital gains tax or income tax chargeable on the gain is borne by the donee (within the meaning of section **[**[F472]282**]** of that Act),

the amount of the tax so borne shall be treated as reducing the value transfered by the chargeable transfer.

(2) Subsection (1) above shall not apply where the chargeable transfer is made under Part III of this Act and the gain accrues to the trustees of the settlement; but if in such a case any capital gains tax chargeable on the gain is borne by a person who becomes absolutely entitled to the settled property concerned, the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.

(3) In any case where—

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(a) payment of an amount of capital gains tax is postponed by virtue of Schedule 14 to the [M58]Finance Act 1984, and

(b) any of that capital gains tax becomes payable in accordance with paragraph 11 of that Schedule by reason of the receipt of a capital payment by a close relative of the beneficiary, as mentioned in sub-paragraph (3) of that paragraph, and

(c) all or part of the capital gains tax becoming so payable is paid by the close relative,

the payment by the close relative shall be treated for the purposes of this Act as made in satisfaction of a liability of his.

Textual Amendments

F472 Words in s. 165 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(8)** (with ss. 60, 101(1), 201(3)).

Marginal Citations

M58 1984 Sch.14 para.16.

166 Creditors' rights.

In determining the value of a right to receive a sum due under any obligation it shall be assumed that the obligation will be duly discharged, except if or to the extent that recovery of the sum is impossible or not reasonably practicable and has not become so by any act or omission of the person to whom the sum is due.

167 Life policies, etc.

(1) In determining in connection with a transfer of value the value of a policy of insurance on a person's life or of a contract for an annuity payable on a person's death, that value shall be taken to be not less than—

(a) the total of the premiums or other consideration which, at any time before the transfer of value, has been paid under the policy or contract or any policy or contract for which it was directly or indirectly substituted, less

(b) any sum which, at any time before the transfer of value, has been paid under, or in consideration for the surrender of any right conferred by, the policy or contract or a policy or contract for which it was directly or indirectly substituted.

(2) Subsection (1) above shall not apply in the case of—

(a) the transfer of value which a person makes on his death, or

(b) any other transfer of value which does not result in the policy or contract ceasing to be part of the transferor's estate,

. . . . . [F473]

(3) Subsection (1) above shall not apply where the policy is one—

(a) under which the sum assured becomes payable only if the person whose life is insured dies before the expiry of a specified term or both before the expiry of a specified term and during the life of a specified person, and

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(b) which, if that specified term ends, or can, under the policy, be extended so as to end, more than three years after the making of the insurance, satisfies the condition that, if neither the person whose life is insured nor the specified person dies before the expiry of the specified term—

(i) the premiums are payable during at least two-thirds of that term and at yearly or shorter intervals, and

(ii) the premiums payable in any one period of twelve months are not more than twice the premiums payable in any other such period.

(4) Where the policy is one under which—

(a) the benefit secured is expressed in units the value of which is published and subject to fluctuation, and

(b) the payment of each premium secures the allocation to the policy of a specified number of such units,

then, if the value, at the time of the transfer of value, of the units allocated to the policy on the payment of premiums is less than the aggregate of what the respective values of those units were at the time of allocation, the value to be taken under subsection (1) above as a minimum shall be reduced by the amount of the difference.

(5) References in subsections (1) and (4) above to a transfer of value shall be construed as including references to an event on which there is a charge to tax under Chapter III of Part III of this Act (apart from section 79), other than an event on which tax is chargeable in respect of the policy or contract by reason only that its value (apart from this section) is reduced.

Textual Amendments

F473 *Repealed by* Finance Act 1986 s. 114(6)*and* Sch. 23, Part X,*where the donee's transfer is made on or after* 18*March* 1986.

168 Unquoted shares and securities.

(1) In determining the price which unquoted shares or **[**[F474]unquoted**]** securities might reasonably be expected to fetch if sold in the open market it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.

(2) . . . . . [F475]

Textual Amendments

F474 Finance Act 1987 Sch. 8, para. 12(1),*with effect from* 17*March* 1987.

F475 *Repealed by* 1987 s. 58(2)*and* Sch. 8, para.12(2),*with effect from* 17*March* 1987.

169 Farm cottages.

(1) In determining the value of agricultural property which includes cottages occupied by persons employed solely for agricultural purposes in connection with the property, no

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account shall be taken of any value attributable to the fact that the cottages are suitable for the residential purposes of persons not so employed.

(2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

170 Leases for life, etc.

Where under section 43(3) above a lease of property is to be treated as a settlement, the value of the lessor's interest in the property shall be taken to be such part of the value of the property as bears to it the same proportion as the value of the consideration, at the time the lease was granted, bore to what would then have been the value of a full consideration in money or money's worth.

CHAPTER II

ESTATE ON DEATH

171 Changes occurring on death.

(1) In determining the value of a person's estate immediately before his death changes in the value of his estate which have occurred by reason of the death and fall within subsection (2) below shall be taken into account as if they had occurred before the death.

(2) A change falls within this subsection if it is an addition to the property comprised in the estate or an increase or decrease of the value of any property so comprised, other than a decrease resulting from such an alteration as is mentioned in section 98(1) above; but the termination on the death of any interest or the passing of any interest by survivorship does not fall within this subsection.

172 Funeral expenses.

In determining the value of a person's estate immediately before his death, allowance shall be made for reasonable funeral expenses.

173 Expenses incurred abroad.

In determining the value of a person's estate immediately before his death, an allowance against the value of property situated outside the United Kingdom shall be made for any expense incurred in administering or realising the property which is shown to be attributable to the situation of the property, but the allowance shall not exceed 5 per cent of the value of the property.

174 Income tax and unpaid [F476inheritance tax.]

(1) In determining the value of a person's estate immediately before his death, allowance shall be made for—

(a) any liability for income tax in respect of an offshore income gain, within the meaning of [F477regulations [F478under section 354(1) of the Taxation (International and Other Provisions) Act 2010], arising on a disposal which

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is deemed, under such regulations (see regulation 34 of the Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001)), to occur on the death**]**; and

(b) any liability to income tax arising under **[**[F479]**[**[F480]Chapter 8 of Part 4 of the Income Tax (Trading and Other Income) Act 2005 (deeply discounted securities)**]** on a transfer which is treated as taking place by virtue of **[**[F481]section 437(2) of that Act**].]**

(2) Where in determining the value of a person's estate immediately before his death a liability for **[**[F476]inheritance tax**]** is taken into account, then, if that tax or any part of it is not in the event paid out of the estate, the value of the estate immediately before his death shall be treated as increased by an amount equal to that tax or so much of it as is not so paid.

Textual Amendments

F476 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F477 Words in s. 174(1)(a) substituted (1.12.2009 with effect as mentioned in reg. 1(2) of the amending S.I.) by The Offshore Funds (Tax) Regulations 2009 (S.I. 2009/3001), **reg. 125** (with Sch. 1)

F478 Words in s. 174(1)(a) substituted (1.4.2010 with effect as mentioned in s. 381(1) of the amending Act) by Taxation (International and Other Provisions) Act 2010 (c. 8), s. 374, **Sch. 8 para. 162** (with Sch. 9 paras. 1-9, 22)

F479 Words in s. 174(1)(b) substituted (29.4.1996 with effect as mentioned in s. 105, Sch. 14 para. 2(2) of the amending Act) by 1996 c. 8, s. 104, **Sch. 14 para. 2(1)**

F480 Words in s. 174(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 396(a)** (with Sch. 2)

F481 Words in s. 174(1)(b) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, **Sch. 1 para. 396(b)** (with Sch. 2)

175 Liability to make future payments, etc.

Where in determining the value of a person's estate immediately before his death a liability to make payments or transfer assets under such a disposition as is mentioned in section 262 below is taken into account, the liability shall be computed as if the amount or value of the payments or assets were reduced by the chargeable portion (as defined in that section).

176 Related property etc.—sales.

(1) This section has effect where, within three years after the death of any person, there is a qualifying sale of any property ("the property concerned") comprised in his estate immediately before his death and valued for the purposes of this Act—

(a) in accordance with section 161 above, or

(b) in conjunction with property which was also comprised in the estate but has not at any time since the death been vested in the vendors.

(2) If a claim is made for relief under this section the value of the property concerned immediately before the death shall be taken to be what it would have been if it had not been determined as mentioned in subsection (1) above.

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(3) For the purposes of subsection (1) above a sale is a qualifying sale if—

(a) the vendors are the persons in whom the property concerned vested immediately after the death or the deceased's personal representatives; and

(b) it is at arm's length for a price freely negotiated at the time of the sale and is not made in conjunction with a sale of any of the related property taken into account as mentioned in subsection (1)(a) above or any of the property mentioned in subsection (1)(b) above; and

(c) no person concerned as vendor (or as having an interest in the proceeds of sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase); and

(d) neither the vendors nor any other person having an interest in the proceeds of sale obtain in connection with the sale a right to acquire the property sold or any interest in or created out of it.

(4) Subsection (2) above shall not apply unless the price obtained on the sale, with any adjustment needed to take account of any difference in circumstances at the date of the sale and at the date of the death, is less than the value which, apart from this section and apart from Chapter IV of this Part of this Act, would be the value of the property concerned determined as mentioned in subsection (1) above.

(5) Where the property concerned consists of shares in or securities of a close company, subsection (2) above shall not apply if at any time between the death and the qualifying sale the value of the shares or securities is reduced by more than 5 per cent as a result of an alteration in the company's share or loan capital or in any rights attaching to shares in or securities of the company; and for the purposes of this subsection—

"alteration" includes extinguishment, and

"close company" has the same meaning as in Part IV of this Act.

177 Scottish agricultural leases.

(1) Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant in an unexpired portion of a lease for a fixed term of agricultural property in Scotland then, subject to subsection (3) below, there shall be left out of account in determining that value any value associated with any prospect of renewal of the lease by tacit relocation.

(2) Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant of agricultural property in Scotland, being an interest which is—

(a) held by virtue of tacit relocation, and

(b) acquired on the death by a new tenant,

then, subject to subsection (3) below, the value of the interest shall be left out of account in determining the value of that estate.

(3) Subsections (1) and (2) above shall not apply unless the deceased had been tenant of the property in question continuously for a period of at least two years immediately preceding his death or had become tenant by succession.

(4) The value to be left out of account by virtue of subsection (2) above shall not include the value of any rights to compensation in respect of tenant's improvements.

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CHAPTER III

SALE OF SHARES ETC. FROM DECEASED'S ESTATE

178 Preliminary.

(1) In this Chapter—

"the appropriate person", in relation to any qualifying investments comprised in a person's estate immediately before his death, means the person liable for **[**[F482]inheritance tax**]** attributable to the value of those investments or, if there is more than one such person, and one of them is in fact paying the tax, that person;

"the loss on sale" means the amount determined in accordance with section 179(1) below;

"qualifying investments" means (subject to subsection (2) below) shares or securities which **[**[F483]are quoted at the date of the death in question**]** holdings in a unit trust which at that date is an authorised unit trust **[**[F484], shares in an open-ended investment company**]**[F485]. . . and shares in any common investment fund established under **[**[F486]section 42 of the Administration of Justice Act 1982**]**;

"relevant proportion", in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under section 180 below;

"sale value", in relation to any qualifying investments, means their value for the purposes of section 179(1)(b) below;

"value on death", in relation to any qualifying investments, means their value for the purposes of section 179(1)(a) below.

(2) Shares or securities which are comprised in a person's estate immediately before his death and in respect of which **[**[F487]listing**]**on a recognised stock exchange **[**[F488]or dealing on the Unlisted Securities Market**]** is suspended at that time shall be qualifying investments for the purposes of this Chapter if they are again **[**[F489]so listed or dealt in**]** . . . [F490] when they are sold as mentioned in section 179(1) below or exchanged as mentioned in section 184 below.

(3) Any reference in this Chapter to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under section 179(1) below in determining the loss on sale.

(4) For the purposes of this Chapter—

(a) the personal representatives of the deceased, and

(b) the trustees of a settlement,

shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).

(5) In any case where, for the purposes of this Chapter, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall be taken of expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.

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Textual Amendments

F482 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F483 Finance Act 1987 Sch. 8, para. 13(1),*with effect from* 17*March* 1987.*Originally* "at the date of the death in question are quoted on a recognised stock exchange".

F484 Words in s. 178(1) inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(4)(a)**

F485 Words in s. 178(1) repealed (with effect as stated in the note to Sch. 43 Pt. 4(1) of the amending Act) by Finance Act 2003 (c. 14), s. 216, **Sch. 43 Pt. 4(1)**

F486 Words in s. 178(1) substituted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(4)(b)**

F487 Words in s. 178(2) substituted (29.4.1996 with effect in relation to investments sold or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, **Sch. 38 para. 4(1)(a)(3)**

F488 Finance Act 1987 Sch. 8, para. 13(2)(a),*with effect from* 17*March* 1987.

F489 Words in s. 178(2) substituted (29.4.1996 with effect in relation to investments sold or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, **Sch. 38 para. 4(1)(b)(3)**

F490 *Repealed by* FInance Act 1987 s. 58(2), Sch. 8, para. 13(2)(b)*and* Sch. 16, Part IX,*with effect from* 17*March* 1987.

179 The relief.

(1) On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this Chapter the amount (if any) by which—

(a) the aggregate of the values which, apart from this Chapter, would be the values for the purposes of tax of all the qualifying investments comprised in a person's estate immediately before his death which are sold by the appropriate person within the period of twelve months immediately following the date of the death exceeds

(b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale.

(2) Subject to the following provisions of this Chapter, in determining the tax chargeable on the death in question, the value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.

[[F491](2A) A claim under this Chapter must be made not more than 4 years after the end of the period mentioned in subsection (1)(a).**]**

(3) A claim made by the appropriate person under this Chapter shall specify the capacity in which he makes the claim, and the reference in subsection (1) above to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

Textual Amendments

F491 S. 179(2A) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 9**; S.I. 2010/867, **art. 2(2)**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

180 Effect of purchases.

(1) If a claim is made under this Chapter and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale made as mentioned in section 179(1)(a) above, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim, the loss on sale of the investments to which the claim relates shall be treated for the purposes of section 179(2) above as reduced by the proportion which the aggregate of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in section 179(1)(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).

(2) If a claim is made under this Chapter by any person in a capacity other than that of personal representative or trustee—

(a) subsection (1) above shall have effect in his case as if for the words "in the same capacity as that in which he makes the claim" there were substituted the words "otherwise than in the capacity of personal representative or trustee", and

(b) no account shall be taken under that subsection of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.

(3) For the purposes of subsection (2) above, two investments, not being investments in an authorised unit trust or common investment fund, shall not be treated as of the same description if they are separately **[**[F492]listed**]**on a recognised stock exchange **[**[F493]or separately dealt in on the Unlisted Securities Market**]** and an investment in one authorised unit trust or common investment fund shall not be treated as of the same description as an investment in another authorised unit trust or common investment fund.

Textual Amendments

F492 Word in s. 180(3) substituted (29.4.1996 with effect in relation to any time falling on or after 1.4.1996) by 1996 c. 8, s. 199, **Sch. 38 para. 3(1)(2)**

F493 Finance 1987 Sch. 8, para. 14,*with effect from* 17*March* 1987.

181 Capital receipts.

(1) For the purposes of section 179(1)(b) above, if—

(a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments comprised in the deceased's estate immediately before his death, and

(b) those investments are sold by him within that period,

the price for which those investments were sold or, as the case may be, the best consideration referred to in section 179(1)(b) shall be taken to be increased by an amount equal to the capital payment or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this section as a capital payment attributable to those investments.

(3) In this section "capital payment", in relation to any investment, does not include the price paid on the sale of the investment but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

182 Payment of calls.

For the purposes of section 179(1)(a) above, if—

(a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person pays an amount in pursuance of a call in respect of any qualifying investments comprised in the deceased's estate immediately before his death, and

(b) those investments are sold by the appropriate person within that period,

the value on death of those investments shall be the aggregate of the amount so paid and their value as determined apart from this Chapter.

183 Changes in holdings.

(1) This section applies in any case where, within the period of twelve months immediately following the date of the death in question, there occurs in relation to any qualifying investments comprised in the deceased's estate immediately before his death (in this section referred to as "the original holding") a transaction to which **[**[F494]127 of the 1992 Act**]** applies, that is to say—

(a) a reorganisation, within the meaning of section **[**[F495]126(1)**]** of that Act; or

(b) the conversion of securities within the meaning of section **[**[F495]132**]** of that Act; or

(c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that section **[**[F495]135**]** of that Act applies; or

(d) the issue by a company of shares or debentures under such an arrangement as is referred to in section **[**[F495]136**]** of that Act;

or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which section **[**[F495]127**]** of that Act applies by virtue of section **[**[F495]99**]** of that Act.

(2) Where this section applies, the holding of investments which, as the result of the transaction, constitutes a new holding within the meaning of section **[**[F495]126(1)**]** shall be treated for the purposes of this Chapter as being the same as the original holding; and references in the following provisions of this section to the new holding shall be construed accordingly.

(3) If the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of subsection (5) below, the value on death of the new holding shall be treated as the aggregate of—

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Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the value on death of the original holding, and
(b) an amount equal to that consideration,

and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.

(4) For the purposes of subsection (3) above, there shall not be treated as consideration given for the new holding or any part of it—
(a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
(b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

(5) If, within the period referred to in subsection (1) above, the appropriate person sells any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{Vs(H—S)}{(Vs + Vr)}$$

where—

Vs is the sale value of the investments,

Vr is the market value at the time of the sale of any investments remaining in the new holding after the sale,

H is the value on death of the new holding, and

S is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

(6) For the purposes of subsection (5) above the market value of any investments at any time means the value which they would (apart from this Chapter) have for the purposes of this Act if they were comprised in the estate of a person who died at that time.

Textual Amendments

F494 S. 183: "127 of the 1992 Act" substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) for "section 78 of the Capital Gains Tax Act 1979" by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(9)** (with ss. 60, 101(1), 201(3)).

F495 Words in s. 183 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(9)** (with ss. 60, 101(1), 201(3)).

184 Exchanges.

(1) If—
(a) within the period of twelve months immediately following the date of the death in question, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments comprised in the deceased's estate immediately before his death, and

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(b) the market value of those investments is at the date of the exchange greater than their value on death,

then, regardless of the nature of the property taken in exchange, they shall be treated for the purposes of this Chapter as having been sold at the date of the exchange for a price equal to that market value.

(2) This section shall not apply in any case where the exchange falls within section 183(1) above; and section 183(6) shall apply for the purposes of subsection (1) above as it applies for the purposes of section 183(5).

185 Acquisition of like investments.

(1) If, at any time within the period of twelve months immediately following the date of the death in question, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—

(a) investments comprised in the deceased's estate immediately before his death, and

(b) investments acquired by the appropriate person, by purchase or otherwise, after the death but not in the circumstances in which section 183 above applies,

the investments so sold shall be apportioned for the purposes of this Chapter between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.

(2) For the purposes of this section, if the appropriate person holds investments of any description in the capacity of personal representative or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.

(3) Section 180(3) above shall have effect for the purposes of this section as it has effect for the purposes of section 180(2).

186 Value of part of a fund.

(1) In any case where—

(a) part only of a holding of qualifying investments is comprised in a person's estate, and

(b) investments included in that holding are sold by the appropriate person within the period of twelve months immediately following the date of the death,

this Chapter shall apply as if the entirety of the holding were comprised in the estate and, if a claim is made in respect of the investments referred to in paragraph (b) above, the taxable fraction of the value of the investments to which the claim relates, as determined under this Chapter, shall be the value of that part of those investments which is comprised in the estate.

(2) In subsection (1) above, "taxable fraction" means the fraction of which the numerator is the value, as determined apart from this Chapter, of the part of the holding referred to in paragraph (a) of that subsection and the denominator is the value, as so determined, of the entirety of that holding.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F496]186A Cancelled investments.

(1) Where any qualifying investments comprised in a person's estate immediately before his death are—

(a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and

(b) held, immediately before cancellation, by the appropriate person,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.

(2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end.**]**

Textual Amendments

F496 Ss. 186A, 186B inserted (27.7.1993: the inserting section having effect in relation to deaths occuring on or after 16.3.1992) by 1993 c. 34, **s. 198(1)(2)**.

186B [F497]Suspended investments.

(1) This section applies to any qualifying investments comprised in a person's estate immediately before his death in respect of which **[**[F498]listing**]** on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death ("the relevant period").

(2) Where—

(a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and

(b) the value on death of those investments exceeds their value at the end of that period,

they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.

(3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from "or" to the end.

Textual Amendments

F497 Ss. 186A, 186B inserted (27.7.1993: the inserting section having effect in relation to deaths occuring on or after 16.3.1992) by 1993 c. 34, **s. 198(1)(2)**.

F498 Word in s. 186B(1) substituted (29.4.1996 with effect in relation to investments sold, or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, **Sch. 38 para. 4(2)(3)**

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

187 Attribution of values to specific investments.

(1) This section shall have effect in determining the value for the purposes of this Act (and, accordingly, the market value for the purposes of capital gains tax under section **[**[F499]274 of the 1992 Act**]**) of any investment (in this section referred to as a "specific investment") which is included among the investments to which a claim relates.

(2) Subject to the following provisions of this section, the value of a specific investment shall be its sale value.

(3) Subject to the following provisions of this section, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by section 180 above—

(a) if the value on death of a specific investment exceeds its sale price, the value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death; and

(b) if the sale price of a specific investment exceeds its value on death, the value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.

(4) For the purposes of subsections (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in section 182 above, shall be reduced by the amount so paid in respect of that investment.

(5) In a case where, by virtue of subsection (3) of section 183 above, the value on death of the new holding, within the meaning of that section, includes an amount equal to the consideration referred to in that subsection, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of subsections (2) and (3) above, by an amount which bears to that consideration the like proportion as the value on death of the specific investment sold bears to the value on death of the whole of the new holding.

(6) In subsection (3) above "sale price", in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale; and section 181 above shall apply for the purposes of this subsection as it applies for the purposes of section 179(1)(b).

Textual Amendments

F499 Words in s. 187 substituted (6.3.1992 with effects as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(10)** (with ss. 60, 101(1), 201(3)).

188 Limitation of loss on sale.

In any case where, apart from this section, the loss on sale of any investments—

(a) in respect of which an amount has been paid in pursuance of a call as mentioned in section 182 above, or

(b) which are sold as mentioned in section 183(5) above,

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would exceed their value as determined apart from this Chapter, their sale value shall be treated for the purposes of sections 179(2) and 187 above as being of such an amount that the loss on sale would be equal to their value as so determined.

189 Date of sale or purchase.

(1) Subject to subsection (2) below, for the purposes of this Chapter where any investments are sold or purchased by the appropriate person the date on which they are sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase them.

(2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of this Chapter, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.

CHAPTER IV

SALE OF LAND FROM DECEASED'S ESTATE

190 Preliminary.

(1) In this Chapter—

"the appropriate person", in relation to any interest in land comprised in a person's estate immediately before his death, means the person liable for **[**[F500]inheritance tax**]** attributable to the value of that interest or, if there is more than one such person and one of them is in fact paying the tax, that person;

"interest in land" does not include any estate, interest or right by way of mortgage or other security;

"sale price", in relation to any interest in land, means the price for which it is sold or, if greater, the best consideration that could reasonably have been obtained for it at the time of the sale;

"sale value", in relation to any interest in land, means its sale price as increased or reduced under the following provisions of this Chapter;

"value on death", in relation to any interest in land comprised in a person's estate immediately before his death, means the value which, apart from this Chapter, (and apart from section 176 above) would be its value as part of that estate for the purposes of this Act.

(2) Any reference in this Chapter to the interests to which a claim relates is a reference to the interests to which section 191(1) below applies by virtue of the claim.

(3) For the purposes of this Chapter—

(a) the personal representatives of the deceased, and

(b) the trustees of a settlement,

shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).

(4) In any case where, for the purposes of this Chapter, it is necessary to determine the price at which any interest was purchased or sold or the best consideration that could reasonably have been obtained on the sale of any interest, no account shall be taken

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of expenses (whether by way of commission, stamp duty **[**[F501]or stamp duty land tax**]** or otherwise) which are incidental to the sale or purchase.

Textual Amendments

F500 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

F501 Words in s. 190(4) inserted (10.7.2003) by Finance Act 2003 (c. 14), s. 123, **Sch. 18 para. 2**

191 The relief.

(1) Where—

(a) an interest in land is comprised in a person's estate immediately before his death and is sold by the appropriate person within the period of three years immediately following the date of the death, and

(b) the appropriate person makes a claim under this Chapter stating the capacity in which he makes it,

the value for the purposes of this Act of that interest and of any other interest in land comprised in that estate and sold within that period by the person making the claim acting in the same capacity shall, subject to the following provisions of this Chapter, be its sale value.

[[F502](1A) A claim under this Chapter must be made not more than 4 years after the end of the period mentioned in subsection (1)(a).**]**

(2) Subsection (1) above shall not apply to an interest if its sale value would differ from its value on death by less than the lower of—

(a) £1,000, and

(b) 5 per cent of its value on death.

(3) Subsection (1) above shall not apply to an interest if its sale is—

(a) a sale by a personal representative or trustee to—

(i) a person who, at any time between the death and the sale, has been beneficially entitled to, or to an interest in possession in, property comprising the interest sold, or

(ii) the spouse **[**[F503]or civil partner**]** or a child or remoter descendant of a person within sub-paragraph (i) above, or

(iii) trustees of a settlement under which a person within sub-paragraph (i) or (ii) above has an interest in possession in property comprising the interest sold; or

(b) a sale in connection with which the vendor or any person within sub-paragraph (i), (ii) or (iii) of paragraph (a) above obtains a right to acquire the interest sold or any other interest in the same land;

and for the purposes of this subsection a person shall be treated as having in the property comprised in an unadministered estate (within the meaning of section 91(2) above) the same interest as he would have if the administration of the estate had been completed.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F502 S. 191(1A) inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 10**; S.I. 2010/867, **art. 2(2)**

F503 Words in s. 191(3)(a)(ii) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **35**

192 Effect of purchases.

(1) This section applies where a claim is made under this Chapter and, at any time during the period beginning on the date of the death and ending four months after the last of the sales referred to in section 191(1) above, the person making the claim purchases any interests in land in the same capacity as that in which he makes the claim.

(2) If the aggregate of the purchase prices of all the interests purchased as mentioned in subsection (1) above equals or exceeds the aggregate of the sale prices (as adjusted under sections 193 to 195 below) of all the interests to which the claim relates, this Chapter shall not apply in relation to the claim; but otherwise subsection (3) below shall have effect, and in that subsection "the appropriate fraction" means the fraction of which—

(a) the numerator is the aggregate of the said purchase prices, and

(b) the denominator is the aggregate of the said sale prices.

(3) Subject to subsection (4) below, where this subsection has effect an addition shall be made to the sale price of every interest to which the claim relates; and the amount of the addition shall be equal to the appropriate fraction of the difference between the value on death of the interest and its sale price (as adjusted under sections 193 to 196 below).

(4) Where the value on death of an interest is less than its sale price (as adjusted under sections 193 to 196 below) subsection (3) above shall apply as if it provided for a reduction instead of an increase in the sale price.

193 Changes between death and sale.

(1) Where the conditions mentioned in subsection (2) below are not satisfied in relation to any interest to which the claim relates then, subject to subsections (3) and (4) below, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the difference between—

(a) the value on death of the interest, and

(b) what that value would have been if the circumstances prevailing at the date of the sale and by reason of which the conditions are not satisfied had prevailed immediately before the death.

(2) The conditions referred to in subsection (1) above are—

(a) that the interest was the same in all respects and with the same incidents at the date of the death and at the date of the sale; and

(b) that the land in which the interest subsists was in the same state and with the same incidents at the date of the death and at the date of the sale.

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(3) If after the date of the death but before the date of the sale compensation becomes payable under any enactment to the appropriate person or any other person liable for tax attributable to the value of the interest—

(a) because of the imposition of a restriction on the use or development of the land in which the interest subsists, or

(b) because the value of the interest is reduced for any other reason,

the imposition of the restriction or the other cause of the reduction in value shall be ignored for the purposes of subsections (1) and (2) above, but there shall be added to the sale price of the interest an amount equal to the amount of compensation.

(4) Where the value on death of an interest is less than it would have been as mentioned in subsection (1) above, that subsection shall apply as if, instead of providing for an addition to be made to the sale price, it provided for that price to be reduced to what it would have been if the change in circumstances by reason of which the conditions mentioned in subsection (2) above are not satisfied had not occurred.

194 Leases.

(1) Where the claim relates to an interest which is the interest of a lessee under a lease the duration of which at the date of the death does not exceed fifty years, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the appropriate fraction of the value on death of the interest.

(2) In subsection (1) above, "the appropriate fraction" means the fraction—

$$\frac{P(1) - P(2)}{P(1)}$$

where—

P(1) is the percentage that would be derived from the Table in paragraph 1 of Schedule **[**[F504]8 to the 1992 Act**]** for the duration of the lease at the date of the death, and

P(2) is the percentage that would be so derived for the duration of the lease at the date of the sale.

Textual Amendments

F504 Words in s. 194 substituted (6.3.1992 with effects as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(11)** (with ss. 60, 101(1), 201(3)).

195 Valuation by reference to other interests.

If in determining the value on death of any interest to which the claim relates, any other interests, whether in the same or other land, were taken into account, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the difference between the value on death of the interest and the value which would have been the value on death if no other interests had been taken into account.

Status: *Point in time view as at 01/04/2011.*
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196 Sales to beneficiaries etc. and exchanges.

(1) This section applies where a person who makes a claim under this Chapter, acting in the same capacity as that in which he makes the claim—

(a) sells an interest to which section 191(1) would apply but for section 191(3), or

(b) within the period of three years immediately following the date of the death exchanges (with or without any payment by way of equality of exchange) any interest in land which was comprised in the deceased's estate immediately before his death.

and the sale price of the interest, or in the case of an exchange its market value at the date of the exchange, exceeds its value on death.

(2) Where this section applies, an addition shall be made to the sale price of any interest to which the claim relates; and the amount of the addition—

(a) if the claim relates to one interest only, shall be equal to the excess referred to in subsection (1) above, and

(b) if the claim relates to more than one interest, shall be equal to the appropriate fraction of that excess.

(3) In subsection (2) above "the appropriate fraction" in relation to any interest to which the claim relates is the fraction of which—

(a) the numerator is the difference between the value on death of that interest and its sale price (as adjusted under sections 193 to 195 above) and

(b) the denominator is the aggregate of that difference and the corresponding differences for all the other interests to which the claim relates;

and the aggregate referred to in paragraph (b) above shall be calculated without regard to which is the greater, in the case of any particular interest, of its value on death and its sale price.

197 Compulsory acquisition more than three years after death.

(1) If after the end of the period of three years immediately following the date of the death an interest in land is acquired from the appropriate person in pursuance of a notice to treat served before the death or within that period by an authority possessing powers of compulsory acquisition, this Chapter shall apply in relation to the interest as it applies in relation to interests sold within that period.

(2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.

(3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

[F505 197A Sales in fourth year after death.

(1) Where an interest in land—

(a) is comprised in a person's estate immediately before his death, and

(b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,

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the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.

(2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.

(3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

(4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect.**]**

Textual Amendments

F505 S. 197A inserted (27.7.1993: the inserting section having effect in relation to deaths occuring on or after 16.3.1990) by 1993 c. 34, **s. 199(1)(2)**.

198 Date of sale or purchase.

(1) Subject to the following subsections, the date on which an interest in land is sold or purchased by the appropriate person shall for the purposes of this Chapter be taken to be the date on which he enters into a contract to sell or purchase it.

(2) If the sale or purchase of any interest by the appropriate person results from the exercise (whether by him or by any other person) of an opinion granted not more than six months earlier, the date on which the interest is sold or purchased shall be taken to be the date on which the option was granted.

(3) If an interest is acquired from the appropriate person in pursuance of a notice to treat served by an authority possessing powers of compulsory acquisition, the date on which the interest is sold shall, subject to subsection (4) below, be taken to be the date on which compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose) or, if earlier, the date when the authority enter on the land in pursuance of their powers.

(4) If an interest in land is acquired from the appropriate person—

(a) in England, Scotland or Wales by virtue of a general vesting declaration within the meaning of the [M59]Compulsory Purchase (Vesting Declarations) Act 1981 or, in Scotland, Schedule 24 to the [M60]Town and Country Planning (Scotland) Act 1972, or

(b) in Northern Ireland, by way of a vesting order,

the date on which it is sold by the appropriate person shall be taken to be the last day of the period specified in the declaration or, in Northern Ireland, the date on which the vesting order becomes operative.

Marginal Citations

M59 1981 c. 66.

M60 1972 c. 52.

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Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART VII

LIABILITY

General rules

199 Dispositions by transferor.

(1) The persons liable for the tax on the value transferred by a chargeable transfer made by a disposition (including any omission treated as a disposition under section 3(3) above) of the transferor are—

(a) the transferor;

(b) any person the value of whose estate is increased by the transfer;

(c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the transfer, or who at any such time is beneficially entitled to an interest in possession in the property;

(d) where by the chargeable transfer any property becomes comprised in a settlement, any person for whose benefit any of the property or income from it is applied.

[[F506](2) Subsection (1)(a) above shall apply in relation to—

(a) the tax on the value transferred by a potentially exempt transfer; and

(b) so much of the tax on the value transferred by any other chargeable transfer made within seven years of the transferor's death as exceeds what it would have been had the transferor died more than seven years after the transfer,

with the substitution for the reference to the transferor of a reference to his personal representatives.**]**

(3) A purchaser of property, and a person deriving title from or under such a purchaser, shall not by virtue of subsection (1)(c) above be liable for tax attributable to the value of the property unless the property is subject to an Inland Revenue charge.

(4) For the purposes of this section—

(a) any person who takes possession of or intermeddles with, or otherwise acts in relation to, property so as to become liable as executor or trustee (or, in Scotland, any person who intromits with property or has become liable as a vitious intromitter), and

(b) any person to whom the management of property is entrusted on behalf of a person not of full legal capacity,

shall be treated as a person in whom the property is vested.

(5) References in this section to any property include references to any property directly or indirectly representing it.

Textual Amendments

F506 Finance Act 1986 Sch. 19, para. 26,*with effect from* 18*March* 1986.*Originally*
"(2) Where the chargeable transfer is made within three years of the transferor's death, subsection (1)(a) above shall not apply in relation to so much of the tax as exceeds what it would have been had the transferor died more than three years after the transfer.".

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200 Transfer on death.

(1) The persons liable for the tax on the value transferred by a chargeable transfer made (under section 4 above) on the death of any person are **[**[F507](subject to subsection (1A) below)**]**—

(a) so far as the tax is attributable to the value of property which either—

(i) was not immediately before the death comprised in a settlement, or

(ii) was so comprised and consists of land in the United Kingdom which devolves upon or vests in the deceased's personal representatives,

the deceased's personal representatives;

(b) so far as the tax is attributable to the value of property which, immediately before the death, was comprised in a settlement, the trustees of the settlement;

(c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the death, or who at any such time is beneficially entitled to an interest in possession in the property;

(d) so far as the tax is attributable to the value of any property which, immediately before the death, was comprised in a settlement, any person for whose benefit any of the property or income from it is applied after the death.

[[F508](1A) The person liable for tax chargeable by virtue of section 151A or 151C above in relation to any registered pension scheme is the scheme administrator of the pension scheme.**]**

(2) A purchaser of property, and a person deriving title from or under such a purchaser, shall not by virtue of subsection (1)(c) above be liable for tax attributable to the value of the property unless the property is subject to an Inland Revenue charge.

(3) For the purposes of subsection (1) above a person entitled to part only of the income of any property shall, notwithstanding anything in section 50 above, be deemed to be entitled to an interest in the whole of the property.

(4) Subsections (4) and (5) of section 199 above shall have effect for the purposes of this section as they have effect for the purposes of that section.

Textual Amendments

F507 Words in s. 200(1) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 5(2)**

F508 S. 200(1A) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 5(3)**

201 Settled property.

(1) The persons liable for the tax on the value transferred by a chargeable transfer made under Part III of this Act are—

(a) the trustees of the settlement;

(b) any person entitled (whether beneficially or not) to an interest in possession in the settled property;

(c) any person for whose benefit any of the settled property or income from it is applied at or after the time of the transfer;

(d) where the transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom, the settlor.

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(2) Where the chargeable transfer is made within **[**[F509]seven years**]** of the transferor's death **[**[F510]but is not a potentially exempt transfer**]**, subsection (1)(d) above shall not apply in relation to so much of the tax as exceeds what it would have been had the transferor died more than **[**[F509]seven years**]** after the transfer.

(3) Subsection (1)(d) above shall not apply in relation to a settlement made before 11th December 1974 if the trustees were resident in the United Kingdom when the settlement was made, but have not been resident there at any time during the period between 10th December 1974 and the time of the transfer.

[[F511](3A) Subsection (1)(d) above shall not apply in relation to the tax chargeable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer in a case where the settlement was made before 17th March 1987 if the trustees were resident in the United Kingdom when the settlement was made, but have not been resident there at any time between 16th March 1987 and the death of the transferor.**]**

(4) Where more than one person is a settlor in relation to a settlement and the circumstances so require, subsection (1)(d) above shall have effect in relation to it as if the settled property were comprised in separate settlements.

(5) For the purposes of this section trustees of a settlement shall be regarded as not resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom.

(6) References in this section to any property include references to any property directly or indirectly representing it.

Textual Amendments

F509 Finance Act 1986 Sch. 19, para. 27,*with effect from* 18 March 1986.*Originally "three years".*

F510 Finance Act 1987 (No.2) Sch. 7, para. 3(2),*with effect from* 17 March 1987.

F511 Finance Act 1987 (No.2) Sch. 7, para. 3(3),*with effect from* 17 March 1987.

202 Close companies.

(1) The persons liable for tax chargeable by virtue of section 94(1) or section 99(2) above are—

(a) the company making the transfer of value concerned, and

(b) so far as the tax remains unpaid after it ought to have been paid, the persons to whom any amounts have been apportioned under section 94 above and any individual (whether such a person or not) the value of whose estate is increased by the company's transfer.

(2) A person to whom not more than 5 per cent of the value transferred by the company's transfer is apportioned shall not as such be liable for any of the tax; and each of the other persons to whom any part of that value has been apportioned shall be so liable only for such part of the tax as corresponds to that part of that value.

(3) A person the value of whose estate is increased by the company's transfer shall not as such be liable for a greater amount than the amount of the increase.

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(4) No person other than those liable under this section shall be liable for any tax chargeable by virtue of section 94(1) or section 99(2) above.

203 Liability of spouse [F512or civil partner].

(1) Where—

(a) a transferor is liable for any tax on the value transferred by a chargeable transfer, and

(b) by another transfer of value made by him on or after 27th March 1974 ("the spouse [F513or civil partner] transfer") any property became the property of a person ("the transferee") who at the time of both transfers was his spouse [F513or civil partner] ,

the transferee is liable for so much of the tax as does not exceed the market value of the property at the time of the spouse [F513or civil partner] transfer or, in a case where subsection (2) below applies the lower market value mentioned in paragraph (c) of that subsection.

(2) This subsection applies where—

(a) the chargeable transfer is made after the spouse [F513or civil partner] transfer; and

(b) the property ("the transferred property") which became the property of the transferee either remains the transferee's property at the date of the chargeable transfer or has before that date been sold by the transferee by a qualifying sale; and

(c) the market value of the transferred property on the relevant date (that is to say, the date of the chargeable transfer or, as the case may be, of the qualifying sale) is lower than its market value at the time of the spouse [F513or civil partner] transfer; and

(d) the transferred property is not tangible movable property.

(3) In this section "qualifying sale" has the same meaning as in section 131 above; and, subject to subsection (4) below, sections 133 to 140 above shall have effect for the purposes of this section as they have effect for the purposes of section 131.

(4) In their application by virtue of subsection (3) above, sections 133 to 140 above shall have effect as if—

(a) references to the chargeable transfer were references to the spouse [F513or civil partner] transfer,

(b) references to the transferee's spouse [F513or civil partner] were omitted, and

(c) references to section 131 above were references to this section.

Textual Amendments

F512 Words in s. 203 sidenote inserted (5.12.2005) by virtue of The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **36(b)**

F513 Words in s. 203(1)(2)(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **36(a)**

Status: *Point in time view as at 01/04/2011.*
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204 Limitation of liability.

(1) A person shall not be liable under section 200(1)(a) above for any tax as a personal representative of a deceased person, except to the extent of the following assets, namely—

(a) so far as the tax is attributable to the value of any property other than such as is mentioned in paragraph (b) below, the assets (other than property so mentioned) which he has received as personal representative or might have so received but for his own neglect or default; and

(b) so far as the tax is attributable to property which, immediately before the death, was comprised in a settlement and consists of land in the United Kingdom, so much of that property as is at any time available in his hands for the payment of the tax, or might have been so available but for his own neglect or default.

(2) A person shall not be liable for tax as trustee in relation to any property, except to the extent of—

(a) so much of the property as he has actually received or disposed of or as he has become liable to account for to the persons beneficially entitled thereto, and

(b) so much of any other property as is for the time being available in his hands as trustee for the payment of the tax or might have been so available but for his own neglect or default.

(3) A person not liable as mentioned in subsection (1) or (2) above but liable for tax as a person in whom property is vested or liable for tax as a person entitled to a beneficial interest in possession in any property shall not be liable for the tax except to the extent of that property.

(4) . . . . . [F514]

(5) A person liable for tax as a person for whose benefit any settled property, or income from any settled property, is applied, shall not be liable for the tax except to the extent of the amount of the property or income (reduced in the case of income by the amount of any income tax borne by him in respect of it, and in the case of other property in respect of which he has borne income tax by virtue of **[**[F515]Chapter 2 of Part 13 of the Income Tax Act 2007**]** by the amount of that tax).

(6) Where a person is liable for any tax—

(a) under section 199 above otherwise than as transferor **[**[F516]or personal representatives of the transferor**]**, or

(b) under section 201 above otherwise than as trustee of the settlement,

he shall be liable only if the tax remains unpaid after it ought to have been paid and, in a case where any part of the value transferred is attributable to the tax on it, shall be liable to no greater extent than he would have been had the value transferred been reduced by the tax remaining unpaid.

[[F517](7) Where the tax exceeds what it would have been had the transferor died more than seven years after the transfer, subsection (6) above shall not apply in relation to the excess.

(8) A person liable by virtue of section 199(2) above for any tax as personal representative of the transferor shall be liable only to the extent that either—

(a) in consequence of subsections (2), (3) and (5) above, no person falling within paragraphs (b) to (d) of section 199(1) above is liable for the tax, or

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(b) the tax remains unpaid twelve months after the end of the month in which the death of the transferor occurs,

and, subject to that, shall be liable only to the extent of the assets mentioned in subsection (1) above.

(9) Where by virtue of subsection (3) of section 102 of the Finance Act 1986 the estate of a deceased person is treated as including property which would not apart from that subsection form part of his estate, a person shall be liable under section 200(1)(a) above as personal representative for tax attributable to the value of that property only if the tax remains unpaid twelve months after the end of the month in which the death occurs and, subject to that, only to the extent of the assets mentioned in subsection (1) above.**]**

Textual Amendments

F514 *Repealed by* 1986 s. 101(3), Sch. 19, para. 28(1)*and* Sch. 23, Part X,*with effect from* 18*March* 1986.

F515 Words in s. 204(5) substituted (with effect as mentioned in s. 1034 of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 270** (with transitional provisions and savings in Sch. 2)

F516 Income and Corporation Act 1986 Sch. 19, para. 28(2),*with effect from* 18*March* 1986.

F517 Finance Act 1986 Sch. 19, para. 28(3),*with effect from* 18*March* 1986.*Originally*
"(7) Subsection (6) above shall not apply in relation to such an excess as is mentioned in subsection (4) above."

205 More than one person liable.

Except as otherwise provided, where under this Act two or more persons are liable for the same tax, each of them shall be liable for the whole of it.

Special cases

206 . . . . . F518

Textual Amendments

F518 *Repealed by* Finance Act 1988 s. 148*and* Sch. 14, Part X,*with effect from* 15*March* 1988.

207 Conditional exemption, etc.

(1) Where tax is chargeable under section 32 above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (2) or subsection (3)(a) of that section, the person liable for the tax is the person who, if the property were sold—

(a) in a case within subsection (2) of that section, at the time the tax becomes chargeable, and

(b) in a case within subsection (3)(a), immediately after the death,

would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.

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(2) Where tax is chargeable under section 32 above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3)(b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.

[[F519](2A) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3) or subsection (4)(a) of that section, the person liable for the tax is the person who, if the property were sold—

(a) in a case within subsection (3) of that section, at the time the tax becomes chargeable, and

(b) in a case within subsection (4)(a), immediately after the death,

would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.

(2B) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (4)(b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.**]**

(3) The persons liable for tax charged under section 79(3) above are—

(a) the trustees of the settlement concerned, and

(b) any person for whose benefit any of the property or income from it is applied at or after the time of the event occasioning the charge.

(4) The person liable for tax chargeable under paragraph 1(1) or 3(1) of Schedule 5 to this Act is the person who, if the property were sold at the time the tax becomes chargeable, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.

(5) The person liable for tax chargeable under paragraph 1(2) or 3(2) of Schedule 5 to this Act is the person by whom or for whose benefit the property is disposed of.

Textual Amendments

F519 Finance Act 1985 Sch. 26, para. 10,*in relation to events occurring after* 18*March* 1985.

208 Woodlands.

The person liable for tax chargeable under section 126 above in relation to a disposal is the person who is entitled to the proceeds of sale or would be so entitled if the dispoal were a sale.

209 Succession in Scotland.

(1) A person shall not be liable under section 200(1)(a) above for tax attributable to the value of any heritable property in Scotland which is vested in him as executor in the circumstances and for the purposes mentioned in subsection (1) or (2) of section 18 of the [M61]Succession (Scotland) Act 1964.

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(2) The persons liable for tax chargeable under section 147(4) above are the person who claims legitim **[**[F520]or rights under section 131 of the Civil Partnership Act 2004**]** and any person mentioned in section 200(1)(c) above.

(3) Section 200(1)(a) shall not apply in relation to tax chargeable under section 147(4) above, but section 204(1) shall apply in relation to the person who claims legitim **[**[F520]or rights under section 131 of the Civil Partnership Act 2004**]** as it applies in relation to the personal representatives of a deceased person.

Textual Amendments

F520 Words in s. 209(2)(3) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **37**

Marginal Citations

M61 1964 c.41.

210 Pension rights, etc.

[[F521](1)**]** Where any tax chargeable on a transfer of value is attributable to the value of an interest satisfying the conditions of paragraphs (a) and (b) of section 151(2) above, the persons liable for the tax shall not include the trustees of the scheme or fund concerned but shall, if the transfer is made on the death of the person entitled to the interest, include his personal representatives.

[[F522](2) The person liable for tax chargeable under section 151B above is the scheme administrator of the registered pension scheme.**]**

[[F523](3) The person liable for tax chargeable under section 151D is—

(a) if the tax is charged by reason of an unauthorised payment actually made by any person other than the scheme administrator of the pension scheme, that person, and

(b) otherwise, the scheme administrator of the pension scheme.**]**

Textual Amendments

F521 S. 210 renumbered as s. 210(1) (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 6**

F522 S. 210(2) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 6**

F523 S. 210(3) inserted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 11**

Burden of tax, etc.

211 Burden of tax on death.

(1) Where personal representatives are liable for tax on the value transferred by chargeable transfer made on death, the tax shall be treated as part of the general testamentary and administration expenses of the estate, but only so far as it is attributable to the value of property in the United Kingdom which—

(a) vests in the deceased's personal representatives, and

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(b) was not immediately before the death comprised in a settlement.

(2) Subsection (1) above shall have effect subject to any contrary intention shown by the deceased in his will.

(3) Where any amount of tax paid by personal representatives on the value transferred by a chargeable transfer made on death does not fall to be borne as part of the general testamentary and administration expenses of the estate, that amount shall, where occasion requires, be repaid to them by the person in whom the property to the value of which the tax is attributable is vested.

(4) References in this section to tax include references to interest on tax.

212 Powers to raise tax.

(1) Where a person is liable, otherwise than as transferor, and otherwise than under section 203 above, for tax attributable to the value of any property he shall, for the purpose of paying the tax or raising the amount of it when paid, have power, whether or not the property is vested in him, to raise the amount of the tax by sale or mortgage of, or a terminable charge on, that property or any part of it.

(2) A person having a limited interest in any property who pays the tax attributable to the value of that property shall be entitled to the like charge as if the tax so attributable had been raised by means of a mortgage to him.

(3) Any money held on the trusts of a settlement may be expended in paying the tax attributable to the value of any property comprised in the settlement and held on the same trusts.

(4) References in this section to tax include references to interest on tax and to costs properly incurred in respect of tax.

213 Refund by instalments.

Where a person has paid to the Board any tax which is or might at his option have been payable by instalments and he is entitled to recover the whole or part of it from another person, that other person shall, unless otherwise agreed between them, be entitled to refund the tax or that part by the same instalments (with the same interest thereon) as those by which it might have been paid to the Board.

214 Certificates of tax paid.

(1) On an application being made in such form as the Board may prescribe by a person who has paid or borne the tax attributable to the value of any property, being tax for which he is not ultimately liable, the Board shall grant a certificate specifying the tax paid and the debts and incumbrances allowed in valuing the property.

(2) Except to the extent of any repayment which may be or become due from the Board, a certificate under subsection (1) above shall be conclusive as between any person by whom the tax specified in the certificate falls to be borne and the person seeking to recover the tax from him; and any repayment of the tax falling to be made by the Board shall be duly made if made to the person producing the certificate.

(3) References in this section to tax include references to interest on tax.

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PART VIII

ADMINISTRATION AND COLLECTION

Management

215 General.

The tax shall be under the care and management of the Board.

Accounts and information

216 Delivery of accounts.

(1) Except as otherwise provided by this section or by regulations under section 256 below, the personal representatives of a deceased person and every person who—

(a) is liable as transferor for tax on the value transferred by a chargeable transfer, or would be so liable if tax were chargeable on that value, or

(b) is liable as trustee of a settlement for tax on the value transferred by a transfer of value, or would be so liable if tax were chargeable on that value, or

[[F524](bb) is liable under section 199(1)(b) above for tax on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, or would be so liable if tax were chargeable on that value, or

(bc) is liable under section 200(1)(c) above for tax on the value transferred by a chargeable transfer made on death, so far as the tax is attributable to the value of property which, apart from section 102(3) of the Finance Act 1986, would not form part of the deceased's estate, or would be so liable if tax were chargeable on the value transferred on the death, or**]**

[[F525](bca) is liable under section 200(1A) or 210(2) **[**[F526]or (3)**]** above for tax in respect of any amount, or would be so liable if tax were chargeable in respect of that amount, or**]**

[[F527](bd) is liable under section 201(1)(b), (c) or (d) above for tax on the value transferred by a potentially exempt transfer which is made under section 52 above and which proves to be a chargeable transfer, or would be so liable if tax were chargeable on that value, or**]**

(c) is liable as trustee of a settlement for tax on an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), or would be so liable if tax were chargeable on the occasion,

shall deliver to the Board an account specifying to the best of his knowledge and belief all appropriate property and the value of that property.

(2) 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—

(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

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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 appropriate 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.

[[F528](3) Subject to subsections (3A) and (3B) below, where an account is to be delivered by personal representatives (but not where it is to be delivered by a person who is an executor of the deceased only in respect of settled land in England and Wales), the appropriate property is—

(a) all property which formed part of the deceased's estate immediately before his death **[**[F529](or would do apart from section 151A(3)(b) or 151C(3)(b) above)**]** , other than property which would not, apart from section 102(3) of the [M62]Finance Act 1986, form part of his estate; and

(b) all property to which was attributable the value transferred by any chargeable transfers made by the deceased within seven years of his death.

(3A) If the personal representatives, after making the fullest enquiries that are reasonably practicable in the circumstances, are unable to ascertain the exact value of any particular property, their account shall in the first instance be sufficient as regards that property if it contains—

(a) a statement to that effect;

(b) a provisional estimate of the value of the property; and

(c) an undertaking to deliver a further account of it as soon as its value is ascertained.

(3B) The Board may from time to time give such general or special directions as they think fit for restricting the property to be specified in pursuance of subsection (3) above by any class of personal representatives.**]**

(4) Where subsection (3) above does not apply the appropriate property is any property to the value of which the tax is or would be attributable **[**[F530](or would be apart from section 151A(3)(b), 151C(3)(b) or 151B(4) above)**]**.

(5) Except in the case of an account to be delivered by personal representatives, a person shall not be required to deliver an account under this section with respect to any property if a full and proper account of the property, specifying its value, has already been delivered to the Board by some other person who—

(a) is or would be liable for the tax attributable to the value of the property, and

(b) is not or would not be liable with him jointly as trustee;

and a person within subsection (2) above shall not be required to deliver an account under that subsection if he or another person within that subsection has satisfied the Board that an account will in due course be delivered by the personal representatives.

(6) An account under the preceding provisions of this section shall be delivered—

(a) in the case of an account to be delivered by personal representatives, before the expiration of the period of twelve months from the end of the month in which the death occurs, or, if it expires later, the period of three months beginning with the date on which the personal representatives first act as such;

[[F531](aa) in the case of an account to be delivered by a person within subsection (1)(bb) **[**[F532]or (bd)**]** above, before the expiration of the period of twelve months from the end of the month in which the death of the transferor occurs;

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(ab) in the case of an account to be delivered by a person within subsection (1)(bc) above, before the expiration of the period of twelve months from the end of the month in which the death occurs;**]**

[[F533](ac) in the case of an account to be delivered by the scheme administrator of a registered pension scheme **[**[F534]otherwise than by reason of a liability to tax under section 210(3)**]**, before the expiration of the period of twelve months from the end of the month in which the death occurs **[**[F535], the scheme administrator becomes aware of the death**]** or the person ceases to be a relevant dependant of the member **[**[F536](depending on which occasions the charge)**]** ;**]**

(b) in the case of an account to be delivered by a person within subsection (2) 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 subsection;

(c) in the case of an account to be delivered by any other person, before the expiration of the period of twelve months from the end of the month in which the transfer is made or, if it expires later, the period of three months beginning with the date on which he first becomes liable for tax.

(7) A person liable for tax under section 32 **[**[F537]or 32A**]**, 79 **[**[F538], 126 or 151D**]** above or under Schedule 5 to this Act shall deliver an account under this section before the expiration of the period of six months from the end of the month in which the event by reason of which the tax is chargeable occurs.

Textual Amendments

F524 Finance Act 1986 Sch. 19, para. 29,*with effect from* 18*March* 1986.

F525 S. 216(1)(bca) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 7(2)**

F526 Words in s. 216(1)(bca) inserted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 12(2)**

F527 Finance Act 1987 (No.2) Sch. 7, para. 4(2),*with effect from* 17*March* 1987.

F528 S. 216(3)(3A)(3B) substituted for s. 216(3) (27.7.1999 with effect as mentioned in s. 105(2) of the amending Act) by 1999 c. 16, **s. 105**

F529 Words in s. 216(3)(a) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 7(3)**

F530 Words in s. 216(4) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 7(4)**

F531 Finance Act 1986 Sch. 19, para. 29(3),*with effect from* 18*March* 1986.

F532 Finance Act 1987 (No.2) Sch. 7, para. 4(3),*with effect from* 17*March* 1987.

F533 S. 216(6)(ac) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 7(5)**

F534 Words in s. 216(6)(ac) inserted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 12(3)**

F535 Words in s. 216(6)(ac) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 24(a)**

F536 Words in s. 216(6)(ac) inserted (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 24(b)**

F537 Finance Act 1985 Sch. 26, para. 11,*in relation to events occurring after* 18*March* 1985.

F538 Words in s. 216(7) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 12(4)**

Modifications etc. (not altering text)

C43 S. 216 excluded (1.8.2002) by S.I. 2002/1733, **reg. 4**

C44 S. 216 excluded (1.8.2002) by S.I. 2002/1731, **reg. 3**

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Marginal Citations
M62 1986 c.41.

217 Defective accounts.

If a person who has delivered an account under section 216 above discovers at any time that the account is defective in a material respect by reason of anything contained in or omitted from it he shall, within six months of that time, deliver to the Board a further account containing such information as may be necessary to remedy the defect.

218 Non-resident trustees.

(1) Where any person, in the course of a trade or profession carried on by him, other than the profession of a barrister, has been concerned with the making of a settlement and knows or has reason to believe—
  (a) that the settlor was domiciled in the United Kingdom, and
  (b) that the trustees of the settlement are not or will not be resident in the United Kingdom,

he shall, within three months of the making of the settlement, make a return to the Board stating the names and addresses of the settlor and of the trustees of the settlement.

(2) A person shall not be required to make a return under this section in relation to—
  (a) any settlement made by will, or
  (b) any other settlement, if such a return in relation to that settlement has already been made by another person or if an account has been delivered in relation to it under section 216 above.

(3) For the purposes of this section trustees of a settlement shall be regarded as not resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom.

[F539 218A Instruments varying dispositions taking effect on death

(1) Where—
  (a) an instrument is made varying any of the dispositions of the property comprised in the estate of a deceased person immediately before his death,
  (b) the instrument contains a statement under subsection (2) of section 142 above, and
  (c) the variation results in additional tax being payable,

the relevant persons (within the meaning of that subsection) shall, within six months after the day on which the instrument is made, deliver a copy of it to the Board and notify them of the amount of the additional tax.

(2) To the extent that any of the relevant persons comply with the requirements of this section, the others are discharged from the duty to comply with them.]

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Textual Amendments

F539 S. 218A inserted (24.7.2002 with application as mentioned in s. 120(4) of the amending Act) by 2002 c. 23, **s. 120(2)(4)**

219 Power to require information.

F540 . . . . . .

Textual Amendments

F540 Ss. 219, 219A, 219B omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(2)} (with art. 4)

[F541 219A Power to call for documents etc.

F542 . . . . . .]

Textual Amendments

F541 Ss. 219A, 219B inserted (27.7.1999) by 1999 c. 16, **s. 106**

F542 Ss. 219, 219A, 219B omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(2)} (with art. 4)

F543 219B Appeal against requirement to produce documents etc.

F544 . . . . . .

Textual Amendments

F543 Ss. 219A, 219B inserted (27.7.1999) by 1999 c. 16, **s. 106**

F544 Ss. 219, 219A, 219B omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(2)} (with art. 4)

220 Inspection of property.

F545 . . . . . .

Textual Amendments

F545 S. 220 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(3)}

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220A Exchange of information with other countries.

F546 . . . . . .

Textual Amendments

F546 S. 220A repealed (19.7.2006) by Finance Act 2006 (c. 25), s. 178, **Sch. 26 Pt. 8(2)**

Determinations [F547, reviews] and appeals

Textual Amendments

F547 S. 221: words in preceding cross-heading inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 114**

221 Notices of determination.

(1) Where it appears to the Board that a transfer of value has been made or where a claim under this Act is made to the Board in connection with a transfer of value, the Board may give notice in writing to any person who appears to the Board to be the transferor or the claimant or to be liable for any of the tax chargeable on the value transferred, stating that they have determined the matters specified in the notice.

(2) The matters that may be specified in a notice under this section in relation to any transfer of value are all or any of the following—

(a) the date of the transfer;

(b) the value transferred and the value of any property to which the value transferred is wholly or partly attributable;

(c) the transferor;

(d) the tax chargeable (if any) and the persons who are liable for the whole or part of it;

(e) the amount of any payment made in excess of the tax for which a person is liable and the date from which and the rate at which tax or any repayment of tax overpaid carries interest; and

(f) any other matter that appears to the Board to be relevant for the purposes of this Act.

(3) A determination for the purposes of a notice under this section of any fact relating to a transfer of value—

(a) shall, if that fact has been stated in an account or return under this Part of this Act and the Board are satisfied that the account or return is correct, be made by the Board in accordance with that account or return, but

(b) may, in any other case, be made by the Board to the best of their judgment.

(4) A notice under this section shall state the time within which and the manner in which an appeal against any determination in it may be made.

(5) Subject to any variation by agreement in writing or on appeal, a determination in a notice under this section shall be conclusive for the purposes of this Act against the person on whom the notice is served; and if the notice is served on the transferor and specifies a determination of the value transferred by the transfer of value or previous

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transfers of value, the determination, so far as relevant to the tax chargeable in respect of later transfers of value (whether or not made by the transferor) shall be conclusive also against any other person, subject however to any adjustment under section 240 or 241 below.

(6) References in this section to transfers of value or to the values transferred by them shall be construed as including references to—

(a) chargeable events by reference to which tax is chargeable under section 32 **[**[F548]or 32A**]** of this Act,

(b) occasions on which tax is chargeable under Chapter III of Part III of this Act,

(c) disposals on which tax is chargeable under section 126 of this Act,

or to the amounts on which tax is then chargeable.

Textual Amendments

F548 Finance Act 1985 Sch. 26, para. 5,*in relation to events occurring after* 18*March* 1985.

222 Appeals against determinations.

(1) A person on whom a notice under section 221 above has been served may, within thirty days of the service, appeal against any determination specified in it by notice in writing given to the Board and specifying the grounds of appeal.

[[F549](2) Sections 223D, 223G and 223H provide for notification of the appeal to the tribunal.**]**

(3) Where—

(a) it is so agreed between the appellant and the Board, or

(b) the High Court, on an application made by the appellant, is satisfied that the matters to be decided on the appeal are likely to be substantially confined to questions of law and gives leave for that purpose,

the appeal may be **[**[F550]notified**]** to the High Court.

[[F551](4) An appeal on any question as to the value of land in the United Kingdom may be **[**[F552]notified**]** to the appropriate [F553]. . . tribunal.

[The appeal may be notified under subsection (3) or (4) only if it could be notified to [F554](4ZA) the tribunal under section 223D, 223G or 223H.**]**

[[F555](4A) If and so far as the question in dispute on any appeal under this section which has been notified to the tribunal or the High Court is a question as to the value of land in the United Kingdom, the question shall be determined on a reference to the appropriate [F556]. . . tribunal.**]**

(4B) In this section the **[**[F557]appropriate tribunal**]** means—

(a) where the land is in England or Wales, the **[**[F558]Upper Tribunal**]**;

(b) where the land is in Scotland, the Lands Tribunal for Scotland;

(c) where the land is in Northern Ireland, the Lands Tribunal for Northern Ireland.**]**

(5) In the application of this section to Scotland, for references to the High Court there shall be substituted references to the Court of Session.

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Textual Amendments

F549 S. 222(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 115(2)**

F550 Word in s. 222(3) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 115(3)**

F551 S. 222(4)(4A)(4B) substituted (27.7.1993: the substituting section applying as mentioned in s. 200(3) of c. 34) for s. 222(4), by 1993 c. 34, **s. 200(1)(3)**.

F552 Word in s. 222(4) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 115(4)(a)**

F553 Word in s. 222(4) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 167(a)** (with Sch. 5)

F554 S. 222(4ZA) inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 115(5)**

F555 S. 222(4A) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 115(6)**

F556 Word in s. 222(4A) omitted (1.6.2009) by virtue of The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 167(b)** (with Sch. 5)

F557 Words in s. 222(4B) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 167(c)(i)** (with Sch. 5)

F558 Words in s. 222(4B)(a)) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), **Sch. 1 para. 167(c)(ii)** (with Sch. 5)

[F559 223 Late notice of appeal.

(1) This section applies in a case where—
  (a) notice of appeal may be given to HMRC under section 222, but
  (b) no notice is given before the relevant time limit.

(2) Notice may be given after the relevant time limit if—
  (a) HMRC agree, or
  (b) where HMRC do not agree, the tribunal gives permission.

(3) If the following conditions are met, HMRC shall agree to notice being given after the relevant time limit.

(4) Condition A is that the appellant has made a request in writing to HMRC to agree to the notice being given.

(5) Condition B is that HMRC are satisfied that there was reasonable excuse for not giving the notice before the relevant time limit.

(6) Condition C is that HMRC are satisfied that request under subsection (4) was made without unreasonable delay after the reasonable excuse ceased.

(7) If a request of the kind referred to in subsection (4) is made, HMRC must notify the appellant whether or not HMRC agree to the appellant giving notice of appeal after the relevant time limit.

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(8) In this section "relevant time limit", in relation to notice of appeal, means the time before which the notice is to be given (but for this section).**]**

Textual Amendments

F559 S. 223 substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 116**

[F560 223A Appeal: HMRC review or determination by tribunal

(1) This section applies if notice of appeal has been given to HMRC.

(2) In such a case—

(a) the appellant may notify HMRC that the appellant requires HMRC to review the matter in question (see section 223B),

(b) HMRC may notify the appellant of an offer to review the matter in question (see section 223C), or

(c) the appellant may notify the appeal to the tribunal (see section 223D).

(3) See sections 223G and 223H for provision about notifying appeals to the tribunal after a review has been required by the appellant or offered by HMRC.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223B Appellant requires review by HMRC

(1) Subsections (2) and (3) apply if the appellant notifies HMRC that the appellant requires HMRC to review the matter in question.

(2) HMRC must, within the relevant period, notify the appellant of HMRC's view of the matter in question.

(3) HMRC must review the matter in question in accordance with section 223E.

(4) The appellant may not notify HMRC that the appellant requires HMRC to review the matter in question and HMRC shall not be required to conduct a review if—

(a) the appellant has already given a notification under this section in relation to the matter in question,

(b) HMRC have given a notification under section 223C in relation to the matter in question, or

(c) the appellant has notified the appeal to the court under section 222(3), the appropriate Lands tribunal under section 222(4), or the tribunal under section 223D.

(5) In this section "relevant period" means—

(a) the period of 30 days beginning with the day on which HMRC receive the notification from the appellant, or

(b) such longer period as is reasonable.

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Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223C HMRC offer review

(1) Subsections (2) to (6) apply if HMRC notify the appellant of an offer to review the matter in question.

(2) When HMRC notify the appellant of the offer, HMRC must also notify the appellant of HMRC's view of the matter in question.

(3) If, within the acceptance period, the appellant notifies HMRC of acceptance of the offer, HMRC must review the matter in question in accordance with section 223E.

(4) If the appellant does not give HMRC such a notification within the acceptance period, HMRC's view of the matter in question shall be conclusive for the purposes of this Act.

(5) The same consequences shall follow for all purposes as would have followed if, on the date that HMRC gave notice of their view, the tribunal had determined the appeal in accordance with its terms.

(6) Subsection (4) does not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 223H.

(7) HMRC may not notify the appellant of an offer to review the matter in question (and, accordingly, HMRC shall not be required to conduct a review) if—

(a) HMRC have already given a notification under this section in relation to the matter in question,

(b) the appellant has given a notification under section 223B in relation to the matter in question, or

(c) the appellant has notified the appeal to the court under section 222(3), the appropriate Lands tribunal under section 222(4) or the tribunal under section 223D.

(8) In this section "acceptance period" means the period of 30 days beginning with the date of the document by which HMRC notify the appellant of the offer to review the matter in question.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223D Notifying appeal to the tribunal

(1) This section applies if notice of appeal has been given to HMRC.

(2) The appellant may notify the appeal to the tribunal.

(3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question.

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(4) Subsections (2) and (3) do not apply in a case where—
  (a) HMRC have given a notification of their view of the matter in question under section 223B, or
  (b) HMRC have given a notification under section 223C in relation to the matter in question.

(5) In a case falling within subsection (4)(a) or (b), the appellant may notify the appeal to the tribunal, but only if permitted to do so by section 223G or 223H.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223E Nature of review etc

(1) This section applies if HMRC are required by section 223B or 223C to review the matter in question.

(2) The nature and extent of the review are to be such as appear appropriate to HMRC in the circumstances.

(3) For the purpose of subsection (2), HMRC must, in particular, have regard to steps taken before the beginning of the review—
  (a) by HMRC in deciding the matter in question, and
  (b) by any person in seeking to resolve disagreement about the matter in question.

(4) The review must take account of any representations made by the appellant at a stage which gives HMRC a reasonable opportunity to consider them.

(5) The review may conclude that HMRC's view of the matter in question is to be—
  (a) upheld,
  (b) varied, or
  (c) cancelled.

(6) HMRC must notify the appellant of the conclusions of the review and their reasoning within—
  (a) the period of 45 days beginning with the relevant day, or
  (b) such other period as may be agreed.

(7) In subsection (6) "relevant day" means—
  (a) in a case where the appellant required the review, the day when HMRC notified the appellant of HMRC's view of the matter in question,
  (b) in a case where HMRC offered the review, the day when HMRC received notification of the appellant's acceptance of the offer.

(8) Where HMRC are required to undertake a review but do not give notice of the conclusions within the time period specified in subsection (6), the review is to be treated as having concluded that HMRC's view of the matter in question (see sections 223B(2) and 223C(2)) is upheld.

Status: *Point in time view as at 01/04/2011.*
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(9) If subsection (8) applies, HMRC must notify the appellant of the conclusion which the review is treated as having reached.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223F Effect of conclusions of review

(1) This section applies if HMRC give notice of the conclusions of a review (see section 223E(6) and (9)).

(2) The conclusions of the review shall be conclusive for the purposes of this Act.

(3) Subsections (2) and (3) do not apply to the matter in question if, or to the extent that, the appellant notifies the appeal to the tribunal under section 223G.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223G Notifying appeal to tribunal after review concluded

(1) This section applies if—

(a) HMRC have given notice of the conclusions of a review in accordance with section 223E, or

(b) the period specified in section 223E(6) has ended and HMRC have not given notice of the conclusions of the review.

(2) The appellant may notify the appeal to the tribunal within the post-review period.

(3) If the post-review period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).

(6) In this section "post-review period" means—

(a) in a case falling within subsection (1)(a), the period of 30 days beginning with the date of the document in which HMRC give notice of the conclusions of the review in accordance with section 223E(6), or

(b) in a case falling within subsection (1)(b), the period that—

(i) begins with the day following the last day of the period specified in section 223E(6), and

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(ii) ends 30 days after the date of the document in which HMRC give notice of the conclusion of the review in accordance with section 223E(9).

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223H Notifying appeal to tribunal after review offered but not accepted

(1) This section applies if—
- (a) HMRC have offered to review the matter in question (see section 223C), and
- (b) the appellant has not accepted the offer.

(2) The appellant may notify the appeal to the tribunal within the acceptance period.

(3) But if the acceptance period has ended, the appellant may notify the appeal to the tribunal only if the tribunal gives permission.

(4) If the appellant notifies the appeal to the tribunal, the tribunal is to determine the matter in question.

(5) The appellant may not notify the appeal to the tribunal under this section if the appeal has been notified to the court under section 222(3) or the appropriate Lands tribunal under section 222(4).

(6) In this section "acceptance period" has the same meaning as in section 223C.

Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

223I Interpretation of sections 223A to 223I

(1) In sections 223A to 223H—
- (a) "matter in question" means the matter to which an appeal relates;
- (b) a reference to a notification is a reference to a notification in writing.

(2) In sections 223A to 223H, a reference to the appellant includes a person acting on behalf of the appellant except in relation to—
- (a) notification of HMRC's view under section 223B(2);
- (b) notification by HMRC of an offer of review (and of their view of the matter) under section 223C;
- (c) notification of the conclusions of a review under section 223E(6); and
- (d) notification of the conclusions of a review under section 223E(9).

(3) But if a notification falling within any of the paragraphs of subsection (2) is given to the appellant, a copy of the notification may also be given to a person acting on behalf of the appellant.**]**

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Textual Amendments

F560 Ss. 223A-223I inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 117**

[F561 224 Determination of appeal by tribunal.

If an appeal is notified to the tribunal, the tribunal must confirm the determination appealed against (or that determination as varied on a review under section 223E) unless the tribunal is satisfied that it ought to be varied (or further varied) or quashed.]

Textual Amendments

F561 S. 224 substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 118**

[F562 225 Appeals from Special Commissioners.

F563 . . . . . .]

Textual Amendments

F562 S. 225 and sidenote substituted (1.9.1994) by S.I. 1994/1813, reg. 2(1), **Sch. 1 para. 21**

F563 S. 225 omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 119**

[225A F564 Extension of regulation-making powers.

F565 . . . . . .]

Textual Amendments

F564 S. 225A inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 76, **Sch. 16 para. 8**.

F565 S. 225A omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 119**

Payment

226 Payment: general rules.

(1) Except as otherwise provided by the following provisions of this Part of this Act, the tax on the value transferred by a chargeable transfer shall be due six months after the end of the month in which the chargeable transfer is made or, in the case of a transfer made after 5th April and before 1st October in any year otherwise than on death, at the end of April in the next year.

(2) Personal representatives shall, on delivery of their account, pay all the tax for which they are liable and may, on delivery of that account, also pay any part of the tax

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chargeable on the death for which they are not liable, if the persons liable for it request them to make the payment.

(3) So much of the tax chargeable on the value transferred by a chargeable transfer made within **[**[F566]seven years**]** . . . [F567] of the death of the transferor as—

(a) exceeds what it would have been had the transferor died more than **[**[F566]seven years**]** after the transfer . . . [F567]

(b) . . . . . [F567]

shall be due six months after the end of the month in which the death occurs.

[[F568](3A) Without prejudice to subsection (3) above, the tax chargeable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer shall be due six months after the end of the month in which the transferor's death occurs.

(3B) So much (if any) of the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor's death as exceeds what it would have been had the settlor died more than seven years after the date of the transfer shall be due six months after the end of the month in which the death occurs.**]**

(4) Tax chargeable under section 32, **[**[F569]32A**]**, 79 **[**[F570], 126 **[**[F571], 151B or 151D**]]** above or under Schedule 5 to this Act **[**[F572], or under section 151A above by virtue of subsection (6) of that section,**]** shall be due six months after the end of the month in which the event by reason of which it is chargeable occurs.

(5) The Board may in the first instance, and without prejudice to the recovery of the remainder of the tax, accept or demand payment of an amount by reference to the value stated in an account delivered to the Board under section 216 or 217 above.

(6) Nothing in this section shall be taken to authorise the recovery from, or require the payment by, any person of tax in excess of his liability as limited by section 204 above.

Textual Amendments

F566 Finance Act 1986 Sch. 19, para. 30(1),*with effect from* 18*March* 1986.*Originally* "three years".

F567 *Repealed by* 1988 s. 148*and* Sch. 14, Part X,*with effect from* 15*March* 1988.

F568 Finance Act 1986 Sch. 19, para. 30(2),*with effect from* 18*March* 1986.

F569 Finance Act 1985 Sch. 26, para. 11,*in relation to events occurring after* 18*March* 1985.

F570 Words in s. 226(4) substituted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 8**

F571 Words in s. 226(4) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 13**

F572 Words in s. 226(4) inserted (with effect as stated in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 25**

227 Payment by instalments—land, shares and businesses.

(1) Where any of the tax payable on the value transferred by a chargeable transfer is attributable to the value of qualifying property and—

(a) the transfer is made on death, or

(b) the tax so attributable is borne by the person benefiting from the transfer, or

(c) the transfer is made under Part III of this Act and the property concerned continues to be comprised in the settlement,

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the tax so attributable may, if the person paying it by notice in writing to the Board so elects, be paid by ten equal yearly instalments.

[[F573](1A) Subsection (1) above does not apply to—

(a) tax payable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, or

(b) additional tax becoming payable on the value transferred by any chargeable transfer by reason of the transferor's death within seven years of the transfer,

except to the extent that the tax is attributable to the value of property which satisfies one of the conditions specified in subsection (1C) below and, in the case of property consisting of unquoted shares or unquoted securities, the further condition specified in section 228(3A) below.**]**

[[F574](1AA) In subsection (1A) above "unquoted", in relation to any shares or securities, means not **[**[F575]listed**]]** on a recognised stock exchange.

[[F576](1B) In **[**[F577]this section**]**"the transferee" means the person whose property the qualifying property became on the transfer or, where on the transfer the qualifying property became comprised in a settlement in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.**]**

[[F578](1C) The conditions referred to in subsection (1A) above are—

(a) that the property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor (or, if earlier, the death of the transferee), or

(b) that for the purposes of determining the tax, or additional tax, due by reason of the death of the transferor, the value of the property is reduced in accordance with the provisions of Chapter I or Chapter II or Part V of this Act by virtue of section 113B or section 124B above.**]**

(2) In this section "qualifying property" means—

(a) land of any description, wherever situated;

(b) shares or securities to which section 228 below applies;

(c) a business or an interest in a business.

(3) The first of the instalments referred to in subsection (1) above shall be payable—

(a) if the chargeable transfer was made on death, six months after the end of the month in which the death occurred, and

(b) in any other case, at the time when the tax would be due if it were not payable by instalments;

and interest under section 233 below on the unpaid portion of the tax shall be added to each instalment and paid accordingly, except as otherwise provided in section 234 below.

(4) Notwithstanding the making of an election under this section, the tax for the time being unpaid, with interest to the time of payment, may be paid at any time; and if at any time (whether before or after the date when the first instalment is payable) the whole or any part of the property concerned is sold, the tax unpaid (or, in the case of a sale of part, the proportionate part of that tax) shall become payable forthwith (or, if the sale precedes the date when the first instalment is payable, on that date) together with any interest accrued under section 233 below.

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(5) References in subsection (4) above to the sale of property shall have effect—

(a) in a case within subsection (1)(b) above **[**[F579]other than a case within subsection (1A) above where the transferee dies before the transferor**]**, as if they included references to any chargeable transfer in which the value transferred is wholly or partly attributable to the value of the property, other than a transfer made on death, and

(b) in a case within subsection (1)(c) above, as references to the property ceasing to be comprised in the settlement.

(6) For the purposes of subsection (4) above—

(a) the sale of an interest or part of an interest in a business shall be treated as a sale of part of the business, and

(b) the payment, under a partnership agreement or otherwise, of a sum in satisfaction of the whole or part of an interest in a business otherwise than on a sale shall be treated as a sale of the interest or part at the time of payment.

(7) For the purposes of this section—

(a) the value of a business or of an interest in a business shall be taken to be its net value;

(b) the net value of a business is the value of the assets used in the business (including goodwill) reduced by the aggregate amount of any liabilities incurred for the purposes of the business;

(c) in ascertaining the net value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the business would have fallen to be ascertained if the tax had been attributable to the entire business; and

(d) "business" includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.

Textual Amendments

F573 Finance Act 1987 Sch. 8, para. 15(1),*with effect from* 17*March* 1987.*Originally*
"Subsection (1) above does not apply to tax payable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, except to the extent that the tax is attributable to qualifying property which is owned by the transferee immediately before the death of the transferor (or, if earlier, his own death)."
as inserted by Finance Act 1986 Sch. 19, para. 31(1)*with effect from* 18*March* 1986.

F574 S. 227(1AA) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 5, 8, **9**.

F575 Word in s. 227(1AA) substituted (29.4.1996 with effect as mentioned in Sch. 38 para. 5(2) of the amending Act) by 1996 c. 8, s. 199, **Sch. 38 para. 5(1)**

F576 Finance Act 1986 Sch. 19, para. 31(1),*with effect from* 18*March* 1986.

F577 Finance Act 1987 Sch. 8, para. 15(2),*with effect from* 17*March* 1987.*Originally*
"subsection (1A) above."

F578 Finance Act 1987 Sch. 8, para. 15(3),*with effect from* 17*March* 1987.

F579 Finance Act 1986 Sch. 19, para. 31(2),*with effect from* 18*March* 1986.

228 Shares, etc. within section 227.

(1) This section applies—

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(a) to shares or securities of a company which immediately before the chargeable transfer gave control of the company—
  (i) in the case of a transfer on death, to the deceased,
  (ii) in the case of a transfer under Chapter III of Part III of this Act, to the trustees, and
  (iii) in any other case, to the transferor;

(b) to shares or securities of a company **[**[F580]which do not fall under paragraph (a) above and are unquoted**]**, if the chargeable transfer is made on death and the condition stated in subsection (2) below is satisfied;

(c) to shares or securities of a company **[**[F581]which do not fall under paragraph (a) above and are unoquoted**]**, if the Board are satisfied that the tax attributable to their value cannot be paid on one sum without undue hardship (assuming, in the case of a chargeable transfer made otherwise than on death, that the shares or securities would be retained by the persons liable to pay the tax);

(d) to shares of a company **[**[F581]which do not fall under paragraph (a) above and are unquoted**]**, if the conditions stated in subsection (3) below are satisfied.

(2) The condition mentioned in subsection (1)(b) above is that not less than 20 per cent of so much of the tax chargeable on the value transferred as is tax for which the person paying the tax attributable as mentioned in section 227(1) above is liable (in the same capacity) consists of tax attributable to the value of the shares or securities or such other tax (if any) as may by virtue of section 227 be paid by instalments.

(3) The conditions mentioned in subsection (1)(d) above are that so much of the value transferred (calculated, if the transfer is not made on death, as if no tax were chargeable on it) as is attributable to the shares exceeds £20,000, and that either—
  (a) the nominal value of the shares is not less than 10 per cent of the nominal value of all the shares of the company at the time of the transfer, or
  (b) the shares are ordinary shares and their nominal value is not less than 10 per cent of the nominal value of all ordinary shares of the company at that time.

[[F582](3A) The further condition referred to in section 227(1A) above is that the shares or securities remained unquoted throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor (or, if earlier, the death of the transferee).**]**

(4) In this section "ordinary shares" means shares which carry either—
  (a) a right to dividends not restricted to dividends at a fixed rate, or
  (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above.

[[F583](5) In this section "unquoted", in relation to any shares or securities, means not **[**[F584]listed**]]** on a recognised stock exchange.

Textual Amendments

F580 Finance Act 1987 Sch. 8, para. 16(1),*with effect from* 17*March* 1987.*Originally* "not falling under paragraph (a) above and not quoted on a recognised stock exchange".

F581 Finance Act 1987 Sch. 8, para. 16(1),*with effect from* 17*March* 1987.*Originally* "not falling under paragraph (a) above and not quoted on a recognised stock exchange".

F582 Finance Act 1987 Sch. 8, para. 16(2),*with effect from* 17*March* 1987.

F583 S. 228(5) added (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 6, 8, **9**.

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F584 Word in s. 228(5) substituted (29.4.1996 with effect as mentioned in Sch. 38 para. 5(2) of the amending Act) by 1996 c. 8, s. 199, **Sch. 38 para. 5(1)**

229 Payment by instalments—woodlands.

Tax chargeable on such a chargeable transfer as is mentioned in section 129 above may, if the person paying the tax by notice in writing to the Board so elects, be paid by ten equal yearly instalments, of which the first shall be payable six months after the end of the month in which the transfer is made.

230 Acceptance of property in satisfaction of tax.

(1) The Board may, if they think fit and the **[**[F585]Secretary of State agrees**]** , on the application of any person liable to pay tax or interest payable under section 233 below, accept in satisfaction of the whole or any part of it any property to which this section applies.

(2) This section applies to any such land as may be agreed upon between the Board and the person liable to pay tax.

(3) This section also applies to any objects which are or have been kept in any building—

(a) if the Board have determined to accept or have accepted that building in satisfaction or part satisfaction of tax or of estate duty, or

(b) if the building or any interest in it belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall or belongs to a Government department or is held for the purposes of a Government department, or

(c) if the building is one of which the Secretary of State is guardian under the [M63]Ancient Monuments and Archaeological Areas Act 1979 or of which the Department of the Environment for Northern Ireland is guardian under **[**[F586]the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995**]**, or

(d) if the building belongs to any body within Schedule 3 to this Act,

in any case where it appears to the **[**[F585]Secretary of State**]** desirable for the objects to remain associated with the building.

(4) This section also applies to—

(a) any picture, print, book, manuscript, work of art, scientific object or other thing which the **[**[F585]Secretary of State is**]** satisfied is pre-eminent for its national, scientific, historic or artistic interest, and

(b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the **[**[F585]Secretary of State is**]** satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest.

(5) In this section—

[F587] . . .

"national interest" includes interest within any part of the United Kingdom;

and in determining under subsection (4) above whether an object or collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.

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[[F588](6) The functions of the Ministers under this section in relation to the acceptance, in satisfaction of tax, of property in which there is a Scottish interest may be exercised separately.

[F588](7) For the purposes of subsection (6) a Scottish interest in the property exists–

(a) where the property is located in Scotland; or

(b) the person liable to pay the tax has expressed a wish or imposed a condition on his offer of the property in satisfaction of tax that it be displayed in Scotland or disposed of or transferred to a body or institution in Scotland.**]**

Textual Amendments

F585 Words in s. 230(1)(3)(4)(a)(b) substituted (3.7.1992) by S.I. 1992/1311, art. 12(2), **Sch. 2 para. 6(2)(3)(4)**.

F586 Words in s. 230(3)(c) substituted (29.8.1995) by S.I. 1995/1625 (N.I. 9), art. 45(1), **Sch. 3 para. 1(1)(2)(e)**

F587 Definition in s. 230(5) omitted (3.7.1992) by virtue of S.I. 1992/1311, art. 12(2), **Sch. 2 para. 6(5)**.

F588 S. 230(6)(7) inserted (1.7.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 8** (with art. 8); S.I. 1998/3178, **art. 3**

Modifications etc. (not altering text)

C45 S. 230: functions of the Secretary of State in certain circumstances made exercisable concurrently with the National Assembly for Wales (31.12.2004) by The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044), art. 2, **Sch. 1**

C46 S. 230: functions of the Lord President of the Council under s. 230 transferred (3.7.1992) to the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt. I**.
S. 230: transfer of functions (S.) (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1**; S.I. 1998/3178, **art. 3**

Marginal Citations

M63 1979 c.46.

231 Powers to transfer property in satisfaction of tax.

(1) Where a person has power to sell any property in order to raise money for the payment of tax, he may agree with the Board for the property to be accepted in satisfaction of that tax in pursuance of section 230 above; and, except as regards the nature of the consideration and its receipt and application, 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 references in subsection (1) above to tax include references to interest payable under section 233 below.

(3) This section shall not affect paragraph 1(4) or 3(4) of Schedule 5 to this Act.

232 Administration actions.

Where proceedings are pending in any court for the administration of any property to the value of which any tax charged on the value transferred by a chargeable transfer is attributable, the court shall provide, out of any such property in the possession or

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control of the court, for the payment of any of the tax so attributable, or interest on it, which remains unpaid.

Interest

233 Interest on unpaid tax.

(1) If—

(a) an amount of tax charged on the value transferred by a chargeable transfer made after 5th April and before 1st October in any year and otherwise than on death remains unpaid after the end of the period ending with April in the next year, or

(b) an amount of tax charged on the value transferred by any other chargeable transfer remains unpaid after the end of the period of six months beginning with the end of the month in which the chargeable transfer was made, or

(c) an amount of tax chargeable under section 32, **[**[F589]32A**]**, 79(3) **[**[F590], 126 **[**[F591], 151B or 151D**]]** above or under Schedule 5 to this Act **[**[F592], or under section 151A above by virtue of subsection (6) of that section,**]** remains unpaid after the end of the period of six months beginning with the end of the month in which the event occasioning the charge occurs,

[[F593]then, subject to subsection (1A) below**]** it shall carry interest from the end of that period at the rate applicable under **[**[F594]section 178 of the Finance Act 1989.**]**

[[F595](1A) If, under section 30 above, the Board agree to accept property in satisfaction of any tax on terms that the value to be attributed to the property for the purposes of that acceptance is determined as at a date earlier than that on which the property is actually accepted, the terms may provide that the amount of tax which is satisfied by the acceptance of the property shall not carry interest under this section from that date.**]**

(2) . . . . . [F596]

(3) Interest payable under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.

(4) . . . . . [F597]

Textual Amendments

F589 Finance Act 1985 Sch. 26, para. 11,*in relation to events occurring after* 18*March* 1985.

F590 Words in s. 233(1)(c) substituted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 9**

F591 Words in s. 233(1)(c) substituted (with effect as mentioned in Sch. 28 para. 15(3) of the amending Act) by Finance Act 2008 (c. 9), s. 91, **Sch. 28 para. 14**

F592 Words in s. 233(1)(c) inserted (with effect as stated in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), s. 69, **Sch. 19 para. 26**

F593 Finance Act 1987 s. 60(1),*with effect from* 17*March* 1987.

F594 Finance Act 1989 s. 179(1)(d).*Originally*
"subsection (2) below."

F595 Finance Act 1987 s. 60(2),*with effect from* 17*March* 1987.

F596 *Amended by* Finance Act 1986 Sch. 19, para. 32,*with efect from* 18*March* 1986*and repealed by* Finance Act 1989 s. 187*and* Sch. 17, Part X*with effect from an appointed day in accordance with* Finance Act 1989 s. 178(7) (By S.I. 1989 No. 1298, the appointed day is August 18th 1989))

Status: *Point in time view as at 01/04/2011.*
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F597 *Repealed by* Finance Act 1989 s. 187*and* Sch. 17, Part X*with effect from an appointed day in accordance with* Finance Act 1989 s. 178(7).*By* S.I. 1989 No. 1298*the appointed day is* 18*August* 1989.

234 Interest on instalments.

(1) Where tax payable on the value transferred by a chargeable transfer—

(a) is payable by instalments under section 227 above and is attributable to the value of any shares, securities, business or interest in a business, or to value treated as reduced under Chapter II of Part V of this Act, or

(b) is payable by instalments under section 229 above,

it shall, for the purposes of any interest to be added to each instalment, be treated as carrying interest from the date at which the instalment is payable.

(2) Subsection (1) above shall not apply to tax attributable to the value of shares or securities of a company falling within paragraph (a) of subsection (3) below (not being tax attributable to value treated as reduced under Chapter II of Part V of this Act) unless it also falls within paragraph (b) or (c) of that subsection.

(3) The companies referred to in subsection (2) above are—

(a) any company whose business consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings, or making or holding investments;

(b) any company whose business consists wholly or mainly in being a holding company ([F598as defined in section [F599]1159 of and Schedule 6 to]] the [F600Companies Act [F601]2006]]) of one or more companies not falling within paragraph (a) above;

[F602(c) any company whose business is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom.]

[F603(4) In this section "market maker" means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.]

Textual Amendments

F598 Companies Act 1989 s. 144(4)*and* Sch. 18 para. 30(4)*with effect from the appointed day—on and after* 1*November* 1990 (S.I. 1990 No. 1392).*Originally*
"within the meaning of".

F599 Words in s. 234(3)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

F600 Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), **Sch. 2**,*with effect from* 1*July* 1985.*Originally*
"Companies Act 1948".

F601 Words in s. 234(3)(b) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments) (Taxes and National Insurance) Order 2009 (S.I. 2009/1890), **art. 4(1)(f)**

F602 Finance Act 1986 s. 107(1),*in relation to events on or after* 27*October* 1986*"the day of The Stock Exchange reforms"*—(*as defined in* s. 106(8)*and* s. 107(8)).*Originally*

Status: *Point in time view as at 01/04/2011.*
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"(c) any company whose business is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom."

F603 Finance Act 1986 s. 107(2),*in relation to events on or after* 27*October* 1986*"the day of The Stock Exchange reforms"*—(*as defined in* s. 106(8)*and* s. 107(8)).

Modifications etc. (not altering text)

C47 S. 234(4) amended (6.1.1993) by S.I. 1992/3181, **reg.4** (as amended (1.12.2001) by S.I. 2001/3629, **art. 135**)

235 Interest on overpaid tax.

(1) Any repayment of an amount paid in excess of a liability for tax or for interest on tax shall carry interest from the date on which the payment was made **[**[F604]until the order for repayment is issued**]** at **[**[F605]the rate applicable under section 178 of the Finance Act 1989**]**.

(2) Interest paid under this section shall not constitute income for any tax purposes.

Textual Amendments

F604 Finance Act 1989 s. 180(4);*deemed always to have had effect.*

F605 Words in s. 235(1) substituted (21.7.2009) by Finance Act 2009 (c. 10), **s. 105(4)(b)**

236 Special cases.

(1) Section 233 above shall apply in relation to—

(a) the amount by which tax chargeable on the value transferred by a chargeable transfer made within **[**[F606]seven years**]** of the transferor's death exceeds what it would have been had the transferor died more than **[**[F606]seven years**]** after the transfer, . . . [F607]

(b) . . . . . [F607]

as if the chargeable transfer had been made on the death of the transferor.

[[F608](1A) Section 233 above shall apply in relation to the amount (if any) by which—

(a) the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor's death,

exceeds

(b) what that tax would have been had the settlor died more than seven years after the date of the transfer,

as if the chargeable transfer had been made on the death of the settlor.**]**

(2) Tax overpaid or underpaid in consequence of—

(a) section 146(1) above, or section 19(1) of the [M64]Inheritance (Provision for Family and Dependants) Act 1975, or

(b) the corresponding provision of the [M65]Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979,

shall not carry interest for any period before the order there mentioned is made.

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(3) Tax repayable on a claim under section 146(2), . . . [F609] or 150 above shall carry interest (which shall not constitute income for any tax purposes) at the **[**[F610]rate applicable under section 178 of the Finance Act 1989**]** from the date on which the claim is made.

(4) Tax repayable under section 147(2) above shall carry interest (which shall not constitute income for any tax purposes) at the **[**[F611]rate applicable under section 178 of the Finance Act 1989**]** from the date on which the tax was paid; and tax charged by virtue of section 147(4) above shall carry interest at that rate **[**[F612]from the end of the period mentioned in section 233(1)(b) above.**]**

Textual Amendments

F606 Finance Act 1986 Sch. 19, para. 33(1),*with effect from* 18*March* 1986.*Originally*
"three years".

F607 *Repealed by* Finance Act 1988 s. 148*and* Sch. 14, Part X,*with effect from* 15*March* 1988.

F608 Finance Act 1986 Sch. 19, para. 33(2),*with effect from* 18*March* 1986.

F609 "149"
repealed by Finance Act 1986 Sch. 23, Part X,*with effect from* 18*March* 1986.

F610 Finance Act 1989 s. 179(1)(e).*Originally*
"rate for the time being applicable under section 233(2)(b) above."

F611 Finance Act 1989 s. 179(1)(e).*Originally*
"rate for the time being applicable under section 233(2)(a) above."

F612 Finance Act 1989 s. 179(3).*Originally*
"as if section 233(1)(b) above had applied."

Marginal Citations

M64 1975 c.63.

M65 S.I. 1979/924 (N.I.8).

Inland Revenue charge for unpaid tax

237 Imposition of charge.

(1) Except as otherwise provided, where any tax charged on the value transferred by a chargeable transfer, or any interest on it, is for the time being unpaid a charge for the amount unpaid (to be known as an Inland Revenue charge) is by virtue of this section imposed in favour of the Board on—

(a) any property to the value of which the value transferred is wholly or partly attributable, and

(b) where the chargeable transfer is made by the making of a settlement or is made under Part III of this Act, any property comprised in the settlement.

(2) References in subsection (1) above to any property include references to any property directly or indirectly representing it.

(3) Where the chargeable transfer is made on death, personal or movable property situated in the United Kingdom which was beneficially owned by the deceased immediately before his death and vests in his personal representatives is not subject to the Inland Revenue charge; and for this purpose **[**[F613]"personal property" does not include leaseholds**][**[F614]and undivided shares in land held on trust for sale, whether statutory or

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not,**]** and the question whether any property was beneficially owned by the deceased shall be determined without regard to section 49(1) above.

[F615(3A) In the case of a potentially exempt transfer which proves to be a chargeable transfer—

(a) property concerned, or an interest in property concerned, which has been disposed of to a purchaser before the transferor's death is not subject to the Inland Revenue charge, but

(b) property concerned which has been otherwise disposed of before the death and property which at the death represents any property or interest falling within paragraph (a) above shall be subject to the charge;

and in this subsection "property concerned" means property to the value of which the value transferred by the transfer is wholly or partly attributable.**]**

[F616(3B) Subsection (3C) below applies to any tax charged—

(a) under section 32, 32A or 79(3) above in respect of any property,

(b) under paragraph 8 of Schedule 4 to this Act in respect of any property, or

(c) under paragraph 1 or 3 of Schedule 5 to this Act with respect to any object or property.

F616(3C) Where any tax to which this subsection applies, or any interest on it, is for the time being unpaid, a charge for the amount unpaid is also by virtue of this section imposed in favour of the Board—

(a) except where the event giving rise to the charge was a disposal to a purchaser of the property or object in question, on that property or object; and

(b) in the excepted case, on any property for the time being representing that property or object.**]**

(4) No heritable property situated in Scotland is subject to the Inland Revenue charge, but where such property is disposed of any other property for the time being representing it is subject to the charge to which the first-mentioned property would have been subject but for this subsection.

(5) The Inland Revenue charge imposed on any property shall take effect subject to any incumbrance on it which is allowable as a deduction in valuing that property for the purposes of the tax.

(6) Except as provided by section 238 below, a disposition of property subject to an Inland Revenue charge shall take effect subject to that charge.

Textual Amendments

F613 Words in s. 237(3) substituted (27.7.1999 with effect as mentioned in s. 107(3) of the amending Act) by 1999 c. 16, **s. 107(1)(3)**

F614 Words in s. 237(3) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

F615 Finance Act 1986 Sch. 19, para. 34, *with effect from* 18 *March* 1986.

F616 S. 237(3B)(3C) inserted (27.7.1999 with effect as mentioned in s. 107(3) of the amending Act) by 1999 c. 16, **s. 107(2)(3)**

Modifications etc. (not altering text)

C48 S. 237(6) extended (13.10.2003) by 2002 c. 9, ss. 31, 136(2) (with s. 129); S.I. 2003/1725, **art. 2(1)**

Status: *Point in time view as at 01/04/2011.*
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238 Effect of purchases.

(1) Where property subject to an Inland Revenue charge, or an interest in such property, is disposed of to a purchaser, then if at the time of the disposition—

(a) in the case of land in England and Wales, the charge was not registered as a land charge or, in the case of registered land, was not protected by notice on the register, or

(b) in the case of land in Northern Ireland the title to which is registered under the [M66]Land Registration Act (Northern Ireland) 1970, the charge was not entered as a burden on the appropriate register maintained under that Act or was not protected by a caution or inhibition under that Act or, in the case of other land in Northern Ireland, the purchaser had no notice of the facts giving rise to the charge, or

(c) in the case of personal property situated in the United Kingdom other than such property as is mentioned in paragraph (a) or (b) above, and of any property situated outside the United Kingdom, the purchaser had no notice of the facts giving rise to the charge, or

(d) in the case of any property, a certificate of discharge had been given by the Board under section 239 below and the purchaser had no notice of any fact invalidating the certificate,

the property or interest shall then cease to be subject to the charge but the property for the time being representing it shall be subject to it.

(2) Where property subject to an Inalnd Revenue charge, or an interest in such property, is disposed of to a purchaser in circumstances where it does not then cease to be subject to the charge, it shall cease to be subject to it at the end of the period of six years beginning with the later of—

(a) the date on which the tax became due, and

(b) the date on which a full and proper account of the property was first delivered to the Board in connection with the chargeable transfer concerned.

(3) In this section "the time of the disposition" means—

[[F617](a) in relation to registered land—

(i) if the disposition is required to be completed by registration, the time of registration, and

(ii) otherwise, the time of completion,**]**

(b) in relation to other property, the time of completion.

Textual Amendments

F617 S. 238(3)(a) substituted (13.10.2003) by 2002 c. 9, ss. 133, 136(2), Sch. 11 para. 17 (with s. 129); S.I. 2003/1725, **art. 2(1)**

Modifications etc. (not altering text)

C49 S. 238 extended (13.10.2003) by 2002 c. 9, ss. 31, 136(2) (with s. 129); S.I. 2003/1725, **art. 2(1)**

Marginal Citations

M66 1970 c.18 (N.I.).

Status: *Point in time view as at 01/04/2011.*
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Certificates of discharge

239 Certificates of discharge.

(1) Where application is made to the Board by a person liable for any tax on the value transferred by a chargeable transfer which is attributable to the value of property specified in the application, the Board, on being satisfied that the tax so attributable has been or will be paid, may give a certificate to that effect, and shall do so if the chargeable transfer is one made on death or the transferor has died.

(2) Where tax is or may be chargeable on the value transferred by a transfer of value and—

(a) application is made to the Board after the expiration of two years from the transfer (or, if the Board think fit to entertain the application, at an earlier time) by a person who is or might be liable for the whole or part of the tax, and

(b) the applicant delivers to the Board, if the transfer is one made on death, a full statement to the best of his knowledge and belief of all property included in the estate of the deceased immediately before his death and, in any other case, a full and proper account under this Part of this Act,

the Board may, as the case requires, determine the amount of the tax or determine that no tax is chargeable; and subject to the payment of any tax so determined to be chargeable the Board may give a certificate of their determination, and shall do so if the transfer of value is one made on death or the transferor has died.

[[F618](2A) An application under subsection (1) or (2) above with respect to tax which is or may become chargeable on the value transferred by a potentially exempt transfer may not be made before the expiration of two years from the death of the transferor (except where the Board think fit to entertain the application at an earlier time after the death).**]**

(3) Subject to subsection (4) below,—

(a) a certificate under subsection (1) above shall discharge the property shown in it from the Inland Revenue charge on its acquisition by a purchaser, and

(b) a certificate under subsection (2) above shall discharge all persons from any further claim for the tax on the value transferred by the chargeable transfer concerned and extinguish any Inland Revenue charge for that tax.

(4) A certificate under this section shall not discharge any person from tax in case of fraud or failure to disclose material facts and shall not affect any further tax—

(a) that may afterwards be shown to be payable by virtue of section 93, 142, 143, 144 or 145 above,

[[F619](aa) that may afterwards be shown to be payable by reason of too great an increase having been made under section 8A(3) above,**]** or

(b) that may be payable if any further property is afterwards shown to have been included in the estate of a deceased person immediately before his death;

but in so far as the certificate shows any tax to be attributable to the value of any property it shall remain valid in favour of a purchaser of that property without notice of any fact invalidating the certificate.

(5) References in this section to a transfer of value, or to the value transferred by a transfer of value, shall be construed as including references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79) or to the amount on which tax is then chargeable.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F618 Finance Act 1986 Sch. 19, para. 35,*with effect from* 18*March* 1986.

F619 S. 239(4)(aa) inserted (retrospective to 9.10.2007) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 paras. 5**, 9(3)

Adjustments

240 Underpayments.

(1) Where too little tax has been paid in respect of a chargeable transfer the tax underpaid shall be payable with interest under section 233 above, whether or not the amount that has been paid was that stated as payable in a notice under section 221 above; but subject to section 239 above and to the following provisions of this section.

(2) Where tax attributable to the value of any property is paid in accordance with an account duly delivered to the Board under this Part of this Act and the payment is made and accepted in full satisfaction of the tax so attributable, no proceedings shall be brought for the recovery of any additional tax so attributable after the end of the period of **[**[F620]4 years**]** beginning with the later of—

(a) the date on which the payment (or in the case of tax paid by instalments the last payment) was made and accepted, and

(b) the date on which the tax or the last instalment became due;

and at the end of that period any liability for the additional tax and any Inland Revenue charge for that tax shall be extinguished.

[[F621](3) Subsection (2) has effect subject to subsections (4) and (5).

(4) Proceedings in a case involving a loss of tax brought about carelessly by a person liable for the tax (or a person acting on behalf of such a person) may be brought at any time not more than 6 years after the later of the dates in subsection (2)(a) and (b).

(5) Proceedings in a case involving a loss of tax brought about deliberately by a person liable for the tax (or a person acting on behalf of such a person) may be brought at any time not more than 20 years after the later of those dates.

(6) Subsection (7) applies to any case not falling within subsection (2) where too little tax has been paid in respect of a chargeable transfer, provided that the case does not involve a loss of tax brought about deliberately by a person liable for the tax (or a person acting on behalf of such a person).

(7) Where this subsection applies—

(a) no proceedings are to be brought for the recovery of the tax after the end of the period of 20 years beginning with the date on which the chargeable transfer was made, and

(b) at the end of that period any liability for the tax and any Inland Revenue charge for that tax is extinguished.

(8) In relation to cases of tax chargeable under Chapter 3 of Part 3 of this Act (apart from section 79), the references in subsections (4), (5) and (6) to a person liable for the tax are to be treated as including references to a person who is the settlor in relation to the settlement.**]**

Status: *Point in time view as at 01/04/2011.*
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Textual Amendments

F620 Words in s. 240(2) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 11(2)**; S.I. 2010/867, **art. 2(2)**

F621 S. 240(3)-(8) substituted (1.4.2011) for s. 240(3) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 11(3)**; S.I. 2010/867, **art. 2(2)**

[F622 240A Underpayments: supplementary

(1) This section applies for the purposes of section 240.

(2) A loss of tax is brought about carelessly by a person if the person fails to take reasonable care to avoid bringing about that loss.

(3) Where—

(a) information is provided to Her Majesty's Revenue and Customs,

(b) the person who provided the information, or the person on whose behalf the information was provided, discovers some time later that the information was inaccurate, and

(c) that person fails to take reasonable steps to inform Her Majesty's Revenue and Customs,

any loss of tax brought about by the inaccuracy is to be treated as having been brought about carelessly by that person.

(4) References to a loss of tax brought about deliberately by a person include a loss of tax brought about as a result of a deliberate inaccuracy in a document given to Her Majesty's Revenue and Customs by or on behalf of that person.]

Textual Amendments

F622 S. 240A inserted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 12**; S.I. 2010/867, **art. 2(2)**

241 Overpayments.

(1) If it is proved to the satisfaction of the Board that too much tax has been paid on the value transferred by a chargeable transfer or on so much of that value as is attributable to any property, the Board shall repay the excess unless the claim for repayment was made more than [F623 4 years] after the date on which the payment or last payment of the tax was made.

(2) References in this section to tax include references to interest on tax.

Textual Amendments

F623 Words in s. 241(1) substituted (1.4.2011) by Finance Act 2009 (c. 10), s. 99, **Sch. 51 para. 13**; S.I. 2010/867, **art. 2(2)**

Status: *Point in time view as at 01/04/2011.*
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Recovery of tax

242 Recovery of tax.

(1) The Board shall not take any legal proceedings for the recovery of any amount of tax or of interest on tax which is due from any person unless the amount has been agreed in writing between that person and the Board or has been determined and specified in a notice under section 221 above.

(2) Where an amount has been so determined and specified but an appeal to which this subsection applies is pending against the determination the Board shall not take any legal proceedings to recover the amount determined except such part of it as may be agreed in writing or determined and specified in a further notice under section 221 above to be a part not in dispute.

(3) Subsection (2) above applies to any appeal under section 222 above but not to any further appeal; and section 222 above shall have effect, in relation to a determination made in pursuance of subsection (2) above, as if **[**[F624]subsections (4) to (4B)**]** of that section were omitted.

Textual Amendments

F624 Words in s. 242(3) substituted (27.7.1993: the substituting section applying as mentioned in s. 200(3) of c. 34) by 1993 c. 34, **s. 200(2)(3)**.

243 Scotland: recovery of tax in sheriff court.

In Scotland, tax and interest on tax may, without prejudice to any other remedy, and if the amount of the tax and interest does not exceed the sum for the time being specified in section 35(1)(a) of the [M67]Sheriff Courts (Scotland) Act 1971, be sued for and recovered in the sheriff court.

Modifications etc. (not altering text)

C50 *See* Part II, Other Legislation.

Marginal Citations

M67 1971 c.58.

244 Rights to address court.

An officer of the Board who is authorised by the Board to do so may address the court in any proceedings in a [F625]. . . sheriff court for the recovery of tax or interest on tax.

Textual Amendments

F625 Words in s. 244 omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), **s. 137(4)** (with s. 137(7))

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Penalties

[F626 245 Failure to deliver accounts.

(1) This section applies where a person ("the taxpayer") fails to deliver an account under section 216 or 217 above.

(2) The taxpayer shall be liable—

(a) to a penalty **[**F627of**]** £100; and

(b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the **[**F628tribunal**]** and before the day on which the account is delivered.

(3) If—

(a) proceedings in which the failure could be declared are not commenced before the end of the relevant period, and

(b) the taxpayer has not delivered the account by the end of that period,

he shall be liable to a further penalty **[**F627of**]** £100.

(4) In subsection (3) above "the relevant period" means the period of six months beginning immediately after the end of the period given by section 216(6) or (7) or section 217 above (whichever is applicable).

F629(4A) **[** Without prejudice to any penalties under subsections (2) and (3) above, if—

(a) the failure by the taxpayer to deliver the account continues after the anniversary of the end of the period given by section 216(6) or (7) (whichever is applicable), and

(b) there would have been a liability to tax shown in the account,

the taxpayer shall be liable to a penalty of an amount not exceeding £3,000.**]**

(5) If the taxpayer proves that his liability to tax does not exceed a particular amount, the penalty under subsection (2)(a) above, together with any penalty under subsection (3) above, shall not exceed that amount.

(6) A person shall not be liable to a penalty under subsection (2)(b) above if he delivers the account required by section 216 or 217 before proceedings in which the failure could be declared are commenced.

(7) A person who has a reasonable excuse for failing to deliver an account shall not be liable by reason of that failure to a penalty under this section, unless he fails to deliver the account without unreasonable delay after the excuse has ceased.**]**

Textual Amendments

F626 Ss. 245, 245A substituted for s. 245 (27.7.1999 with effect as mentioned in s. 108(3) of the amending Act) by 1999 c. 16, **s. 108(1)(3)**

F627 Word in s. 245(2)(a)(3) substituted (with effect as mentioned in s. 295(5) of the amending Act) by Finance Act 2004 (c. 12), **s. 295(2)(a)**

F628 Words in s. 245(2)(b) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 120**

F629 S. 245(4A) inserted (with effect as mentioned in s. 295(6) of the amending Act) by Finance Act 2004 (c. 12), **s. 295(2)(b)**

Status: *Point in time view as at 01/04/2011.*
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[F630]245A Failure to provide information etc.

(1) A person who fails to make a return under section 218 above shall be liable—

(a) to a penalty not exceeding £300; and

(b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the **[**[F631]tribunal**]** and before the day on which the return is made.

[[F632](1A) A person who fails to comply with the requirements of section 218A above shall be liable—

(a) to a penalty not exceeding £100; and

(b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the **[**[F631]tribunal**]** and before the day on which the requirements are complied with.**]**

[[F633](1B) Without prejudice to any penalties under subsection (1A) above, if a person continues to fail to comply with the requirements of section 218A after the anniversary of the end of the period of six months referred to in section 218A(1), he shall be liable to a penalty of an amount not exceeding £3,000.**]**

(2) [F634]. . . . . .

(3) [F634]. . . . . .

(4) A person shall not be liable to a penalty under subsection (1)(b) **[**[F635]or (1A)(b)**]** above if—

(a) he makes the return required by section 218 above, **[**[F636]or**]**

[[F637](aa) he complies with the requirements of section 218A above,**]**

(b) [F638]. . . . . .

(c) [F638]. . . . . .

before proceedings in which the failure could be declared are commenced.

(5) A person who has a reasonable excuse for failing to make a return **[**[F639]or to comply with the requirements of section 218A**]** shall not be liable by reason of that failure to a penalty under this section, unless he fails to make the return **[**[F640]or to comply with those requirements**]** without unreasonable delay after the excuse has ceased.

Textual Amendments

F630 Ss. 245, 245A substituted for s. 245 by (27.7.1999 with effect as mentioned in s. 108(3) of the amending Act) by 1999 c. 16, **s. 108(1)(3)**

F631 Words in s. 245A substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 121**

F632 S. 245A(1A) inserted (24.7.2002 with application as mentioned in s. 120(4) of the amending Act) by 2002 c. 23, **s. 120(3)(a)**,(4)

F633 S. 245A(1B) inserted (with effect as mentioned in s. 295(7) of the amending Act) by Finance Act 2004 (c. 12), **s. 295(3)(a)**

F634 S. 245A(2)(3) omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(a)} (with art. 4)

F635 Words in s. 245A(4) substituted (1.4.2010) by The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(b)(i)} (with art. 4)

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F636 Word in s. 245A(a) inserted (1.4.2010) by The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(b)(ii)} (with art. 4)

F637 S. 245A(4)(aa) inserted (24.7.2002 with application as mentioned in s. 120(4) of the amending Act) by 2002 c. 23, **s. 120(3)(b)**,(4)

F638 S. 245A(4)(b)(c) omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(b)(iii)} (with art. 4)

F639 Words in s. 245A(5) substituted (1.4.2010) by The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(c)(i)} (with art. 4)

F640 Words in s. 245A(5) substituted (1.4.2010) by The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 3, {Sch. para. 2(4)(c)(ii)} (with art. 4)

[F641]246 . . . . . .

Textual Amendments

F641 S. 246 repealed (1.9.1994) by S.I. 1994/1813, reg. 2(1), Sch. 1 para. 20, **Sch. 2 Pt. I**

247 Provision of incorrect information.

(1) [F642]. . . . . .

(2) [F642]. . . . . .

(3) Any person not liable for tax on the value transferred by a chargeable transfer who fraudulently or negligently furnishes or produces to the Board any incorrect information or document in connection with the transfer shall be liable **[**[F643]to a penalty not exceeding £3,000**]**.

(4) Any person who assists in or induces the delivery, furnishing or production in pursuance of this Part of this Act of any account, information or document which he knows to be incorrect shall be liable to a penalty not exceeding **[**[F644]£3,000**]** .

Textual Amendments

F642 S. 247(1)(2) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122, **Sch. 40 para. 21(c)(i)**; S.I. 2009/571, **art. 2**

F643 Words in s. 247(3) substituted (with effect as mentioned in s. 295(9) of the amending Act) by Finance Act 2004 (c. 12), **s. 295(4)(b)**

F644 Words in s. 247(4) substituted (27.7.1999 with effect as mentioned in s. 108(4) in the amending Act) by 1999 c. 16, **s. 108(2)(c)**

Modifications etc. (not altering text)

C51 S. 247 restricted (22.7.2004 for certain purposes and otherwise 1.8.2004) by Finance Act 2004 (c. 12), **s. 313(4)(c)** (with ss. 314, 319(5))

Status: *Point in time view as at 01/04/2011.*
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248 Failure to remedy errors.

(1) If after any [F645]. . . information or document has been [F645]. . . furnished or produced by any person without fraud or negligence it comes to his notice that it was incorrect in any material respect it shall be treated for the purposes of section 247 above as having been negligently [F645]. . . furnished or produced unless the error is remedied without unreasonable delay.

(2) If after any account, information or document has been delivered, furnished or produced by any person in pursuance of this Part of this Act it comes to the notice of any other person that it contains an error whereby tax for which that other person is liable has been or might be underpaid, that other person shall inform the Board of the error; and if he fails to do so without unreasonable delay he shall be liable to the penalty to which he would be liable [F646]. . . if the account, information or document had been delivered, furnished or produced by him and the case were one of negligence.

Textual Amendments

F645 Words in s. 248(1) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122, **Sch. 40 para. 21(c)(ii)**; S.I. 2009/571, **art. 2**

F646 Words in s. 248(2) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122, **Sch. 40 para. 21(c)(ii)**; S.I. 2009/571, **art. 2**

249 Recovery of penalties.

(1) All proceedings for the recovery of penalties under this Part of this Act shall be commenced by the Board, or in Scotland, by the Board or the Lord Advocate.

(2) Any such proceedings may be commenced either before the **[**[F647]First-tier Tribunal**]** or in the High Court or the Court of Session and shall, if brought in the High Court, be deemed to be civil proceedings by the Crown within the meaning of Part II of the [M68]Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland.

[[F648](3) Where any proceedings are brought before the First-tier Tribunal, in addition to any right of appeal on a point of law under section 11(2) of the TCEA 2007, the person liable to the penalty may appeal to the Upper Tribunal against the amount of a penalty which has been determined under this Part, but not against any decision which falls under section 11(5)(d) and (e) of the TCEA 2007 and was made in connection with the determination of the amount of the penalty.

(3A) Section 11(3) and (4) of the TCEA 2007 applies to the right of appeal under subsection (3) as it applies to the right of appeal under section 11(2) of the TCEA 2007.

(3B) On an appeal under this section the Upper Tribunal has the same powers as are conferred on the First-tier Tribunal by virtue of this section.**]**

[[F649](4) The person liable to the penalty shall be a party to the proceedings.**]**

(5) References in this section to the Court of Session are references to that Court as the Court of Exchequer in Scotland.

Status: *Point in time view as at 01/04/2011.*
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Textual Amendments

F647 Words in s. 249(2) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 122(2)**

F648 S. 249(3)-(3B) substituted (1.4.2009) for s. 249(3) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 122(3)**

F649 S. 249(4) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 122(4)**

Modifications etc. (not altering text)

C52 S. 249(1):transfer of functions (S.) (20.5.1999) by S.I. 1999/679, arts. 1(2), 2, **Sch**; S.I. 1998/3178, art. 2(2), **Sch. 4**

Marginal Citations

M68 1947 c.44.

250 Time limit for recovery.

(1) No proceedings for the recovery of a penalty under this Part of this Act shall be brought after the end of the period of three years beginning with the date on which the amount of the tax properly payable in respect of the chargeable transfer concerned was notified by the Board to the person or one of the persons liable for the tax or any part of it.

(2) [F650] . . . . . .

Textual Amendments

F650 S. 250(2) omitted (1.4.2009) by virtue of Finance Act 2008 (c. 9), s. 122, **Sch. 40 para. 21(c)(iii)**; S.I. 2009/571, **art. 2**

[[F651]251 Appeals against summary determination of penalties.

[F652] . . . . . .]

Textual Amendments

F651 S. 251 and sidenote substituted (1.9.1994) by S.I. 1994/1813, reg. 2(1), **Sch. 1 para.22**

F652 S. 251 omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 123**

252 Effect of award by [[F653]the tribunal].

Any penalty awarded by the **[**[F654]tribunal**]** shall be recoverable by the Board as a debt due to the Crown.

Textual Amendments

F653 S. 252 sidenote: words substituted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 124(2)**

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F654 Word in s. 252 substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 124(3)**

253 Mitigation of penalties.

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery of any penalty, and may also, after judgment, further mitigate or entirely remit the penalty.

Miscellaneous

254 Evidence.

(1) For the purposes of the preceding provisions of this Part of this Act, a notice under section 221 above specifying any determination which can no longer be varied or quashed on appeal shall be sufficient evidence of the matters determined.

(2) [F655] . . . . . .

Textual Amendments
F655 S. 254(2) omitted (21.7.2008) by virtue of Finance Act 2008 (c. 9), s. 138, **Sch. 44 para. 3**

255 Determination of questions on previous view of law.

Where any payment has been made and accepted in satisfaction of any liability for tax and on a view of the law then generally received or adopted in practice, any question whether too little or too much has been paid or what was the right amount of tax payable shall be determined on the same view, notwithstanding that it appears from a subsequent legal decision or otherwise that the view was or may have been wrong.

256 Regulations about accounts, etc.

(1) The Board may make regulations—

(a) dispensing with the delivery of accounts under section 216 above in such cases as may be specified in **[**[F656]or determined under**]** the regulations;

[[F657](aa) requiring persons who by virtue of regulations under paragraph (a) above are not required to deliver accounts under section 216 above to produce to the Board, in such manner as may be specified in or determined under the regulations, such information or documents as may be so specified or determined**]**

(b) discharging, subject to such restrictions as may be so specified **[**[F658]or determined**]** , property from an Inland Revenue charge and persons from further claims for tax in cases other than those mentioned in section 239 above;

(c) [F659] . . . . . .

(d) modifying section 264(8) below in cases where the delivery of an account has been dispensed with under the regulations.

[[F660](1A) Regulations under subsection (1)(aa) may in particular—

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(a) provide that information or documents must be produced to the Board by producing it or them to—
(i) a probate registry in England and Wales;
(ii) the sheriff in Scotland;
(iii) the Probate and Matrimonial Office in Northern Ireland;

(b) provide that information or documents produced as specified in paragraph (a) is or are to be treated for any or all purposes of this Act as produced to the Board;

(c) provide for the further transmission to the Board of information or documents produced as specified in paragraph (a).**]**

(2) [F661] . . . . . .

(3) Regulations under this section may contain such supplementary or incidental provisions as the Board think fit **[**[F662]and may make different provision for different cases**]** .

[[F663](3A) Regulations under this section may only be made—
(a) in relation to England and Wales, after consulting the Lord Chancellor;
(b) in relation to Scotland, after consulting the Scottish Ministers;
(c) in relation to Northern Ireland, after consulting the Lord Chief Justice of Northern Ireland.

(3B) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3A)—
(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

(4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Textual Amendments

F656 Words in s. 256(1)(a) substituted (22.7.2004) by Finance Act 2004 (c. 12), **s. 293(2)(a)**
F657 S. 256(1)(aa) inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 293(2)(b)**
F658 Words in s. 256(1)(b) inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 293(2)(c)**
F659 S. 256(1)(c) repealed (22.7.2004) by Finance Act 2004 (c. 12), ss. 293(2)(d), 326, **Sch. 42 Pt. 4(1)**
F660 S. 256(1A) inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 293(3)**
F661 S. 256(2) repealed (22.7.2004) by Finance Act 2004 (c. 12), ss. 293(4), 326, **Sch. 42 Pt. 4(1)**
F662 Words in s. 256(3) inserted (22.7.2004) by Finance Act 2004 (c. 12), **s. 293(5)**
F663 S. 256(3A)(3B) substituted for s. 256(3A) (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148(1), **Sch. 4 para. 176**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

257 Form etc. of accounts.

(1) All accounts and other documents required for the purposes of this Act shall be in such form and shall contain such particulars as may be prescribed by the Board.

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(2) All accounts to be delivered to the Board under this Act shall be supported by such books, papers and other documents, and verified (whether on oath or otherwise) in such manner, as the Board may require.

(3) For the purposes of this Act, an account delivered to a probate registry pursuant to arrangements made between the President of the Family Division and the Board or delivered to the Probate and Matrimonial Office in Northern Ireland pursuant to arrangements made between the **[**[F664]Lord Chief Justice of Northern Ireland**]** and the Board shall be treated as an account delivered to the Board.

[[F665](4) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsection (3)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

Textual Amendments

F664 Words in s. 257(3) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148(1), **Sch. 4 para. 177(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

F665 S. 257(4) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148(1), **Sch. 4 para. 177(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11(r)

258 Service of documents.

A notice or other document which is to be served on a person under this Act may be delivered to him or left at his usual or last known place of residence or served by post, addressed to him at his usual or last known place of residence or his place of business or employment.

259 Inspection of records.

Section 16 of the [M69]Stamp Act 1891, section 56 of the [M70]Finance Act 1946 and section 27 of the [M71]Finance (No.2) Act (Northern Ireland) 1946 (inspection of public records and records of unit trusts) shall apply in relation to **[**[F666]inheritance tax**]** as they apply in relation to stamp duties.

Textual Amendments

F666 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

Marginal Citations

M69 1891 c.39.

M70 1946 c.64.

M71 1946 c.17. (N.I.).

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260 Inland Revenue Regulation Act 1890.

Sections 21, 22 and 35 of the [M72]Inland Revenue Regulation Act 1890 (proceedings for fines, etc.) shall not apply in relation to **[**[F667]inheritance tax**]**.

Textual Amendments

F667 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

Marginal Citations

M72 1890 c.21.

261 Scotland inventories.

In the application of this Part of this Act to Scotland, references to an account required to be delivered to the Board by the personal representatives of a deceased person, however expressed, shall be construed as references to such an inventory or additional inventory as is mentioned in section 38 of the [M73]Probate and Legacy Duties Act 1808 which has been duly exhibited as required by that section.

Marginal Citations

M73 1808 c.149.

PART IX

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

262 Tax chargeable in certain cases of future payments, etc.

(1) Where a disposition made for a consideration in money or money's worth is a transfer of value and any payments made or assets transferred by the transferor in pursuance of the disposition are made or transferred more than one year after the disposition is made, tax (if any) shall be charged as if—

(a) any payment made or asset transferred in pursuance of the disposition were made or transferred in pursuance of a separate disposition made, without consideration, at the time the payment is made or the asset is transferred, and

(b) the amount of the payment made or the value of the asset transferred in pursuance of each of those separate dispositions were the chargeable portion of the payment or asset.

(2) For the purposes of this section the chargeable portion of any payment made or any asset transferred at any time shall be such portion of its value at that time as is found by applying to it the fraction of which—

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(a) the numerator is the value actually transferred by the disposition first mentioned in subsection (1) above (calculated as if no tax were payable on it), and

(b) the denominator is the value, at the time of that disposition, of the aggregate of the payments made or to be made and assets transferred or to be transferred by the transferor in pursuance of it.

263 Annuity purchased in conjunction with life policy.

(1) Where—

(a) a policy of life insurance is issued in respect of an insurance made after 26th March 1974 or is after that date varied or substituted for an earlier policy, and

(b) at the time the insurance is made or at any earlier or later date an annuity on the life of the insured is purchased, and

(c) the benefit of the policy is vested in a person other than the person who purchased the annuity,

then, unless it is shown that the purchase of the annuity and the making of the insurance (or, as the case may be, the substitution or variation) were not associated operations, the person who purchased the annuity shall be treated as having made a transfer of value by a disposition made at the time the benefit of the policy became so vested (to the exclusion of any transfer of value which, apart from this section, he might have made as a result of the vesting, or of the purchase and the vesting being associated operations).

(2) The value transferred by that transfer of value shall be equal to whichever of the following is less, namely,—

(a) the aggregate of—

(i) the value of the consideration given for the annuity, and

(ii) any premium paid or other consideration given under the policy on or before the transfer; and

(b) the value of the greatest benefit capable of being conferred at any time by the policy, calculated as if that time were the date of the transfer.

(3) The preceding provisions of this section shall apply, with the necessary modifications, where a contract for an annuity payable on a person's death is after 26th March 1974 made or varied or substituted for or replaced by such a contract or a policy of life insurance as they apply where a policy of life insurance is issued, varied or substituted as mentioned in subsection (1) above.

264 Transfers reported late.

(1) This section has effect where a person has made a transfer of value ("the earlier transfer") which—

(a) is not notified to the Board in an account under section 216 above or by information furnished under section 219 above before the expiration of the period specified in section 216 for the delivery of accounts, and

(b) is not discovered until after payment has been accepted by the Board in full satisfaction of the tax on the value transferred by another transfer of value ("the later transfer") made by him on or after the day on which he made the earlier transfer.

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(2) Where the earlier transfer is made in the period of ten years ending with the date of the later transfer there shall be charged on the value transferred by the earlier transfer, in addition to any tax chargeable on it apart from this section, an amount of tax equal to the difference, if any, between—

(a) the tax which, having regard to the earlier transfer, was properly chargeable on the value transferred by the later transfer, and

(b) the payment accepted by the Board in full satisfaction of the tax chargeable on that value;

and any such difference shall not be chargeable on the value transferred by the later transfer.

(3) Where in the period mentioned in subsection (2) above there have been two or more earlier transfers the reference in paragraph (a) of that subsection to the earlier transfer shall be construed as a reference to both or all of those transfers, but the amount of tax chargeable under that subsection in respect of each of them shall, subject to subsection (4) below, be reduced in the proportion which the value transferred by it bears to the aggregate of the values transferred by it and the other or others.

(4) Where the earlier transfers mentioned in subsection (3) above include a settled transfer, that is to say, a transfer in the case of which an amount in full satisfaction of the tax chargeable in respect of it under subsection (2) above has been paid to and accepted by the Board before the discovery of one or more of the other earlier transfers,—

(a) no further tax shall be chargeable under subsection (2) above in respect of the settled transfer in consequence of regard being had under paragraph (a) of that subsection to the subsequently discovered transfer or transfers;

(b) the amount so paid and accepted shall reduce the amount chargeable under subsection (2) above in respect of the subsequently discovered transfer or transfers; and

(c) if there are two or more subsequently discovered transfers, the value transferred by the settled transfer shall be disregarded in calculating under subsection (3) above the reduction in the amount of tax chargeable in respect of each of them.

(5) Where the later transfer referred to in subsection (2) above is itself an earlier transfer in relation to another later transfer the references in paragraphs (a) and (b) of that subsection to tax chargeable on the value transferred by it are references to tax so chargeable apart from this section.

(6) Subsection (2) above shall not increase the amount in respect of which interest is payable under section 233 above in relation to the earlier transfer in respect of any period falling before the expiration of six months from the date on which it was discovered.

(7) Where, apart from this subsection, the earlier transfer would be wholly or partly exempt by reason of some or all of the value transferred by it falling within a limit applicable to an exemption, then, if tax has been accepted as mentioned in subsection (1)(b) above on the basis that the later transfer is partly exempt by reason of part of the value thereby transferred falling within that limit—

(a) tax shall not be chargeable on that part of the value transferred by the later transfer, but

(b) a corresponding part of the value transferred by the earlier transfer shall be treated as falling outside that limit.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8) Subsection (1)(b) above shall apply to a transfer in respect of which no tax is chargeable because the rate of tax applicable under section 7 above is nil as if payment had been accepted when the transfer was notified in an account under section 216 above, and subsection (2)(b) above shall apply in relation to any such transfer as if the amount of the payment were nil.

(9) For the purposes of this section a transfer is discovered—

(a) if it is notified under the provisions mentioned in subsection (1)(a) above after the expiration of the period there mentioned, on the date on which it is so notified;

(b) in any other case, on the date on which the Board give notice of a determination in respect of the transfer under section 221 above.

Modifications etc. (not altering text)

C53 S. 264(8) modified (1.8.2002) by S.I. 2002/1731, **reg. 7**
S. 264(8) modified (1.8.2002) by S.I. 2002/1733, **reg. 8**

C54 S. 264(8) modified (1.11.2004 with effect as mentioned in reg. 1 of the amending S.I.) by The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543), **reg. 10**

C55 S. 264(8) modified (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Settlements) Regulations 2008 (S.I. 2008/606), **reg. 7**

265 Chargeable transfers affecting more than one property.

Where the value transferred by a chargeable transfer is determined by reference to the values of more than one property the tax chargeable on the value transferred shall be attributed to the respective values in the proportions which they bear to their aggregate, but subject to **[**[F668]section 54B(3) above and to**]** any provision reducing the amount of tax attributable to the value of any particular property.

Textual Amendments

F668 Finance Act 1987 (No.2) Sch. 7, para. 5,*with effect from* 17*March* 1987.

266 More than one chargeable transfer on one day.

(1) Where the value transferred by more than one chargeable transfer made by the same person on the same day depends on the order in which the transfers are made, they shall be treated as made in the order which results in the lowest value chargeable.

(2) Subject to subsection (1) above, the rate at which the tax is charged on the values transferred by two or more chargeable transfers made by the same person on the same day shall be the effective rate at which tax would have been charged if those transfers had been a single chargeable transfer of the same total value.

(3) The chargeable transfers referred to in subsections (1) and (2) above do not include a transfer made on the death of the transferor.

(4) Chargeable transfers under Chapter III of Part III of this Act shall if they relate to the same settlement be treated for the purposes of subsections (1) and (2) above as made by the same person.

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267 Persons treated as domiciled in United Kingdom.

(1) A person not domiciled in the United Kingdom at any time (in this section referred to as "the relevant time") shall be treated for the purposes of this Act as domiciled in the United Kingdom (and not elsewhere) at the relevant time if—

(a) he was domiciled in the United Kingdom within the three years immediately preceding the relevant time, or

(b) he was resident in the United Kingdom in not less than seventeen of the twenty years of assessment ending with the year of assessment in which the relevant time falls.

(2) Subsection (1) above shall not apply for the purposes of section 6(2) or (3) or 48(4) above and shall not affect the interpretation of any such provision as is mentioned in section 158(6) above.

(3) Paragraph (a) of subsection (1) above shall not apply in relation to a person who (apart from this section) has not been domiciled in the United Kingdom at any time since 9th December 1974, and paragraph (b) of that subsection shall not apply in relation to a person who has not been resident there at any time since that date; and that subsection shall be disregarded—

(a) in determining whether settled property which became comprised in the settlement on or before that date is excluded property,

(b) in determining the settlor's domicile for the purposes of section 65(8) above in relation to settled property which became comprised in the settlement on or before that date, and

(c) in determining for the purposes of section 65(8) above whether the condition in section 82(3) above is satisfied in relation to such settled property.

(4) For the purposes of this section the question whether a person was resident in the United Kingdom in any year of assessment shall be determined as for the purposes of income tax [F669]. . ..

Textual Amendments

F669 Words in s. 267(4) repealed (27.7.1993: the repeal having effect in accordance with s. 208 of the repealing Act) by 1993 c. 34, ss. 208(3)(5), 213, **Sch. 23 Pt. V**.

Modifications etc. (not altering text)

C56 S. 267(1)(a) modified (29.4.1996 with effect as mentioned in s. 200(1) of the amendindg Act) by 1996 c. 8, **s. 200(1)** (with s. 200(4))

[[F670]267A Limited liability partnerships.

For the purposes of this Act and any other enactments relating to inheritance tax—

(a) property to which a limited liability partnership is entitled, or which it occupies or uses, shall be treated as property to which its members are entitled, or which they occupy or use, as partners,

(b) any business carried on by a limited liability partnership shall be treated as carried on in partnership by its members,

(c) incorporation, change in membership or dissolution of a limited liability partnership shall be treated as formation, alteration or dissolution of a partnership, and

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(d) any transfer of value made by or to a limited liability partnership shall be treated as made by or to its members in partnership (and not by or to the limited liability partnership as such).**]**

Textual Amendments

F670 S. 267A inserted (6.4.2001) by 2000 c. 12, **s. 11**; S.I. 2000/3316, **art. 2**

Interpretation

268 Associated operations.

(1) In this Act "associated operations" means, subject to subsection (2) below, any two or more operations of any kind, being—

(a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income, or

(b) any two operations of which one is effected with reference to the other, or with a view to enabling the other to be effected or facilitating its being effected, and any further operation having a like relation to any of those two, and so on.

whether those operations are effected by the same person or different persons, and whether or not they are simultaneous; and "operation" includes an omission.

(2) The granting of a lease for full consideration in money or money's worth shall not be taken to be associated with any operation effected more than three years after the grant, and no operation effected on or after 27th March 1974 shall be taken to be associated with an operation effected before that date.

(3) Where a transfer of value is made by associated operations carried out at different times it shall be treated as made at the time of the last of them; but where any one or more of the earlier operations also constitute a transfer of value made by the same transferor, the value transferred by the earlier operations shall be treated as reducing the value transferred by all the operations taken together, except to the extent that the transfer constituted by the earlier operations but not that made by all the operations taken together is exempt under section 18 above.

269 Control of company.

(1) For the purposes of this Act a person has control of a company at any time if he then has the control of powers of voting on all questions affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised on them.

(2) For the purposes of this Act shares or securities shall be deemed to give a person control of a company if, together with any shares or securities which are related property within the meaning of section 161 above, they would be sufficient to give him control of the company (as defined in subsection (1) above).

(3) Where shares or securities are comprised in a settlement, any powers of voting which they give to the trustees of the settlement shall for the purposes of subsection (1) above

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be deemed to be given to the person beneficially entitled in possession to the shares or securities (except in a case where no individual is so entitled).

(4) Where a company has shares or securities of any class giving powers of voting limited to either or both of—

(a) the question of winding up the company, and

(b) any question primarily affecting shares or securities of that class,

the reference in subsection (1) above to all questions affecting the company as a whole shall have effect as a reference to all such questions except any in relation to which those powers are capable of being exercised.

270 Connected persons.

For the purposes of this Act any question whether a person is connected with another shall be determined as, for the purposes of the **[**[F671]1992 Act**]**, it falls to be determined under section **[**[F671]286**]** of that Act, but as if in that section "relative" included uncle, aunt, nephew and niece and "settlement", "settlor" and "trustee" had the same meanings as in this Act.

Textual Amendments

F671 Words in s. 270 substituted (6.3.1992 with effects as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(12)** (with ss. 60, 101(1), 201(3)).

271 Property of corporations sole.

References in this Act (except section 59) to property to which a person is beneficially entitled do not include references to property to which a person is entitled as a corporation sole.

[[F672]271A Qualifying non-UK pension scheme

(1) For the purposes of this Act "qualifying non-UK pension scheme" means a pension scheme (other than a registered pension scheme) which—

(a) is established in a country or territory outside the United Kingdom, and

(b) satisfies any requirements prescribed for the purposes of this section by regulations made by the Commissioners for Her Majesty's Revenue and Customs.

(2) "Pension scheme" has the same meaning as in Part 4 of the Finance Act 2004 (see section 150 of that Act).

(3) Regulations under this section may include provision having effect in relation to times before the regulations are made if it does not increase any person's liability to tax.

(4) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of the House of Commons.**]**

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Textual Amendments

F672 S. 271A inserted (retrospective to 6.4.2006) by Finance Act 2008 (c. 9), s. 92, **Sch. 29 para. 18(6)(8)**

272 General interpretation.

In this Act, except where the context otherwise requires,—

"amount" includes value;

[[F673]"authorised unit trust" means a scheme which is a unit trust scheme for the purposes of **[**[F674]the Income Tax Acts (see section 1007 of the Income Tax Act 2007)**]** and in the case of which an order under section 243 of the Financial Services and Markets Act 2000 is in force;**]**

"barrister" includes a member of the Faculty of Advocates;

"the Board" means the Commissioners of Inland Revenue;

"charity" and "charitable" have the same meanings as in the Income Tax Acts;

"conditionally exempt transfer" shall be construed in accordance with section 30(2) above;

[[F675]"disabled person's interest" has the meaning given by section 89B above;**]**

"disposition" includes a disposition effected by associated operations;

"estate" shall be construed in accordance with sections 5, 55 and 151(4) above;

"estate duty" includes estate duty under the law of Northern Ireland;

"excluded property" shall be construed in accordance with sections 6 and 48 above;

[[F676]"foreign-owned", in relation to property, means property in the case of which the person beneficially entitled to it is domiciled outside the United Kingdom or, if the property is comprised in a settlement, in the case of which the settlor was domiciled outside the United Kingdom when the property became comprised in the settlement;**]**

"Government department" includes a Northern Ireland department;

"heritable security" means any security capable of being constituted over any interest in land by disposition or assignation of that interest in security of any debt and of being recorded in the General Register of Sasines;

[[F677]"HMRC" means Her Majesty's Revenue and Customs;**]**

[[F678]"immediate post-death interest" means an immediate post-death interest for the purposes of Chapter 2 of Part 3 (see section 49A above);**]**

"incumbrance" includes any heritable security, or other debt or payment secured upon heritage;

"Inland Revenue charge" means a charge imposed by virtue of section 237 above;

"land" does not include any estate interest or right by way of mortgage or other security;

"local authority" has the meaning given by section **[**[F679]842A of the Taxes Act 1988**]**;

[[F680]"member", in relation to a registered pension scheme, has the same meaning as in Part 4 of the Finance Act 2004 (see section 151 of that Act);**]**

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"mortgage" includes a heritable security and a security constituted over any interest in movable property;

[[F681]"nil-rate band maximum" has the meaning given by section 8A(7);**]**

[[F682]"open-ended investment company" means an open-ended investment company within the meaning given by section 236 of the Financial Services and Markets Act 2000 which is incorporated in the United Kingdom;**]**

"personal representatives" includes any person by whom or on whose behalf an application for a grant of administration or for the resealing of a grant made outside the United Kingdom is made, and any such person as mentioned in section 199(4)(a) above;

"property" includes rights and interests of any description **[**[F683]but does not include a settlement power**]** ;

[[F684]"public display" means display to which the public are admitted, on payment or not, but does not include display with a view to sale;**]**

"purchaser" means a purchaser in good faith for consideration in money or money's worth other than a nominal consideration and includes a lessee, mortgagee or other person who for such consideration acquires an interest in the property in question;

[[F685]"quoted", in relation to any shares or securities, means **[**[F686]listed**]** on a recognised stock exchange or dealt in on the Unlisted Securities Market and "unquoted", in relation to any shares or securities, means neither so **[**[F686]listed**]** nor so dealt in;**]**

[[F687]"registered pension scheme" has the same meaning as in Part 4 of the Finance Act 2004;**]**

"reversionary interest" has the meaning given by section 47 above;

[[F688]"scheme administrator", in relation to a registered pension scheme, has the same meaning as in Part 4 of the Finance Act 2004 (see sections 270 to 274 of that Act);**]**

[[F689]"section 615(3) scheme" means a superannuation fund to which section 615(3)of the Taxes Act 1988 applies;**]**

[[F690]"settlement power" has the meaning given by section 47A above;**]**

"settlement" and "settled property" shall be construed in accordance with section 43 above;

"settlor" shall be construed in accordance with section 44 above;

[F691] . . . . . .

[[F692]"step-child", in relation to a civil partner, shall be construed in accordance with section 246 of the Civil Partnership Act 2004;**]**

"tax" means **[**[F685]inheritance tax**]**;

[[F693]"transitional serial interest" means a transitional serial interest for the purposes of Chapter 2 of Part 3 (see section 49B above);**]**

"the Taxes Act **[**[F694]1970**]**" means the [M74]Income and Corporation Taxes Act 1970;

[[F695]"The Taxes Act 1988" means the Income and Corporation Taxes Act 1988;**]**

[[F696]"the TCEA 2007" means the Tribunals, Courts and Enforcement Act 2007;**]**

[[F697]"the tribunal" means the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal,**]**

"trustee" shall be construed in accordance with section 45 above.

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[[F698]and
"the 1992 Act" means the Taxation of Chargeable Gains Act 1992.**]**

Textual Amendments

F673 S. 272: definition inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(6)**

F674 Words in s. 272 substituted (with effect as mentioned in s. 1034 of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034, **Sch. 1 para. 271** (with transitional provisions and savings in Sch. 2)

F675 S. 272 definition inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **28**

F676 S. 272: definition of 'foreign-owned' inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(4)**

F677 S. 272: definition of 'HMRC' inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 125(3)**

F678 S. 272 definition inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **28**

F679 Finance Act 1990 s. 127*and* Sch. 18, para. 4*with effect from* 1*April* 1990.*Originally*
"52 of the Finance Act 1974"
and amended to
"519 of the Taxes Act 1988"
*by*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32.

F680 S. 272 definition of "member" inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 10(2)**

F681 S. 272: entry inserted (retrospective to 9.10.2007) by Finance Act 2008 (c. 9), s. 10, **Sch. 4 paras. 7**, 9(3)

F682 S. 272: definition inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), **s. 186(7)**

F683 Words in s. 272 inserted (24.7.2002 with effect as mentioned in s. 119(6)(7) of the amending Act) by 2002 c. 23, **s. 119(4)(6)(7)**

F684 S. 272: definition of 'public display' inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(4)**

F685 Finance Act 1987 Sch. 8, para. 17,*with effect from* 17 *March* 1987.

F686 S. 272: words in the definition of "quoted" and "unquoted" substituted (29.4.1996 with effect as mentioned in Sch. 38 para. 2(2) of the amending Act) by 1996 c. 8, s. 199, **Sch. 38 para. 2(1)(b)**

F687 S. 272: definition of "registered pension scheme" inserted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(6)**, 284 (with Sch. 36)

F688 S. 272: definition of "scheme administrator" inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 10(3)**

F689 S. 272: definition of "section 615(3) scheme" inserted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(6)**, 284 (with Sch. 36)

F690 Words in s. 272 inserted (24.7.2002 with effect as mentioned in s. 119(6)(7) of the amending Act) by 2002 c. 23, **s. 119(4)(6)(7)**

F691 S. 272: definition of "Special Commissioners" omitted (1.4.2009) by virtue of The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 125(2)**

F692 S. 272: definition of "step-child" inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **38**

F693 S. 272 definition inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **28**

F694 "1970" *inserted by*Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32.

F695 Income and Corporation Taxes Act Sch. 29, para. 32.

F696 S. 272: definition of "the TCEA 2007" inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 125(3)**

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F697 S. 272: definition of 'the tribunal' inserted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 3(1), **Sch. 1 para. 125(3)**

F698 Words in s. 272 added (6.3.1992 with effects as mentioned in s. 289(1)(2) of the amending Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch. 10 para. 8(13)** (with ss. 60, 101(1), 201(3)).

Marginal Citations

M74 1970 c.10.

Supplementary

273 Transition from estate duty.

Schedule 6 to this Act shall have effect.

274 Commencement.

(1) This Act shall come into force on 1st January 1985, but shall not apply to transfers of value made before that date or to other events before that date on which capital transfer tax is chargeable or would be chargeable but for an exemption, exception or relief.

(2) Subsection (1) above shall have effect subject to section 275 below, to Schedule 7 to this Act and to any other provision to the contrary.

Modifications etc. (not altering text)

C57 *By* Finance Act 1986 s. 100(1),*on and after* 25*July* 1986*the* 1984*Act may be cited as the Inheritance Tax Act and the tax charged under the* 1984*Act shall be known as inheritance tax.*

275 Continuity, and construction of references to old and new law.

(1) The continuity of the operation of the law relating to capital transfer tax shall not be affected by the substitution of this Act for the repealed enactments.

(2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act and any enactment amended by Schedule 8 to this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

(3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

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(4) Subsection (2) above shall have effect without prejudice to section 17(2) of the [M75]Interpretation Act 1978.

(5) In this section "the repealed enactments" means the enactments repealed by this Act.

Marginal Citations

M75 1978 c.30.

276 Consequential amendments.

Schedule 8 to this Act shall have effect.

277 Repeals.

The enactments mentioned in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

278 Short title.

This Act may be cited as the **[**[F699]Inheritance Tax Act 1984**]**.

Textual Amendments

F699 *By* Finance Act 1986 s. 100(1),*on and after* 25*July* 1986*the Capital Transfer Tax Act* 1984*may be cited as the Inheritance Tax Act* 1984.

Status: *Point in time view as at 01/04/2011.*
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SCHEDULE 1

[F700 TABLE OF RATES OF TAX

Portion of value		***Rate of tax***
Lower limit (£)	**Upper limit (£)**	**Per cent.**
0	325,000	Nil
325,000		40**]**

Textual Amendments

F700 Table in Sch. 1 substituted (with application to any chargeable transfer made on or after 6.4.2009) by Finance Act 2006 (c. 25), **s. 155(1)(b)(2)(4)**; and that substitution continued (with effect in relation to chargeable transfers made on or after 6.4.2010) by virtue of Finance Act 2010 (c. 13), **s. 8** (in place of the substitution by Finance Act 2007 (c. 11), **s. 4**)

SCHEDULE 2

PROVISIONS APPLYING ON REDUCTION OF TAX

Interpretation

1 In this Schedule—

(a) references to a reduction are to a reduction of tax by the substitution of **[**F701a new Table**]** in Schedule 1 to this Act, and

(b) references to something happening before or after a reduction are to its happening before or, as the case may be, on or after the date on which **[**F702the Table**]** giving effect to the reduction **[**F703comes**]** into force.

Textual Amendments

F701 Finance Act 1986 Sch. 19, para. 37(1)(a),*with effect from* 18*March* 1986.*Originally* "new Tables".

F702 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables".

F703 Finance Act 1986 Sch. 19 para. 37(2)*with effect from* 18*March* 1986.*Originally* "come".

[F704 Death within seven years of potentially exempt transfer

Textual Amendments

F704 Finance Act 1986 Sch. 19, para. 37(3)*with effect from* 18*March* 1986.

Status: *Point in time view as at 01/04/2011.*
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1A Where a person who has made a potentially exempt transfer before a reduction dies after that reduction (or after that and one or more subsequent reductions) and within the period of seven years beginning with the date of the transfer, tax shall be chargeable by reason of the transfer proving to be a chargeable transfer only if, and to the extent that, it would have been so chargeable if the Table in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.**]**

*Death within **[**[F705]seven years**]** of chargeable transfer*

Textual Amendments

F705 Finance Act 1986 Sch. 19, para. 37(4)(a),*with effect from* 18*March* 1986.*Originally* "three years".

2 Where a person who has made a chargeable transfer **[**[F706]other than a potentially exempt transfer)**]** before a reduction dies after that reduction (or after that and one or more subsequent reductions) and within **[**[F707]seven years**]** of the transfer, additional tax shall be chargeable by reason of his death only if, and to the extent that, it would have been so chargeable if . . . [F708]**[**[F709]the Table**]** in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.

Textual Amendments

F706 Finance Act 1986 Sch. 19 para. 37(4)(b)*with effect from* 18*March* 1986.

F707 Finance Act 1986 Sch. 19, para. 37(4)(a),*with effect from* 18*March* 1986.*Originally* "three years".

F708 *Repealed by* Finance Act 1986 s. 101(3), Sch. 19, para. 37(4)(c)*and* Sch. 23, Part X,*with effect from* 18*March* 1986.

F709 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables."

Settlement without interest in possession

3 Where tax is chargeable under section 65 of this Act on any occasion after a reduction and the rate at which it is charged is determined under section 69 by reference to the rate that was (or would have been) charged under section 64 on an occasion before that reduction (or before that and one or more other reductions), the rate charged on the later occasion shall be determined as if . . . [F710]**[**[F711]the Table**]** in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had been in force on the earlier occasion.

Textual Amendments

F710 *Repealed by* Finance Act 1986, s. 101(3), Sch. 19, para. 37(5)*and* Sch. 23, Part X*with effect from* 18*March* 1986.

F711 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables."

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Disposal of trees etc. following exemption on death

4 Where the value of any trees or underwood has been left out of account under Chapter III of Part V of this Act in determining the value transferred by the chargeable transfer made on a death before a reduction and tax is chargeable under section 126 on a disposal of the trees or underwood after that reduction (or after that and one or more subsequent reductions) the rate or rates mentioned in section 128 shall be determined as if . . . [F712][F713]the Tables] in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had applied to that transfer.

Textual Amendments

F712 *Repealed by* Finance Act 1986, s. 101(3), Sch. 19, para. 37(6)*and* Sch. 23, Part X*with effect from* 18*March* 1986.

F713 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables."

Conditionally exempt transfers

5 Where tax is chargeable under section 32 [F714or 32A] of this Act by reason of a chargeable event occurring after a reduction and the rate or rates at which it is charged fall to be determined under the provisions of section 33(1)(b)(ii) by reference to a death which occurred before that reduction (or before that and one or more other reductions) those provisions shall apply as if [F715the Table] in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had been in force at the time of the death.

Textual Amendments

F714 Finance Act 1985 Sch. 26, para. 5,*in relation to events occurring after* 18*March* 1985.

F715 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables."

Maintenance funds for historic buildings

6 Where tax is chargeable under paragraph 8 of Schedule 4 to this Act on any occasion after a reduction and the rate at which it is charged falls to be determined under paragraph 14 of that Schedule by reference to a death which occurred before that reduction (or before that and one or more other reductions) paragraph 14 shall apply as if [F716the Table] in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had been in force at the time of the death.

Textual Amendments

F716 Finance Act 1986 Sch. 19, para. 37(1)(b),*with effect from* 18*March* 1986.*Originally* "the Tables."

7 . . . . . F717

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Textual Amendments

F717 *Repealed by* Finance Act 1986 s. 114(6)*and* Sch. 23, Part X,*with effect from* 18*March* 1986.

[F718 Relevant dependant with pension fund inherited from member over 75

Textual Amendments

F718 Sch. 2 para. 6A and preceding cross-heading inserted (6.4.2007) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 11**

6A

[F719 Where tax is chargeable under section 151B of this Act on an occasion after a reduction and the rate or rates at which it is charged fall to be determined by reference to the death of a person which occurred before that reduction (or before that and one or more other reductions) that section applies as if the Table in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had been in force at the time of that person's death.**]]**

Textual Amendments

F719 Sch. 2 para. 6A repealed (with effect as mentioned in Sch. 19 para. 29(8) of the amending Act) by Finance Act 2007 (c. 11), ss. 67, 114, Sch. 19 para. 27, **Sch. 27 Pt. 3(1)**

SCHEDULE 3

Sections 25, 32, 230 etc.

GIFTS FOR NATIONAL PURPOSES, ETC.

Modifications etc. (not altering text)

C58 By Finance Act 1985 s. 95, the functions of the Treasury were transferred to the Commissioners of Inland Revenue (*"the Board"*).

The National Gallery.

The British Museum.

[F720 The National Museums of Scotland.**]**.

Textual Amendments

F720 National Heritage (Scotland) Act 1985 (c. 16, SIF 78) Sch. 2, para. 4, *with effect from* 1 *October* 1985 (S.I. 1985 No. 851 (c. 13) (s. 79)). *Originally* "The Royal Scottish Museum".

The National Museum of Wales.

The Ulster Museum.

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Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this Schedule by the Treasury.

Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom.

Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom.

The Historic Buildings and Monuments Commission for England.

The National Trust for Places of Historic Interest or Natural Beauty.

The National Trust for Scotland for Places of Historic Interest or Natural Beauty.

The National Art Collections Fund.

The Trustees of the National Heritage Memorial Fund.**[**[F721]The National Endowment for Science, Technology and the Arts.**]**

Textual Amendments

F721 Words in Sch. 3 inserted (2.7.1998) by 1998 c. 22, **ss. 24(3)**, 27(4)(b)

The Friends of the National Libraries.

The Historic Churches Preservation Trust.

[[F722]Commission for Rural Communities.

Textual Amendments

F722 Words in Sch. 3 substituted (2.5.2006 for E.W. for certain purposes and 1.10.2006 in so far as not already in force) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 105(1), 107(8)(9)(10), **Sch. 11 para. 105**; S.I. 2006/1176, **art. 4**; S.I. 2006/2541, **art. 2** (with art. 3, Sch.)

Natural England.**]**

[[F723]Scottish Natural Heritage**]**.

Textual Amendments

F723 Words in Sch. 3 substituted (E.W.S.) (1.4.1992) by Natural Heritage (Scotland) Act 1991 (c. 28, SIF 46:1), s. 4(6), **Sch. 2 para. 9**; S.I. 1991/2633, **art. 4**.

Countryside Council for Wales.

[[F724]The Marine Management Organisation.**]**

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Textual Amendments

F724 Sch. 3: entry inserted (12.1.2010) by Marine and Coastal Access Act 2009 (c. 23), ss. 1, 324, **Sch. 2 para. 5**; S.I. 2009/3345, **art. 2**, Sch. para. 1

Any local authority.

Any Government department (including the National Debt Commissioners).

Any university or university college in the United Kingdom.

[[F725]A health service body, within the meaning of **[**[F726]section 986 of the Corporation Tax Act 2010**].]**

Textual Amendments

F725 Sch. 3: entry for "health service body" inserted by National Health Service and Community Care Act 1990 (c. 19), **s. 61(5)** (with effect from the appointed day: on and after 17 September 1990, see S.I. 1990 No. 1329).

F726 Sch. 3: words in entry for "health service body" substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 192** (with Sch. 2)

SCHEDULE 4

Sections 27, 58, 77 etc.

MAINTENANCE FUNDS FOR HISTORIC BUILDINGS, ETC.

Modifications etc. (not altering text)

C59 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

PART I

TREASURY DIRECTIONS

Giving of directions

1 (1) If the conditions mentioned in paragraph 2(1) below are fulfilled in respect of settled property, the Treasury shall, on a claim made for the purpose, give a direction under this paragraph in respect of the property.

(2) The Treasury may give a direction under this paragraph in respect of property proposed to be comprised in a settlement or to be held on particular trusts in any case where, if the property were already so comprised or held, they would be obliged to give the direction.

(3) Property comprised in a settlement by virtue of a transfer of value made before the coming into force of section 94 of the [M76]Finance Act 1982 and exempt under

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section 84 of the [M77]Finance Act 1976 shall be treated as property in respect of which a direction has been given under this paragraph.

Marginal Citations

M76 1982 c.39.

M77 1976 c.40.

Conditions

2 (1) The conditions referred to in paragraph 1 above are—

(a) that the Treasury are satisfied—

(i) that the trusts on which the property is held comply with the requirements mentioned in paragraph 3 below, and

(ii) that the property is of a character and amount appropriate for the purposes of those trusts; and

(b) that the trustees—

(i) are approved by the Treasury,

(ii) include a trust corporation, a solicitor, an accountant

or a member of such other professional body as the Treasury may allow in the case of the property concerned, and

(iii) are, at the time the direction is given, resident in the United Kingdom.

(2) For the purposes of this paragraph trustees shall be regarded as resident in the United Kingdom if—

(a) the general administration of the trusts is ordinarily carried on in the United Kingdom, and

(b) the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are resident in the United Kingdom;

and where a trustee is a corporation, the question whether the trustee is resident in the United Kingdom shall, for the purposes of paragraph (b) above, be determined as for the purposes of corporation tax.

(3) In this paragraph—

"accountant" means a member of an incorporated society of accountants;

"trust corporation" means a person that is a trust corporation for the purposes of the [M78]Law of Property Act 1925 or for the purposes of Article 9 of the [M79]Administration of Estates (Northern Ireland) Order 1979.

Marginal Citations

M78 1925 c.20.

M79 S.I. 1979/1575 (N.I. 14).

3 (1) The requirements referred to in paragraph 2(1)(a)(i) above are (subject to paragraph 4 below)—

(a) that none of the property held on the trusts can at any time in the period of six years beginning with the date on which it became so held be applied otherwise than—

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(i) for the maintenance, repair or preservation of, or making provision for public access to, property which is for the time being qualifying property, for the maintenance, repair or preservation of property held on the trusts or for such improvement of property so held as is reasonable having regard to the purposes of the trusts, or for defraying the expenses of the trustees in relation to the property so held;

(ii) as respects income not so applied and not accumulated, for the benefit of a body within Schedule 3 to this Act or of a qualifying charity; and

(b) that none of the property can, on ceasing to be held on the trusts at any time in that period or, if the settlor dies in that period, at any time before his death, devolve otherwise than on any such body or charity; and

(c) that income arising from property held on the trusts cannot at any time after the end of that period be applied except as mentioned in paragraph (a)(i) or (ii) above.

(2) Property is qualifying property for the purposes of subparagraph (1) above if—

(a) it has been designated under section 34(1) of the [M80]Finance Act 1975 or section 77(1)(b), (c), (d) or (e) of the [M81]Finance Act 1976 or section 31(1)(b), (c), (d) or (e) of this Act; and

(b) the requisite undertaking has been given with respect to it under section 34 of the Finance Act 1975 or under section 76, 78(5)(b) or 82(3) of the Finance Act 1976 or under section 30, 32(5)(b), **[**[F727]32A(6), (8)(b) or (9)(b)**]** or 79(3) of this Act or paragraph 5 of Schedule 5 to this Act; and

(c) tax has not (since the last occasion on which such an undertaking was given) become chargeable with respect to it under the said section 34 or under section 78 or 82(3) of the Finance Act 1976 or under section 32, **[**[F727]32A**]** or 79(3) of this Act or paragraph 3 of Schedule 5 to this Act.

(3) If it appears to the Treasury that provision is, or is to be, made by a settlement for the maintenance, repair or preservation of any such property as is mentioned in subsection (1)(b), (c), (d) or (e) of section 31 of this Act they may, on a claim made for the purpose—

(a) designate that property under this sub-paragraph, and

(b) accept with respect to it an undertaking such as is described in subsection (4), **[**[F727]or (as the case may be) undertaking such as described in subsections (4) and (4A)**]** of that section;

and, if they do so, sub-paragraph (2) above shall have effect as if the designation were under that section and the undertaking **[**[F727]or undertakings**]** under section 30 of this Act and as if the reference to tax becoming chargeable were a reference to the occurrence of an event on which tax would become chargeable under section 32 **[**[F727]or 32A**]** of this Act if there had been a conditionally exempt transfer of the property when the claim was made and the undertaking **[**[F727]or undertakings**]** had been given under section 30.

(4) A charity is a qualifying charity for the purposes of sub-paragraph (1) above if it exists wholly or mainly for maintaining, repairing or preserving for the public benefit buildings of historic or architectural interest, land of scenic, historic or scientific interest or objects of national, scientific, historic or artistic interest; and in this

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sub-paragraph "national interest" includes interest within any part of the United Kingdom.

(5) Designations, undertakings and acceptances made under section 84(6) of the Finance Act 1976 or section 94(3) of the [M82]Finance Act 1982 shall be treated as made under sub-paragraph (3) above.

[[F728](5A) In the case of property which, if a direction is given under paragraph 1 above, will be property to which paragraph 15A below applies, sub-paragraph (1)(b) above shall have effect as if for the reference to the settlor there were substituted a reference to either the settlor or the person referred to in paragraph 15A(2).**]**

Textual Amendments

F727 Finance Act 1985 Sch. 26, para. 12,*in relation to events occurring after* 18*March* 1985.

F728 Finance Act 1987 Sch. 9, para. 2,*in relation to directions given on or after* 17*March* 1987.

Marginal Citations

M80 1975 c.7.

M81 1976 c.40.

M82 1982 c.39.

4 (1) Paragraphs (a) and (b) of paragraph 3(1) 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 paragraph 9(1) below there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it;

and in relation to any such property paragraph 3(1)(c) above shall apply with the omission of the words "at any time after the end of that period".

(2) Sub-paragraph (1) above shall not have effect if the time when the property comprised in the previous settlement devolved otherwise than on any such body or charity as is mentioned in paragraph 3(1)(a) above fell before the expiration of the period of six years there mentioned; but in such a case paragraph 3(1) above shall apply to the current settlement as if for the references to that period of six years there were substituted references to the period beginning with the date on which the property became comprised in the current settlement and ending six years after the date on which it became held on the relevant trusts of the previous settlment (or, where this sub-paragraph has already had effect in relation to the property, the date on which it became held on the relevant trusts of the first settlement in the series).

Withdrawal

5 If in the Treasury's opinion the facts concerning any property or its administration cease to warrant the continuance of the effect of a direction given under paragraph 1 above in respect of the property, they may at any time by notice in writing to the trustees withdraw the direction on such grounds, and from such date, as may be specified in the notice; and the direction shall cease to have effect accordingly.

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Information

6 Where a direction under paragraph 1 above has effect in respect of property, the trustees shall from time to time furnish the Treasury with such accounts and other information relating to the property as the Treasury may reasonably require.

Enforcement of trusts

7 Where a direction under paragraph 1 above has effect in respect of property, the trusts on which the property is held 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.

PART II

PROPERTY LEAVING MAINTENANCE FUNDS

Charge to tax

8 (1) This paragraph applies to settled property which is held on trusts which comply with the requirements mentioned in paragraph 3(1) above, and in respect of which a direction given under paragraph 1 above has effect.

(2) Subject to paragraphs 9 and 10 below, there shall be a charge to tax under this paragraph—

(a) where settled property ceases to be property to which this paragraph applies, otherwise than by virtue of an application of the kind mentioned in paragraph 3(1)(a)(i) or (ii) above or by devolving on any such body or charity as is mentioned in paragraph 3(1)(a)(ii);

(b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by such an application) as a result of which the value of settled property to which this paragraph applies is less than it would be but for the disposition.

(3) Subsections (4), (5) and (10) of section 70 of this Act shall apply for the purposes of this paragraph as they apply for the purposes of that section (with the substitution of a reference to sub-paragraph (2)(b) above for the reference in section 70(4) to section 70(2)(b)).

(4) The rate at which tax is charged under this paragraph shall be determined in accordance with paragraphs 11 to 15 below.

(5) The devolution of property on a body or charity shall not be free from charge by virtue of sub-paragraph (2)(a) above if, at or before the time of devolution, an interest under the settlement in which the property was comprised immediately before the devolution 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 sub-paragraph any acqusition from another such body or charity shall be disregarded.

(6) For the purposes of sub-paragraph (5) above a body or charity shall be treated as acquiring an interest for a consideration in money or money's worth if it becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to that body or charity or to another person) of that interest or of other property.

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Exceptions from charge

9 (1) Tax shall not be charged under paragraph 8 above in respect of property which, within the permitted period after the occasion on which tax would be chargeable under that paragraph, becomes comprised in another settlement as a result of a transfer of value which is exempt under section 27 of this Act.

(2) In sub-paragraph (1) above "the permitted period" means the period of thirty days except in a case where the occasion referred to is the death of the settlor, and in such a case means the period of two years.

(3) Sub-paragraph (1) above shall not apply to any property if the person who makes the transfer of value has acquired it for a consideration in money or money's worth; and for the purposes of this sub-paragraph a person 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.

(4) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes comprised in the other settlement (less the amount of any consideration for its transfer received by the person who makes the transfer of value), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.

(5) The reference in sub-paragraph (4) above to the amount on which tax would be charged is a reference to the amount on which it would be charged apart from—

(a) section 70(5)(b) of this Act (as applied by paragraph 8(3) above), and

(b) Chapters I and II of Part V of this Act;

and the reference in that sub-paragraph to the amount on which tax is charged is a reference to the amount on which it would be charged apart from section 70(5)(b) and those Chapters.

10 (1) Tax shall not be charged under paragraph 8 above in respect of property which ceases to be property to which that paragraph applies on becoming—

(a) property to which the settlor or his spouse **[**[F729]or civil partner**]** is beneficially entitled, or

(b) property to which the settlor's widow or widower **[**[F730]or surviving civil partner**]** is beneficially entitled if the settlor has died in the two years preceding the time when it becomes such property.

(2) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes property of a description specified in paragraph (a) or (b) of that sub-paragraph (less the amount of any consideration for its transfer received by the trustees), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.

(3) The reference in sub-paragraph (2) above to the amount on which tax would be charged is a reference to the amount on which it would be charged apart from—

(a) section 70(5)(b) of this Act (as applied by paragraph 8(3) above), and

(b) Chapters I and II of Part V of this Act;

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and the reference in sub-paragraph (2) above to the amount on which tax is charged is a reference to the amount on which it would be charged apart from section 70(5)(b) and those Chapters.

(4) Sub-paragraph (1) above shall not apply in relation to any property if, at or before the time when it becomes property of a description specified in paragraph (a) or (b) of that sub-paragraph, an interest under the settlement in which the property was comprised immediately before it ceased to be property to which paragraph 8 above applies is or has been acquired for a consideration in money or money's worth by the person who becomes beneficially entitled.

(5) For the purposes of sub-paragraph (4) above a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to him or to another person) of that interest or of other property.

(6) Sub-paragraph (1) above shall not apply in respect of property if it was relevant property before it became (or last became) property to which paragraph 8 above applies and, by virtue of paragraph 16(1) or 17(1) below, tax was not chargeable (or, but for paragraph 16(2) or 17(4), would not have been chargeable) under section 65 of this Act in respect of its ceasing to be relevant property before becoming (or last becoming) property to which paragraph 8 above applies.

(7) Sub-paragraph (1) above shall not apply in respect of property if—

(a) before it last became property to which paragraph 8 above applies it was comprised in another settlement in which it was property to which that paragraph applies, and

(b) it ceased to be comprised in the other settlement and last became property to which that paragraph applies in circumstances such that by virtue of paragraph 9(1) above there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it.

(8) Sub-paragraph (1) above shall 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.

Textual Amendments

F729 Words in Sch. 4 para. 10(1)(a) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **39(2)(a)**

F730 Words in Sch. 4 para. 10(1)(b) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **39(2)(b)**

Rates of charge

11 (1) This paragraph applies where tax is chargeable under paragraph 8 above and—

(a) the property in respect of which the tax is chargeable was relevant property before it became (or last became) property to which that paragraph applies, and

(b) by virtue of paragraph 16(1) or 17(1) below tax was not chargeable (or, but for paragraph 16(2) or 17(4), would not have been chargeable) under section 65 of this Act in respect of its ceasing to be relevant property on or

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before becoming (or last becoming) property to which paragraph 8 above applies.

(2) Where this paragraph applies, the rate at which the tax is charged shall be the aggregate of the following percentages—
- (a) 0.25 per cent. for each of the first forty complete successive quarters in the relevant period,
- (b) 0.20 per cent. for each of the next forty,
- (c) 0.15 per cent. for each of the next forty,
- (d) 0.10 per cent. for each of the next forty, and
- (e) 0.05 per cent. for each of the next forty.

(3) In sub-paragraph (2) above "the relevant period" means the period beginning with the latest of—
- (a) the date of the last ten-year anniversary of the settlement in which the property was comprised before it ceased (or last ceased) to be relevant property,
- (b) the day on which the property became (or last became) relevant property before it ceased (or last ceased) to be such property, and
- (c) 13th March 1975,

and ending with the day before the event giving rise to the charge.

(4) Where the property in respect of which the tax is chargeable has at any time ceased to be and again become property to which paragraph 8 above applies in circumstances such that by virtue of paragraph 9(1) above there was no charge to tax in respect of it (or, but for paragraph 9(4), there would have been no charge), it shall for the purposes of this paragraph be treated as having been property to which paragraph 8 above applies throughout the period mentioned in paragraph 9(1).

12 (1) This paragraph applies where tax is chargeable under paragraph 8 above and paragraph 11 above does not apply.

(2) Where this paragraph applies, the rate at which the tax is charged shall be the higher of—
- (a) the first rate (as determined in accordance with paragraph 13 below), and
- (b) the second rate (as determined in accordance with paragraph 14 below).

13 (1) The first rate is the aggregate of the following percentages—
- (a) 0.25 per cent. for each of the first forty complete successive quarters in the relevant period,
- (b) 0.20 per cent. for each of the next forty,
- (c) 0.15 per cent. for each of the next forty,
- (d) 0.10 per cent. for each of the next forty, and
- (e) 0.05 per cent. for each of the next forty.

(2) In sub-paragraph (1) above "the relevant period" means the period beginning with the day on which the property in respect of which the tax is chargeable became (or first became) property to which paragraph 8 above applies, and ending with the day before the event giving rise to the charge.

(3) For the purposes of sub-paragraph (2) above, any occasion on which property became property to which paragraph 8 above applies, and which occurred before an occasion of charge to tax under that paragraph in respect of the property, shall be disregarded.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The reference in sub-paragraph (3) above to an occasion of charge to tax under paragraph 8 does not include a reference to—

(a) the occasion by reference to which the rate is being determined in accordance with this Schedule, or

(b) an occasion which would not be an occasion of charge but for paragraph 9(4) above.

14 (1) If the settlor is alive, the second rate is the effective rate at which tax would be charged, on the amount on which it is chargeable, **[**[F731]in accordance with the appropriate provision of section 7 of this Act**]** if the amount were the value transferred by a chargeable transfer made by him on the occasion on which the tax becomes chargeable.

[[F732](1A) The rate or rates of tax determined under sub-paragraph (1) above in respect of any occasion shall not be affected by the death of the settlor after that occasion.**]**

(2) If the settlor is dead, the second rate is (subject to sub-paragraph (3) below) the effective rate at which tax would have been charged, on the amount on which it is chargeable, **[**[F731]in accordance with the appropriate provision of section 7 of this Act**]** if the amount had been added to the value transferred on his death and had formed the highest part of it.

(3) If the settlor died before 13th March 1975, the second rate is the effective rate at which tax would have been charged, on the amount on which it is chargeable ("the chargeable amount"), **[**[F731]in accordance with the appropriate provision of section 7 of this Act**]** if the settlor had died when the event occasioning the charge under paragraph 8 above occurred, the value transferred on his death had been equal to the amount on which estate duty was chargeable when he in fact died, and the chargeable amount had been added to that value and had formed the highest part of it.

(4) Where, in the case of a settlement ("the current settlement"), tax is chargeable under paragraph 8 above in respect of 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 paragraph 9(1) above was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it,

then, subject to sub-paragraph (5) below, references in sub-paragraphs (1) to (3) above to the settlor shall be construed as references to the person who was the settlor in relation to the settlement mentioned in paragraph (a) above (or, if the Board so determine, the person who was the settlor in relation to the current settlement).

(5) Where, in the case of a settlement ("the current settlement"), tax is chargeable under paragraph 8 above in respect of property which—

(a) was previously comprised at different times in other settlements ("the previous settlements"), and

(b) ceased to be comprised in each of them, and became comprised in another of them or in the current settlement, in circumstances such that by virtue of paragraph 9(1) above there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it,

references in sub-paragraphs (1) to (3) above to the settlor shall be construed as references to the person who was the settlor in relation to the previous settlement

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in which the property was first comprised (or, if the Board so determine, any person selected by them who was the settlor in relation to any of the other previous settlements or the current settlement).

(6) Sub-paragraph (7) below shall apply if—

(a) in the period of **[**[F733]seven years**]** preceding a charge under paragraph 8 above (the "current charge"), there has been another charge under that paragraph where tax was charged at the second rate, and

(b) the person who is the settlor for the purposes of the current charge is the settlor for the purposes of the other charge (whether or not the settlements are the same and, if the settlor is dead, whether or not he has died since the other charge);

and in sub-paragraph (7) below the other charge is referred to as the "previous charge".

(7) Where this sub-paragraph applies, the amount on which tax was charged on the previous charge (or, if there have been more than one, the aggregate of the amounts on which tax was charged on each)—

(a) shall, for the purposes of calculating the rate of the current charge under sub-paragraph (1) above, be taken to be the value transferred by a chargeable transfer made by the settlor immediately before the occasion of the current charge, and

(b) shall, for the purposes of calculating the rate of the current charge under sub-paragraph (2) or (3) above, be taken to increase the value there mentioned by an amount equal to that amount (or aggregate).

(8) References in sub-paragraphs (1) to (3) above to the effective rate are to the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged.

[[F734](9) For the purposes of sub-paragraph (1) above the appropriate provision of section 7 of this Act is subsection (2), and for the purposes of sub-paragraphs (2) and (3) above it is (if the settlement was made on death) subsection (1) and (if not) subsection (2).**]**

Textual Amendments

F731 Finance Act 1986 Sch. 19, para. 38(1),*with effect from* 18*March* 1986.*Originally* "under the appropriate Table".

F732 Finance Act 1986 Sch. 19, para. 38(2),*with effect from* 18*March* 1986.

F733 Finance Act 1986 Sch. 19, para. 38(3),*with effect from* 18*March* 1986.*Originally* "ten years".

F734 Finance Act 1986 Sch. 19, para. 38(4),*with effect from* 18*March* 1986.*Originally* "(9) For the purposes of sub-paragraph (1) above the appropriate Table is the second Table in Schedule 1 to this Act, and for the purposes of sub-paragraphs (2) and (3) above it is (if the settlement was made on death) the first Table in that Schedule and (if not) the second."

15 Where property is, by virtue of paragraph 1(3) above, treated as property in respect of which a direction has been given under paragraph 1, it shall for the purposes of paragraphs 11 to 14 above be treated as having become property to which paragraph 8 above applies when the transfer of value mentioned in paragraph 1(3) was made.

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[F735 Maintenance fund following interest in possession

Textual Amendments

F735 Finance Act 1987 Sch. 9, para. 3,*where the occasion of the charge or potential charge to tax under para.*8*above falls on or after* 17*March* 1987.

15A (1) In relation to settled property to which this paragraph applies, the provisions of this Part of this Schedule shall have effect with the modifications set out in the following sub-paragraphs.

(2) This paragraph applies to property which became property to which paragraph 8 above applies on the occasion of a transfer of value which was made by a person beneficially entitled to an interest in possession in the property, and which (so far as the value transferred by it was attributable to the property)—

(a) was an exempt transfer by virtue of the combined effect of either—

(i) sections 27 and 57(5) of this Act, or

(ii) sections 27 and 57A of this Act, and

(b) would but for those sections have been a chargeable transfer;

and in the following sub-paragraphs "the person entitled to the interest in possession" means the person above referred to.

(3) Paragraph 9(2) shall have effect as if for the reference to the settlor there were substituted a reference to either the settlor or the person entitled to the interest in possession.

(4) Paragraph 10 shall not apply if the person entitled to the interest in possession had died at or before the time when the property became property to which paragraph 8 above applies; and in any other case shall have effect with the substitution in sub-paragraph (1) of the following words for the words from "on becoming" onwards—

"(a) on becoming property to which the person entitled to the interest in possession is beneficially entitled, or

(b) on becoming—

(i) property to which that person's spouse **[**[F736]or civil partner**]** is beneficially entitled, or

(ii) property to which that person's widow or widower **[**[F737]or surviving civil partner**]** is beneficially entitled if that person has died in the two years preceding the time when it becomes such property;

but paragraph (b) above applies only where the **[**[F738]spouse or civil partner, or widow or widower or surviving civil partner,**]** would have become beneficially entitled to the property on the termination of the interest in possession had the property not then become property to which paragraph 8 above applies."

(5) Paragraph 11 shall not apply.

(6) Sub-paragraphs (1) to (3) of paragraph 14 shall have effect as if for the references to the settlor there were substituted references to the person entitled to the interest in possession.

Status: *Point in time view as at 01/04/2011.*
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(7) Sub-paragraph (4) of paragraph 14 shall have effect with the insertion after paragraph (b) of the words "and

(c) was, in relation to either of those settlements, property to which paragraph 15A below applied,",

and with the substitution for the words from "settlor shall" onwards of the words "person entitled to the interest in possession shall, if the Board so determine, be construed as references to the person who was the settlor in relation to the current settlement.".

(8) Sub-paragraph (5) of paragraph 14 shall have effect with the insertion after paragraph (b) of the words "and

(c) was, in relation to any of those settlements, property to which paragraph 15A below applied,",

and with the substitution for the words from "settlor shall" onwards of the words "person entitled to the interest in possession shall, if the Board so determine, be construed as references to any person selected by them who was the settlor in relation to any of the previous settlements or the current settlement."

(9) Except in a case where the Board have made a determination under sub-paragraph (4) or (5) of paragraph 14, sub-paragraphs (6) and (7) of that paragraph shall have effect as if for the references to the settlor there were substituted references to the person entitled to the interest in possession.

(10) Sub-paragraph (9) of paragraph 14 shall have effect with the substitution for the words "(if the settlement was made on death)" of the words "(if the person entitled to the interest in possession had died at or before the time when the property became property to which paragraph 8 above applies)".**]**

Textual Amendments

F736 Words in Sch. 4 para. 15A(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **39(3)(a)**

F737 Words in Sch. 4 para. 15A(4) inserted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **39(3)(b)**

F738 Words in Sch. 4 para. 15A(4) substituted (5.12.2005) by The Tax and Civil Partnership Regulations 2005 (S.I. 2005/3229), regs. 1(1), **39(3)(c)**

PART III

PROPERTY BECOMING COMPRISED IN MAINTENANCE FUNDS

16 (1) Tax shall not be charged under section 65 of this Act in respect of property which ceases to be relevant property on becoming property in respect of which a direction under paragraph 1 above then has effect.

(2) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes property in respect of which the direction has effect (less the amount of any consideration for its transfer received by the trustees of the settlement in which it was comprised immediately before it ceased to be relevant property), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.

Status: *Point in time view as at 01/04/2011.*
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(3) Sub-paragraph (1) above shall not apply in relation to any property if, at or before the time when it becomes property in respect of which the direction has effect, an interest under the settlement in which it was comprised immediately before it ceased to be relevant property is or has been acquired for a consideration in money or money's worth by the trustees of the settlement in which it becomes comprised on ceasing to be relevant property.

(4) For the purposes of sub-paragraph (3) above trustees shall be treated as acquiring an interest for a consideration in money or money's worth if they become entitled to the interest as a result of transactions which include a disposition for such consideration (whether to them or to another person) of that interest or of other property.

17 (1) Tax shall not be charged under section 65 of this Act in respect of property which ceases to be relevant property if within the permitted period an individual makes a transfer of value—

(a) which is exempt under section 27 of this Act, and

(b) the value transferred by which is attributable to that property.

(2) In sub-paragraph (1) above "the permitted period" means the period of thirty days beginning with the day on which the property ceases to be relevant property except in a case where it does so on the death of any person, and in such a case means the period of two years beginning with that day.

(3) Sub-paragraph (1) above shall not apply if the individual has acquired the property concerned for a consideration in money or money's worth; and for the purposes of this sub-paragraph 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.

(4) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after the transfer there referred to (less the amount of any consideration for its transfer received by the individual), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.

18 In paragraphs 16(2) and 17(4) above the references to the amount on which tax would be charged are references to the amount on which it would be charged apart from—

(a) paragraph (b) of section 65(2) of this Act, and

(b) Chapters I and II of Part V of this Act;

and the references to the amount on which tax is charged are references to the amount on which it would be charged apart from that paragraph and those Chapters.

Status: *Point in time view as at 01/04/2011.*
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SCHEDULE 5

Section 35.

CONDITIONAL EXEMPTION: DEATHS BEFORE 7TH APRIL 1976

Modifications etc. (not altering text)

C60 *By* Finance Act 1985 s. 95,*the functions of the Treasury were transferred to the Commissioners of Inland Revenue* (*"the Board"*).

Charge on failure of condition of exemption—objects

1 (1) Where, under section 31 of the [M83]Finance Act 1975, the value of an object has been left out of account and the Treasury are satisfied that at any time the undertaking given under that section or under paragraph 5 below with respect to the object has not been observed in a material respect, tax shall be chargeable with respect to the object in accordance with paragraph 2 below.

(2) Where, under section 31 of the Finance Act 1975, the value of any object has been left out of account and—

(a) sub-paragraph (1) above does not apply, but

(b) the object is disposed of, whether on sale or otherwise,

then, subject to the following provisions of this paragraph, tax shall be chargeable with respect to the object in accordance with paragraph 2 below; but where the value of an object has been so left out of account on the death of more than one person, the tax chargeable under this sub-paragraph shall be chargeable only by reference to the last death.

(3) Tax shall not be chargeable by virtue of sub-paragraph (2) above with respect to an object—

(a) on its being sold by private treaty to a body mentioned in Schedule 3 to this Act or on its being disposed of to such a body otherwise than by sale, or

(b) if it is disposed of otherwise than by sale and the undertaking previously given with respect to it is replaced by a further undertaking under paragraph 5 below.

(4) For the purposes of sub-paragraph (2) above, the acceptance of an object under section 230 of this Act shall not be treated as a disposal of the object.

Marginal Citations

M83 1975 c. 7.

2 (1) The following provisions of this paragraph shall have effect where, under section 31 of the [M84]Finance Act 1975, the value of any object has been left out of account in determining the value transferred by the transfer of value made on the death of any person (in this paragraph referred to as the value transferred on death) and tax becomes chargeable with respect to the object under paragraph 1 above by reason of the disposal of the object or the non-observance of an undertaking (in this paragraph referred to as a chargeable event).

Status: *Point in time view as at 01/04/2011.*
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(2) The tax chargeable under paragraph 1 above with respect to an object shall be so much of the tax that would have been chargeable on the value transferred on death as would have been attributable to the value of the object if—

(a) section 31 of the Finance Act 1975 had not applied to the object, and

(b) the value of the object at the time of the death had been equal to its value at the time of the chargeable event and, if the chargeable event was a disposal on sale complying with paragraph 6 below, that value had been equal to the proceeds of sale.

(3) Where—

(a) under section 31 of the Finance Act 1975 the value of two or more objects has been left out of account in determining the value transferred on death, and

(b) those objects formed a set at the time of death, and

(c) tax becomes chargeable under paragraph 1 above with respect to two or more of the objects by reason of chargeable events occurring at different times,

the preceding provisions of this paragraph shall apply as if both or all the chargeable events had occurred at the time of the earlier or earliest one, and the tax chargeable with respect to the objects shall be adjusted accordingly on the occurrence of each of the subsequent chargeable events.

(4) Sub-paragraph (3) above shall not apply with respect to two or more chargeable events which are disposals to different persons who are neither acting in concert nor connected with each other.

Marginal Citations

M84 1975 c. 7.

Charge on failure of condition of exemption—buildings etc.

3 (1) Where, under subsection (2) of section 34 of the [M85]Finance Act 1975, the value of any property has been left out of account and the Treasury are satisfied that at any time the undertaking given under that subsection or under paragraph 5 below in respect of that property has not been observed in a material respect, then, subject to sub-paragraph (3) below, tax shall be chargeable in accordance with paragraph 4 below with respect to the property and any property associated with it.

(2) Where, under section 34(2) of the Finance Act 1975, the value of any property has been left out of account in determining the value transferred on the death of any person and—

(a) sub-paragraph (1) above does not apply, but

(b) the property is disposed of, whether on sale or otherwise,

then, subject to sub-paragraphs (3) and (4) below, tax shall be chargeable in accordance with paragraph 4 below with respect to the property and any property associated with it; but where the value of the property has been left out of account on the death of more than one person, the tax chargeable under this sub-paragraph shall be chargeable only by reference to the last death.

(3) The Treasury may direct that the tax chargeable under this paragraph on a failure to observe an undertaking with respect to any property or on the disposal of any property shall be chargeable with respect only to that property, if it appears to them

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that the entity consisting of the building, land and objects concerned has not been materially affected.

(4) Tax shall not be chargeable under sub-paragraph (2) above with respect to any property—

(a) on its being sold by private treaty to a body mentioned in Schedule 3 to this Act or on its being disposed of to such a body otherwise than by sale, or

(b) if it is disposed of otherwise than by sale and the undertaking previously given with respect to it is replaced by a further undertaking under paragraph 5 below;

and for the purposes of sub-paragraph (2) above the acceptance of any property under section 230 of this Act shall not be treated as a disposal of the property.

(5) For the purposes of this paragraph, two or more properties are associated with each other if one of them is a building falling within subsection (1)(b) of section 34 of the Finance Act 1975 and the other or others such land or objects as, in relation to that building, fall within subsection (1)(c) or (d) of that section.

Marginal Citations

M85 1975 c. 7.

4 The tax chargeable under paragraph 3 above with respect to any property shall be so much of the tax that would have been chargeable on the value transferred on the death as would have been attributable to the value of the property if—

(a) section 34 of the Finance Act 1975 had not applied to the property; and

(b) the value of the property at the time of the death had been equal to its value at the time the tax becomes chargeable and, if it becomes chargeable on a sale complying with paragraph 6 below, that value had been equal to the proceeds of sale.

Further undertaking on disposal

5 (1) The further undertaking referred to in paragraph 1 above is an undertaking given, by such person as the Treasury think appropriate in the circumstances of the case, that, until the person entitled to the object dies or the object is disposed of, whether by sale or gift or otherwise,—

(a) the object 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 object; and

(c) reasonable facilities for examining the object for the purpose of seeing the steps taken for its preservation or, subject to sub-paragraph (3) below, for purposes of research, will be allowed to any person authorised by the Treasury to examine it.

(2) The further undertaking referred to in paragraph 3 above is an undertaking given by such person as the Treasury think appropriate in the circumstances of the case that, until the person entitled to the property dies or the property is disposed of, whether by sale or gift or otherwise, reasonable steps will be taken—

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(a) in the case of land falling within subsection (1)(a) of section 34 of the [M86]Finance Act 1975, for the maintenance of the land and the preservation of its character, and

(b) in the case of any other property, for the maintenance, repair and preservation of the property and, if it is an object falling within subsection (1)(d) of that section, for keeping it associated with the building concerned,

and for securing reasonable access to the public.

(3) If it appears to the Treasury, on a claim made for the purpose, that any documents which are designated as objects to which section 31 of the Finance Act 1975 applies contain information which for personal or other reasons ought to be treated as confidential, they may exclude those documents, either entirely or to such extent as they think fit, from so much of an undertaking given or to be given under sub-paragraph (1)(c) above as relates to their examination for purposes of research.

Marginal Citations

M86 1975 c.7.

Requirements of sale

6 A sale complies with this paragraph if—

(a) it was not intended to confer any gratuitous benefit on any person, and

(b) it was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other.

SCHEDULE 6

Section 273.

TRANSITION FROM ESTATE DUTY

General

1 References in any enactment, in any instrument made under any enactment, or in any document (whether executed before or after the passing of this Act) to estate duty or to death duties shall have effect, as far as may be, as if they included references to capital transfer tax chargeable under section 4 of this Act (or under section 22 of the [M87]Finance Act 1975).

Modifications etc. (not altering text)

C61 *See* Finance Act 1986 s. 100(1)*and* (2)*—for any liability to tax arising on and after* 25*July* 1986*any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.*

Marginal Citations

M87 1975 c. 7.

Status: *Point in time view as at 01/04/2011.*
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Surviving spouse or former spouse

2 In determining for the purposes of this Act the value of the estate, immediately before his death, of a person whose spouse (or former spouse) died before 13th November 1974, there shall be left out of account the value of any property which, if estate duty were chargeable on the later death, would be excluded from the charge by section 5(2) of the [M88]Finance Act 1894 (relief on death of surviving spouse); and tax shall not be chargeable under section 52 of this Act on the coming to an end of an interest in possession in settled property if—

(a) the spouse (or former spouse) of the person beneficially entitled to the interest died before 13th November 1974, and

(b) the value of the property in which the interest subsists would by virtue of the preceding provisions of this paragraph have been left out of account in determining the value of the survivor's estate had he died immediately before the interest came to an end.

Marginal Citations

M88 1894 c. 30.

Sales and mortgages of reversionary interests

3 (1) Where a reversionary interest in settled property was before 27th March 1974 sold or mortgaged for full consideration in money or money's worth, no greater amount of tax shall be payable by the purchaser or mortgagee when the interest falls into possession than the amounts of estate duty that would have been payable by him if none of the provisions of the Finance Act 1975 or this Act had been passed; and any tax which, by virtue of this paragraph, is not payable by the mortgagee but which is payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

(2) Where the interest referred to in sub-paragraph (1) above was sold or mortgaged to a close company in relation to which the person entitled to the interest was a participator, sub-paragraph (1) above shall apply only to the extent that other persons had rights and interests in the company; and this sub-paragraph shall be construed as if contained in Part IV of this Act.

Objects of national etc. interest left out of account on death

4 (1) In its application to a sale which does not comply with paragraph 6 of Schedule 5 to this Act, subsection (2) of section 40 of the [M89]Finance Act 1930 shall have effect as if the reference to the proceeds of sale were a reference to the value of the objects on that date.

(2) Where there has been a death in relation to which the value of any property has been left out of account under section 40 of the Finance Act 1930 and, before any estate duty has become chargeable under the provisions of that section or of section 48 of the [M90]Finance Act 1950, there is a conditionally exempt transfer of that property, then, on the occurrence of a chargeable event in respect of that property—

[[F739](a) if there has been no conditionally exempt transfer of the property on death, either—

(i) tax shall be chargeable under section 32 or 32A of this Act (as the case may be), or

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(ii) estate duty shall be chargeable under those provisions, as the Board may elect, and

(b) if there has been such a conditionally exempt transfer, there shall be a charge under section 32 or 32A of this Act (as the case may be) and not under those provisions;**]**

and in this sub-paragraph "conditionally exempt transfer" includes a conditionally exempt occasion within the meaning of section 78(2) of this Act.

(3) In sections 33(7) **[**[F740]and 8**]** and 79(1) of this Act, references to a conditionally exempt transfer of any property include references to a death in relation to which the value of any property has been left out of account under section 40 of the Finance Act 1930 and, in relation to such property, references to a chargeable event or to the tax chargeable in accordance with section 33 of this Act by reference to a chargeable event include references to an event on the occurrence of which estate duty becomes chargeable under section 40 of the Finance Act 1930 or section 48 of the Finance Act 1950 or to the estate duty so chargeable.

(4) In determining for the purposes of section 40(2) of the Finance Act 1930 what is the last death on which the objects passed, there shall be disregarded any death after 6th April 1976.

(5) In the application of this paragraph to Northern Ireland for references to section 40 of the Finance Act 1930 and section 48 of the Finance Act 1950 there shall be substituted references to section 2 of the [M91]Finance Act (Northern Ireland) 1931 and Article 6 of the [M92]Finance (Northern Ireland) Order 1972 respectively.

Textual Amendments

F739 Finance Act 1985 Sch. 26, para. 13,*in relation to events occurring after* 18*March* 1985.*Originally* "(a) if there has been no conditionally exempt transfer of the property on death, either tax shall be chargeable under section 32 of this Act or estate duty shall be chargeable under those provisions as the Board may elect, and (b) if there has been such a conditionally exempt transfer, there shall be a charge under that section and not under those provisions;"

F740 Finance Act 1986 Sch. 19, para. 39,*with effect from* 18*March* 1986.

Marginal Citations

M89 1930 c. 28.

M90 1950 c. 15.

M91 1931 c. 24 (N.I.).

M92 S.I. 1972/1100

SCHEDULE 7

Section 274.

COMMENCEMENT: SUPPLEMENTARY RULES

Modifications etc. (not altering text)

C62 Schedule 7*as originally enacted in the Capital Transfer Tax Act* 1984,*in relation to capital transfer tax.*

Status: *Point in time view as at 01/04/2011.*
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1 In this Schedule "the repealed enactments" means the enactments repealed by this Act.

2 Sections 126 to 130 of this Act shall have effect (to the exclusion of the corresponding repealed enactments) in relation to any disposal after the end of 1984, whether the death in respect of which relief was given occurred before or after that time.

3 Where section 146 of this Act has effect in relation to a death after the end of 1984, it shall also have effect (to the exclusion of section 122 of the [M93]Finance Act 1976) in relation to any chargeable transfer of the kind referred to in section 146(2), whether made before or after that time.

Marginal Citations

M93 1976 c. 40.

4 Section 147 of this Act, so far as it relates to charges to tax in respect of claims to legitim made in the circumstances described in subsection (4) of that section, shall have effect (to the exclusion of the corresponding repealed enactments) in relation to claims made after the end of 1984, whether the testator died before or after that time.

5 . . . . . [F741]

Textual Amendments

F741 *Repealed by* Finance Act 1986 Sch. 19, para. 25,*where the donee's transfer is made on or after* 18*March* 1986.

6 Section 150 of this Act shall have effect (to the exclusion of section 88 of the Finance Act 1976) in relation to any claim made after the end of 1984.

7 Section 203 of this Act shall have effect (to the exclusion of the corresponding repealed enactments) in relation to any chargeable transfer made after the end of 1984 (whether the spouse transfer concerned was made before or after that time).

8 Section 218 of this Act, and section 245 so far as it relates to section 218, shall have effect in relation to settlements made after the end of 1984 to the exclusion of the corresponding repealed enactments, and those enactments shall continue to have effect in relation to settlements made before that time.

9 Section 219 of this Act, and section 245 so far as it relates to section 219, shall come into force on 1st January 1985 for all purposes to the exclusion of the corresponding repealed enactments, except that those enactments shall continue to have effect in relation to notices given before that time.

10 Section 220 of this Act shall come into force on 1st January 1985 for all purposes to the exclusion of the corresponding repealed enactments, except that those enactments shall continue to have effect in relation to authorisations given before that time.

11 Any order made under section 233 of this Act shall have effect in relation to interest chargeable (under the repealed enactments) in respect of chargeable transfers and other events before the end of 1984 as it has effect in relation to interest chargeable (under this Act) in respect of transfers and other events after that time.

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12 Where payments are made or assets transferred after the end of 1984 in the circumstances described in section 262 of this Act, that section shall have effect (to the exclusion of the corresponding repealed enactments) whether the disposition first mentioned in that section was made before or after that time.

13 Section 264 of this Act shall have effect (to the exclusion of section 114 of the Finance Act 1976) in any case where the later transfer is made after the end of 1984, whether the earlier transfer was made before or after that date.

14 This Act shall not have effect in a case which would otherwise fall within paragraph 2(3) of Schedule 5 if the first chargeable event occurred before the end of 1984.

SCHEDULE 8

Section 276.

CONSEQUENTIAL AMENDMENTS

Modifications etc. (not altering text)
C63 Schedule 8*as originally enacted in the Capital Transfer Tax Act* 1984,*in relation to capital transfer tax.*

The Land Registration Act 1925

F742 1 . . . . . .

Textual Amendments
F742 Sch. 8 para. 1 repealed (13.10.2003) by 2002 c. 9, ss. 135, 136(2), Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, **art. 2(1)**

The Crown Proceedings Act 1947

2 In section 14(1)(b) of the M94Crown Proceedings Act 1947, for the words from "payment" to the end there shall be substituted the words "payment of capital transfer tax under the Capital Transfer Tax Act 1984".

Marginal Citations
M94 1947 c. 44.

The Land Charges Act 1972

3 (1) In section 2 of the M95Land Charges Act 1972—

(a) in subsection (4)(ii) for the words "Part III of the Finance Act 1975" there shall be substituted the words "the Capital Transfer Tax Act 1984"; and

(b) in subsection (5)(i) for the words "Part III of the Finance Act 1975 (capital transfer tax)" there shall be substituted the words "the Capital Transfer Tax Act 1984".

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(2) In section 4(6) of that Act for the words "Part III of the Finance Act 1975" there shall be substituted the words "the Capital Transfer Tax Act 1984".

Marginal Citations
M95 1972 c. 61.

The Finance Act 1975

4 In section 49(4) of the [M96]Finance Act 1975 after the words "paragraph 1 of Schedule 6 to this Act" there shall be inserted the words "or section 18 of the Capital Transfer Tax Act 1984".

Marginal Citations
M96 1975 c. 7.

5—7. . . . . [F743]

Textual Amendments
F743 *Repealed by* Finance Act 1985 s. 93*and* Sch. 27, Part X,*in relation to disposals on or after* 19*March* 1985.

The Finance Act 1977

8 In section 38 of the [M97]Finance Act 1977—

(a) in subsection (1) for the words "a direction has effect under section 93 of the Finance Act 1982" there shall be substituted the words "a direction has effect under paragraph 1 of Schedule 4 to the Capital Transfer Tax Act 1984"; and

(b) in subsection (5)(a) for the words "the said section 93" there shall be substituted the words "the said paragraph 1".

Marginal Citations
M97 1977 c.36.

The Capital Gains Tax Act 1979

[F744]9 . . . . . .

Textual Amendments
F744 Sch. 8 paras. 9-12 repealed (6.3.1992 with effects as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26, 27).

10 [F745] . . . . . .

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Textual Amendments

F745 Sch. 8 paras. 9-12 repealed (6.3.1992 with effects as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26, 27).

F746 11 . . . . . .

Textual Amendments

F746 Sch. 8 paras. 9-12 repealed (6.3.1992 with effects as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26, 27).

F747 12 . . . . . .

Textual Amendments

F747 Sch. 8 paras. 9-12 repealed (6.3.1992 with effects as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26, 27).

The National Heritage Act 1980

13 In section 8(1) of the M98 National Heritage Act 1980 after the words "Finance Act 1975" there shall be inserted the words "or section 230 of the Capital Transfer Tax Act 1984".

Marginal Citations

M98 1980. c.17.

14 In section 12(3) of the National Heritage Act 1980 for the words "the said paragraph 17(4)" there shall be substituted the words "section 230(4) of the Capital Transfer Tax Act 1984".

15 In section 13(3) of the National Heritage Act 1980 after the words "this section" there shall be inserted the words "or section 230(1) or 231(2) of the Capital Transfer Tax Act 1984".

16 In section 14(1) of the National Heritage Act 1980, for the words "or of the provisions amended by section 12 above" there shall be substituted the words "or under section 230 of the Capital Transfer Tax Act 1984".

The Finance Act 1980

17 (1) Section 52 of the M99 Finance Act 1980 shall be amended as follows.

(2) In subsection (1)—

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(a) for the words "a direction has effect under section 93 of the Finance Act 1982" there shall be substituted the words "a direction has effect under paragraph 1 of Schedule 4 to the Capital Transfer Tax Act 1984";

(b) in paragraph (a) for the words "subsection (3) of that section" there shall be substituted the words "sub-paragraph (1) of paragraph 3 of that Schedule"; and

(c) in paragraph (b) for the words "that subsection" there shall be substituted the words "that sub-paragraph".

(3) In subsections (2) and (3) for the words "subsection (3)(a)(i) or (ii) of the said section 93" there shall be substituted the words "sub-paragraph (1)(a)(i) or (ii) of the said paragraph 3".

(4) In subsection (7)—

(a) in paragraph (a) for the words from "paragraph 3(1)" to "paragraph 3(4)" there shall be substituted the words "paragraph 9(1) of Schedule 4 to the Capital Transfer Tax Act 1984 there is (or, but for paragraph 9(4)"; and

(b) in paragraph (b) for the words "section 93 of that Act" there shall be substituted the words "paragraph 1 of that Schedule".

Marginal Citations

M99 1980 c.48.

18 (1) Section 53 of the [M100]Finance Act 1980 shall be amended as follows.

(2) In subsection (1)—

(a) for the words "subsection (3) of section 93 of the Finance Act 1982" there shall be substituted the words "sub-paragraph (1) of paragraph 3 of Schedule 4 to the Capital Transfer Tax Act 1984"; and

(b) in paragraph (a) for the words "the said section 93" there shall be substituted the words "paragraph 1 of the said Schedule 4".

(3) In subsection (4)—

(a) in paragraph (a) for the words from "paragraph 3(1)" to "paragraph 3(4)" there shall be substituted the words "paragraph 9(1) of Schedule 4 to the Capital Transfer Tax Act 1984 there is (or, but for paragraph 9(4)"; and

(c) in paragraph (b) for the words "section 93 of that Act" there shall be substituted the words "paragraph 1 of that Schedule".

Marginal Citations

M100 1980 c. 48.

19 In section 98 of the Finance Act 1980 for the words between "by virtue of" and "but" there shall be substituted the words "paragraph 9(1) or 17(1) of Schedule 4 to the Capital Transfer Tax Act 1984 there is no charge to capital transfer tax in respect of the property ceasing to be comprised in the settlement or a reduced charge to that tax by virtue of paragraph 9(4) or 17(4) of that Schedule".

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The Supreme Court Act 1981

20 In section 109 of the [M101]Supreme Court Act 1981—

(a) in subsections (1) and (2) for the words "Part III of the Finance Act 1975" there shall be substituted the words "the Capital Transfer Tax Act 1984"; and

(b) in subsection (3) for the words "section 94(1)(a) of the Finance Act 1980" there shall be substituted the words "section 256(1)(a) of the Capital Transfer Act 1984".

Marginal Citations

M101 1981 c. 54.

The Finance Act 1982

21 In section 61(1) of the [M102]Finance Act 1982—

(a) for the words "section 93 below" there shall be substituted the words "paragraph 1 of Schedule 4 to the Capital Transfer Tax Act 1984"; and

(b) in paragraph (a) for the words "subsection (3)(a)(i) of section 93" there shall be substituted the words "paragraph 3(1)(a)(i) of that Schedule".

Marginal Citations

M102 1982 c. 39.

22 In section 62 of the [M103]Finance Act 1982 for the words "section 93 below" there shall be substituted the words "paragraph 1 of Schedule 4 to the Capital Transfer Tax Act 1984".

Marginal Citations

M103 1982 c.39.

The Finance (No. 2) Act 1983

[F748]23 . . . . . .

Textual Amendments

F748 Sch. 8 para. 23 repealed (6.3.1992 with effects as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with ss. 60, 101(1), 201(3), Sch. 11 paras. 20, 22, 26, 27).

The Value Added Tax Act 1983

24 In Group 11 of Schedule 6 to the [M104]Value Added Tax Act 1983—

(a) in item 2, for the words from "section 32(3)(a)" onwards there shall be substituted the words "paragraph 1(3)(a) or (4), paragraph 3(4)(a), or the

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words following paragraph 3(4), of Schedule 5 to the Capital Transfer Tax Act 1984"; and

(b) in item 3, for the words "section 78(4) of the Finance Act 1976" there shall be substituted the words "section 32(4) of the Capital Transfer Tax Act 1984".

Marginal Citations

M104 1983 c. 55.

The Land Registration Act (Northern Ireland) 1970

F749 25 . . . . . .

Textual Amendments

F749 Sch. 8 para. 25 repealed (1.10.1992) by S.I. 1992/811 (N.I. 7), art. 52, **Sch.2**; S.R. 1992/393, **art. 3**,Sch.

SCHEDULE 9

Section 277.

REPEALS

Chapter	Short title	Extent of repeal
1975 c. 7	The Finance Act 1975.	Section 19(1).
		Sections 20 to 47.
		In section 49, subsections (3) and (5).
		Section 51.
		Schedule 4, except paragraph 38.
		Schedules 5, 6 and 7.
		Schedules 9 and 10.
		In Schedule 12, paragraphs 1, 8(b) and 18(3).
1976 c. 40.	The Finance Act 1976.	Sections 73 to 125.
		Section 132(3)(d).
		Schedules 10 to 14.
1977 c. 36.	The Finance Act 1977.	Sections 52 and 53.
		Section 59(3)(d).
1978 c. 42.	The Finance Act 1978.	Sections 64 to 74.
		Section 80(3)(d).

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		In Schedule 11, paragraph 3.
1979 c. 14.	The Capital Gains Tax Act 1979.	In paragraph 8 of Schedule 7, in the Table, in entries relating to the Finance Act 1975.
		In paragraph 9 of Schedule 7, in the Table, the entries relating to the Finance Act 1975, section 82 of and the Schedules to the Finance Act 1976, and section 64 of the Finance Act 1978.
1979 c. 46.	The Ancient Monuments and Archaeological Areas Act 1979.	In Schedule 4, paragraph 15.
1980 c. 17.	The National Heritage Act 1980.	Section 12(1).
		In section 12(2), the words from “(which” onwards.
		Section 13(1).
1980 c. 48.	The Finance Act 1980.	Sections 85 to 87.
		Sections 92 and 93.
		Section 94, except subsection (7).
		Section 118(5).
		Section 122(3)(b).
		Schedules 14 and 15.
1981 c. 35.	The Finance Act 1981.	Section 46(8).
		Sections 92 to 95.
		Sections 96(1) and (2).
		In section 96(3), the words from the beginning to “and” at the end of paragraph (d), and in paragraph (e) the words from “for the” to “ “1981’ and”.”
		Sections 97 to 106.
		In section 135(1), the words “capital transfer tax”.
		Section 139(4).
		Schedules 13 and 14.

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1981 c. 54.	The [F750Senior Courts Act 1981].	In Schedules 5, the entry relating to the Finance Act 1980.
1981 c. 66.	The Compulsory Purchase (Vesting Declarations) Act 1981.	In Schedule 3, paragraph 2.
1982 c. 39.	The Finance Act 1982.	Sections 90 to 127.
		Section 131.
		Section 157(4).
		In Schedule 10, paragraphs 1(2), 2(2)(a) and (3), and 3(2)(a) and (b).
		Schedules 14 to 17.
1982 c. 50.	The Insurance Companies Act 1982.	In Schedule 5, paragraph 28(a).
1983 c. 20.	The Mental Health Act 1983.	In Schedule 4, paragraph 40.
1983 c. 28.	The Finance Act 1983.	Section 46(5).
		Section 47.
		In Schedule 9, paragraphs 3 to 7.
1983 c. 49.	The Finance (No. 2) Act 1983.	Sections 8 to 13.
		Section 16(3).
1984 c. 43.	The Finance Act 1984.	Section 96(8).
		Sections 101 to 107.
		Section 128(4).
		In Schedule 9, paragraph 14.
		In Schedule 14, paragraph 16.
		In Schedule 21, paragraphs 1 to 17, 19(b) and 20 to 26.
		In Schedule 22, in paragraph 6, the words from “and paragraph” to “Act 1975”.

Textual Amendments

F750 Sch. 9: words substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2**

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TABLE OF DERIVATIONS

Note: The following abbreviations are used in this Table:—

1975	= The Finance Act 1975 (c. 7)
1975 c. 21	= The Criminal Procedure (Scotland) Act 1975 (c. 21)
1976	= The Finance Act 1976 (c. 40)
1977	= The Finance Act 1977 (c. 36)
1978	= The Finance Act 1978 (c. 42)
1979 c. 14	= The Capital Gains Tax Act 1979 (c. 14)
1979 c. 46	= The Ancient Monuments and Archaeological Areas Act 1979 (c. 46)
1980	= The Finance Act 1980 (c. 48)
1980 c. 17	= The National Heritage Act 1980 (c. 17)
1981	= The Finance Act 1981 (c. 35)
1981 c. 54	= The Supreme Court Act 1981 (c. 54)
1981 c. 55	= The Armed Forces Act 1981 (c. 55)
1981 c. 61	= The British Nationality Act 1981 (c. 61)
1981 c. 66	= The Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66)
1982	= The Finance Act 1982 (c. 39)
1982 c. 48	= The Criminal Justice Act 1982 (c. 48)
1982 c. 50	= The Insurance Companies Act 1982 (c. 50)
1983	= The Finance Act 1983 (c. 28)
1983 (No. 2)	= The Finance (No. 2) Act 1983 (c. 49)
1983 c. 20	= The Mental Health Act 1983 (c. 20)
1984	= The Finance Act 1984 (c. 43)
S.I. 1979/927	= The Capital Transfer Tax (Northern Ireland Consequential Amendment) Order 1979
S.I. 1979/1575 (N.I.14)	= The Administration of Estates (Northern Ireland) Order 1979
S.I. 1982/1585	= The Capital Transfer Tax (Interest on Unpaid Tax) Order 1982
S.I. 1983/879	= The Transfer of Functions (Arts, Libraries and National Heritage) Order 1983
S.I. 1984/703 (N.I.3)	= The Fines and Penalties (Northern Ireland) Order 1984

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S.R.(N.I.) 1976/80	= The Department (Transfer of Functions) Order (Northern Ireland) 1976

Provision	**Derivation**
1	1975 s.19(1).
2(1)(2)	1975 s.20(5), (6).
(3)	1975 s.51(2A); 1982 Sch.17, para.5.
3(1)(2)	1975 s.20(2), (3).
(3)	1975 s.20(7); 1978 s.74(1).
(4)	1975 s.51(2).
4(1)	1975 s.22(1).
(2)	1975 s.22(9).
5(1)(2)	1975 s.23(1), (2).
(3)	1975 Sch.10, para.1(1); 1984 Sch.21, para.16.
(4)	1975 s.51(1), Sch.10, para.1(2).
(5)	1975 Sch.10, para.1(3).
6(1)	1975 s.24(2).
(2)	1975 Sch.7, para.3(1).
(3)	1975 Sch.7, para.5(1).
(4)	1975 Sch.7, para.6.
7(1)	1975 s.37(1); 1981 s.93(1); 1983 Sch.9, para.3.
(2)(3)	1975 s.37(2), (3).
8	1982 s.91(1) to (4).
9	1980 s.85(3); 1982 s.91(5).
10(1)(2)	1975 s.20(4).
(3)	1975 s.20(4), (7); 1978 s.74(1).
11	1975 s.46.
12	1976 s.89(1) to (5).
13(1)	1976 s.90(1).
(2)	1976 s.90(3); 1978 Sch.11, para.3(1).
(3)(4)	1976 s.90(4); 1978 Sch.11, para.3(2).
(5)	1976 s.90(5)
14	1976 s.91(1), (2).
15	1976 s.92(1).

16(1)	1981 s.97(1).
(2)	1981 s.97(2); 1984 s.107(3).
17	1975 s.47(1B), (3); 1976 ss.121(1), 123(6); 1978 s.68(1).
18(1)	1975 Sch.6, para.1(1); 1976 s.94(2).
(2)	1975 Sch.6, para.1(2); 1976 s.94(3); 1982 s.92(1).
(3)	1975 Sch.6, para.15(1), (2).
(4)	1975 Sch.6, para.15(5).
19(1) to (3)	1975 Sch.6, para.2(1), (2); 1981 s.94(1).
(4)	1975 Sch.6, para.2(3).
(5)	1975 Sch.6, para.8.
20(1)	1975 Sch.6, para.4(1); 1980 s.86(3); 1981 s.94(2).
(2)	1975 Sch.6, para.4(2).
(3)	1975 Sch.6, para.8.
21(1) to (4)	1975 Sch.6, para.5(1) to (3).
(5)	1975 Sch.6, para.8.
22(1) to (5)	1975 Sch.6, para.6.
(6)	1975 Sch.6, para.8.
23(1)	1975 Sch.6, para.10(1).
(2)	1975 Sch.6, para.15(1), (2), (3)(a), (4)(b).
(3)	1975 Sch.6, para.15(3)(b), (4)(a).
(4)	1975 Sch.6, para.15(3)(bb)(bc), (4)(a); 1976 s.95(2).
(5)	1975 Sch.6, para.15(3)(c).
(6)	1975 Sch.6, para.10(3), 15(5).
24(1)(2)	1975 Sch.6, para.11(1), (2).
(3)	1975 Sch.6, para.15(1), (2), (3), (4); 1976 s.95(2).
(4)	1975 Sch.6, para.15(5).
25(1)	1975 Sch.6, para.12.
(2)	1975 Sch.6, para.15(1), (2), (3), (4), (5); 1976 s.95(2).
26(1)	1975 Sch.6, para.13(1).
(2)	1975 Sch.6, para.13(2); 1976 s.85.
(3)	1975 Sch.6, para.13(3); 1976 s.111(4).

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(4)	1975 Sch.6, para.13(4); 1976 s.111(4).
(5)(6)	1975 Sch.6, para.13(5), (6).
(7)	1975 Sch.6, para.15(1), (2), (3), (4), (5); 1976 s.95(2).
(8)(9)	1975 Sch.6, para.13(7), (8).
27	1982 s.95(1), (2).
28	1978 s.67(1) to (6).
29(1)	1976 s.117(1).
(2)	1976 s.117(2), (6).
(3)(4)	1976 s.117(3), (4).
(5)	1976 s.117(5), (6); 1983 (No.2) s.9(2).
30	1976 s.76(1) to (4).
31	1976 s.77.
32	1976 s.78.
33(1)	1976 s.79(1); 1982 Sch.17, para.24(2).
(2)	1976 s.82A(5)(a); 1982 Sch.17, para.26.
(3)(4)	1976 s.79(3), (4).
(5)	1976 s.82A(1), (2), (3); 1982 Sch.17, para.26.
(6)	1976 s.82A(4); 1982 Sch.17, para.26.
(7)	1976 s.79(7).
34(1)	1976 s.80(1).
(2)	1976 s.80(2); 1982 Sch.17, para.25(2), (3).
(3)	1976 s.80(3); 1982 Sch.17, para.25(2), (3).
(4)	1976 s.80(4).
35(1)	
(2)	1976 s.83(3).
(3)	1976 s.83(4).
36	1975 Sch.6, para.16; 1976 s.96(2), Sch.11, para.5; 1982 s.95(3).
37	1975 Sch.6, paras.17, 18.
38(1)	1975 Sch.6, para.19(1); 1976 s.96(3).
(2)	1975 Sch.6, para.19(2).
(3)	1975 Sch.6, para.19(3); 1976 s.96(4).
(4)	1975 Sch.6, para.19(3A); 1976 s.96(4).
(5)	1975 Sch.6, para.19(3B); 1976 s.96(4).

(6)	1975 Sch.6, para.19(4).
39	1975 Sch.6, para.20.
40	1975 Sch.6, para.21.
41	1975 Sch.6, para.22; 1976 s.96(5).
42(1)(2)	1975 Sch.6, para.23(1), (2).
(3)	1975 Sch.6, para.23(3); 1976 s.96(6).
(4)	1975 Sch.6, para.22A(1), (2), (4); 1976 s.96(7).
43(1) to (3)	1975 Sch.5, para.1(1) to (3).
(4)	1975 Sch.5, para.1(4), (5); 1980 s.93(2)(a).
(5)	1975 Sch.5, para.1(10).
44(1)	1975 Sch.5, para.1(1), (6).
(2)	1975 Sch.5, para.1(8); 1982 Sch.17, para.16; 1984 Sch.21, para.10.
45	1975 Sch.5, para.1(1), (7).
46	1975 Sch.5, para.1(9); 1976 Sch.14, para.10; 1980 s.93(2)(b).
47	1975 s.51(1); 1980 s.93(1).
48(1)	1975 s.24(3); 1976 s.120(1); 1981 s.104(3).
(2)	1976 s.120(2); 1981 s.104(3).
(3)	1975 Sch.5, para.2(1).
(4)	1975 Sch.7, para.3(1), (2); 1982 Sch.17, para.19(2), (3).
(5)	1975 Sch.7, para.3(2A); 1978 s.72; 1982 Sch.17, para.19(4).
(6)	1975 Sch.7, para.3(2AA); 1984 s.104(2).
(7)	1975 Sch.7, para.3(4); 1982 Sch.17, para.19(5).
49(1)	1975 Sch.5, para.3(1).
(2)	1978 s.69(7).
50(1) to (3)	1975 Sch.5, para.3(2) to (4).
(4)	1975 Sch.5, para.3(4), (7).
(5)(6)	1975 Sch.5, para.3(5), (6).
51(1)	1975 Sch.5, para.4(1).
(2)	1975 s.46(5).
(3)	1975 Sch.5, para.4(10); 1983 Sch.9, para.5.
52(1)	1975 Sch.5, para.4(2).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2)	1975 Sch.5, para.4(4).
(3)(4)	1975 Sch.5, para.4(9), (10).
53(1)	1975 Sch.5, para.4(11).
(2)	1975 Sch.5, para.4(3).
(3)	1975 Sch.5, para.4(5).
(4)	1975 Sch.5, para.4(6); 1976 s.110(2).
(5)	1975 Sch.5, para.4(5), (6); 1976 s.110(2); 1978 s.69(1); 1981 s.104(1).
(6)	1978 s.69(6).
(7)(8)	1978 s.69(8).
54(1)	1975 s.22(2).
(2)	1975 s.22(3); 1976 s.110(1).
(3)	1975 s.22(2), (3); 1976 s.110(1); 1978 s.69(1), (6); 1981 s.104(1).
(4)	1975 s.22(9).
55(1)	1975 s.23(3).
(2)	1975 s.20(4).
56(1)	1975 Sch.6, para.15(2A); 1981 s.104(2); 1982 s.95(2).
(2)	1975 Sch.6, para.15(4A); 1976 s.95(3); 1978 s.69(4).
(3)	1975 Sch.6, para.15(3)(ba), (4B); 1976 s.95(2); 1978 s.69(5); 1982 s.95(2).
(4)	1975 Sch.6, para.15(4B); 1978 s.69(5); 1982 s.95(2).
(5)	1978 s.69(6).
(6)	1976 s.117(1), (6).
(7)	1976 s.95(4); 1978 s.69(8).
(8)	1978 s.69(8).
57(1) to (4)	1981 s.94(3) to (6).
(5)	1982 s.95(1).
58(1)(2)	1982 s.102(1), (2).
(3)	1982 s.126(2).
59(1)(2)	1982 s.103(1), (2).
(3)	1982 s.103(3); 1982 c.50 Sch.5, para.28(a).
60	1982 s.104.

61(1)	1976 ss.82(11), 82A(7); 1982 s.105(1), Sch.17, para.26.
(2) to (4)	1982 s.105(2) to (4).
62	1982 s.106.
63	1976 s.82(6); 1982 s.126(1), Sch.17, para.26.
64	1982 s.107.
65	1982 s.108.
66(1) to (4)	1982 s.109(1) to (4).
(5)	1975 s.20(5); 1982 s.109(5).
(6)	1982 s.110(7), Sch.15, para.2.
67(1)(2)	1982 s.110(1), (2).
(3)	1975 s.20(5); 1982 s.110(3).
(4)	1975 s.20(5); 1982 s.110(3), Sch.15, para.3.
(5) to (7)	1982 s.110(4) to (6).
68(1) to (3)	1982 s.111(1) to (3).
(4)	1975 s.20(5); 1982 s.111(4).
(5)	1982 s.111(5).
(6)	1982 Sch.15, paras.4(1), 5, 6, to 8.
69	1982 s.112.
70(1) to (6)	1982 s.113(1) to (6).
(7)	1982 s.113(6A); 1984 s.102(1).
(8)	1982 s.113(7); 1984 s.102(2).
(9)	1982 s.113(8), Sch.15, paras.6 to 8.
(10)	1982 s.113(9).
71(1) to (4)	1982 s.114(1) to (4).
(5)	1982 s.114(5); 1984 s.102(1).
(6) to (8)	1982 s.114(6) to (8).
72(1) to (4)	1982 s.116(1) to (4).
(5)	1982 s.116(5); 1984 s.102(1).
(6)	1982 s.116(6).
73(1)	1982 s.118(1)(a).
(2)	1982 s.118(2), (4).
(3)	1982 s.118(3); 1984 s.102(1).
74(1)	1975 Sch.5, para.19(1) (pre-1981); 1981 s.103; 1982 s.118(1)(b).
(2)	1982 s.118(2), (4).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3)	1982 s.118(3); 1984 s.102(1).
(4)	1975 Sch.5, para.19(4) (pre-1981); 1977 s.51(5); 1983 c.20 Sch.4, para.40.
75	1982 s.115.
76(1)	1982 s.119(1).
(2)	1975 Sch.6, para.13(7); 1976 s.111(4); 1982 s.119(2).
(3) to (8)	1982 s.119(3) to (8).
77	
78(1)(2)	1976 s.81(1), (2); 1982 Sch.17, para.26.
(3)	1976 ss.81(3), 82A(1) to (4), 83(3A); 1982 Sch.17, paras.26, 27.
(4)	1976 s.82A(5), (7); 1982 Sch.17, para.26.
(5)	1976 s.82A(6); 1982 Sch.17, para.26.
(6)	1976 s.81(4); 1982 Sch.17, para.26.
79(1) to (7)	1976 s.82(1) to (7); 1982 Sch.17, para.26.
(8)(9)	1976 s.82(9), (10); 1982 Sch.17, para.26.
(10)	1976 s.83(4).
80(1)	1982 s.120(1); 1984 Sch.21, para.25.
(2)(3)	1982 s.120(2), (3).
81	1982 s.121; 1984 s.101(1), Sch.21, para.25.
82(1)	1982 s.122(1); 1984 Sch.21, para.26.
(2)(3)	1982 s.122(2), (3).
83	1982 s.123; 1984 Sch.21, para.25.
84	1982 s.124; 1984 Sch.21, para.26.
85	1982 s.125.
86(1)	1975 Sch.5, para.17(1); 1982 s.98(2).
(2)	1975 Sch.5, para.17(1A); 1982 s.98(4).
(3)	1975 Sch.5, para.17(2); 1982 s.98(5).
(4)	1975 Sch.5, para.17(3); 1984 Sch.21, para.12.
(5)	1975 Sch.5, para.17(4A); 1976 s.107(2).
87(1)	1975 Sch.5, para.17A(1); 1976 s.108(1); 1982 s.98(6).
(2)(3)	1975 Sch.5, para.17A(2), (3); 1976 s.108(1).
88(1)	1975 Sch.5, para.18(1); 1978 s.71(2).
(2)	1975 Sch.5, para.18(2); 1978 s.71(1).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

89(1) to (3)	1975 Sch.5, para.19(1) to (3); 1981 s.103.
(4)	1975 Sch.5, para.19(4); 1981 s.103; 1983 c.20 Sch.4, para.40.
90	1975 Sch.5, para.19A; 1976 s.109.
91(1)	1975 Sch.5, para.22(1); 1984 Sch.21, para.13.
(2)	1975 Sch.5, para.22(2).
92	1975 Sch.5, para.22A(1), (2); 1976 s.105(1).
93	1975 s.47(4).
94(1)	1975 s.39(1), (9).
(2)	1975 s.39(2); 1976 s.118(6).
(3)	1975 s.39(6A); 1976 s.118(1).
(4)	1975 s.39(4).
(5)	1975 Sch.6, para.8; 1976 s.118(8).
95	1975 s.39(8D); 1976 s.118(1).
96	1975 s.39(8A); 1976 s.118(1).
97	1975 s.39(8B); (8C); 1976 s.118(1).
98(1)	1975 s.39(5); 1976 s.118(7).
(2)	1975 s.39(6).
99(1)	1975 Sch.5, para.24(1); 1976 s.118(5); 1984 Sch.21, para.14(2).
(2)	1975 Sch.5, para.24(2); 1982 s.99(2).
(3)	1975 Sch.5, para.24(3).
100	1976 s.118(2), (3).
101(1)	1975 Sch.5, para.24(5); 1982 s.99(3); 1984 Sch.21, para.14(3).
(2)	1975 Sch.5, para.24(5A); 1982 s.99(4).
102(1)	1975 s.39(6), Sch.5, para.24(6); 1982 s.99(5).
(2)	1975 s.39(8).
103(1)	1976 Sch.10, para.1; 1982 Sch.17, para.30.
(2)	1976 Sch.10, para.13(1).
(3)	1976 Sch.10, para.3(1).
104(1)	1976 Sch.10, para.2(1), (1A); 1978 s.64(2); 1982 s.100(2); 1983 (No.2) s.10(1).
(2)	1976 Sch.10, para.2(2).
105(1)	1976 Sch.10, para.3(1); 1978 s.64(3); 1981 s.100(3).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2)	1976 Sch.10, para.3(1A); 1978 s.64(4).
(3)(4)	1976 Sch.10, para.3(2), (3).
(5)	1976 Sch.10, para.3(5).
(6)	1976 Sch.10, para.3(6); 1981 s.100(4).
106	1976 Sch.10, para.4(1).
107(1)	1976 Sch.10, para.4(1).
(2)(3)	1976 Sch.10, para.4(2), (3).
(4)	1976 Sch.10, para.4(5); 1978 s.64(5); 1979 c.14 Sch.7, para.9.
108	1976 Sch.10, para.4(4).
109	1976 Sch.10, para.5.
110	1976 Sch.10, para.6.
111	1976 Sch.10, para.7.
112	1976 Sch.10, para.8.
113	1976 Sch.10, para.3(4).
114(1)	1976 Sch.10, para.10; 1981 s.96(3)(d).
(2)	1976 Sch.10, para.11.
115(1)	1981 Sch.14, para.1(1); 1982 Sch.17, para.34.
(2)(3)	1981 Sch.14, para.1(2), (3).
(4)	1984 s.107(1).
(5)	1981 Sch.14, para.1(4).
116(1)	1981 Sch.14, para.2(1).
(2)	1981 Sch.14, para.2(2); 1983 (No.2) s.10(2).
(3)	1981 Sch.14, para.2(3).
(4)	1981 Sch.14, para.2(4); 1983 (No.2) s.10(2).
(5) to (7)	1981 Sch.14, para.2(5) to (7).
117	1981 Sch.14, para.3.
118	1981 Sch.14, para.4.
119	1981 Sch.14, para.5.
120(1)	1981 Sch.14, para.7.
(2)	1981 Sch.14, para.6.
121	1981 Sch.14, para.8.
122(1)(2)	1981 Sch.14, para.9.
(3)	1981 Sch.14, para.10.
123(1)	1981 Sch.14, para.11.

(2) to (4)	1981 Sch.14, para.12.
(5)	1981 Sch.14, para.13.
124	1981 Sch.14, para.14.
125(1)	1975 Sch.9, paras.1(1), 5(1); 1981 s.96(3)(a).
(2)	1975 Sch.9, para.1(1).
(3)	1975 Sch.9, para.1(2).
126(1)	1975 Sch.9, para.2(1).
(2)(3)	1975 Sch.9, para.2(3), (4).
127(1)	1975 Sch.9, para.3(1).
(2)	1975 Sch.9, para.3(2); 1978 s.65(1).
128	1975 Sch.9, para.3(1).
129	1975 Sch.9, para.4.
130(1)	1975 Sch.9, para.6(1).
(2)	1975 Sch.9, para.6(2); 1976 s.75.
131(1)	1976 s.99(1).
(2)	1976 s.99(2), (3).
(3)	1976 s.99(6).
132(1)	1976 s.99(4).
(2)	1976 s.99(7).
133	1976 Sch.12, para.2.
134	1976 Sch.12, para.3.
135(1)(2)	1976 Sch.12, para.4(1), (2); 1979 c.14 Sch.7, para.9.
(3) to (5)	1976 Sch.12, para.4(3) to (5).
136	1976 Sch.12, para.5.
137	1976 Sch.12, para.6.
138(1)	1976 Sch.12, para.7(1).
(2)	1976 Sch.12, para.7(2); 1979 c.14 Sch.7, para.9.
139(1) to (3)	1976 Sch.12, para.8.
(4)	1976 Sch.12, para.9.
140(1)	1976 Sch.12, para.1.
(2)	1976 s.99(5).
141	1981 s.101(1) to (7).
142(1) to (4)	1978 s.68(1) to (4).
(5)(6)	1978 s.68(5).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7)	1978 s.68(4); 1980 s.93(3).
143	1975 s.47(1B); 1976 s.121(1).
144	1975 s.47(1A), (1AA); 1976 s.121(1); 1982 Sch.17, para.4; 1984 s.103.
145	1975 s.47(3).
146(1) to (5)	1976 s.122(1) to (5).
(6)	1976 s.122(6); 1982 Sch.17, para.29.
(7)	1976 s.122(7).
(8)	1976 s.122(7A); 1980 s.92.
(9)	1976 s.122(8A); S.I. 1979/927.
147(1) to (4)	1976 s.123(1) to (4).
(5) to (9)	1976 s.123(7) to (11).
148(1)	1976 s.86(1); 1981 s.93(2).
(2) to (4)	1976 s.86(2) to (4).
(5)	1976 s.86(6); 1980 s.87(2); 1981 s.96(3)(b).
149(1)	1976 s.87(1); 1981 s.93(3).
(2) to (4)	1976 s.87(2) to (4).
(5)	1976 s.87(5); 1980 s.87(3).
(6)	1976 s.87(5A); 1980 s.87(4); 1981 s.96(3)(c).
(7)	1976 s.87(6).
(8)(9)	1976 s.87(8), (9).
150	1976 s.88(1), (2).
151(1)	1975 Sch.5, para.16(1); 1976 Sch.14, para.18.
(2) to (4)	1975 Sch.5, para.16(2) to (4).
(5)	1975 Sch.5, para.16(6); 1982 Sch.17, para.17.
152	1975 Sch.7, para.2.
153(1)	1975 Sch.7, para.4(1).
(2)	1975 Sch.7, para.4(2); 1984 Sch.21, para.15.
(3)(4)	1975 Sch.7, para.4(3), (4).
154(1)(2)	1975 Sch.7, para.1(1), (2).
(3)	1981 c.55 Sch.5, saving.
155(1)	1975 Sch.7, para.6(1), (2); 1981 c.61, s.51(3).
(2) to (6)	1975 Sch.7, para.6(3) to (7).
(7)	1975 Sch.7, para.6(9).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

156	1981 s.135; 1982 s.100.
157	1982 s.96(1) to (5).
158	1975 Sch.7, para.7.
159	1975 Sch.7, para.8; 1976 s.125.
160	1975 s.38(1).
161(1)	1975 Sch.10, para.7(1).
(2)	1975 Sch.10, para.7(2); 1976 s.103(1).
(3) to (5)	1975 Sch.10, para.7(3) to (5).
162(1)	1975 Sch.10, para.1(5).
(2)	1975 Sch.10, para.1(4).
(3)	1975 Sch.10, para.1(2).
(4)	1975 Sch.10, para.2.
(5)	1975 Sch.10, para.3.
163(1)	1975 Sch.10, para.5(1); 1984 Sch.21, para.17.
(2)(3)	1975 Sch.10, para.5(2), (3).
164	1975 s.51(1); Sch.10, para.6.
165(1)	1975 Sch.10, para.4(1); 1979 c.14 Sch.7, paras.8, 9.
(2)	1975 Sch.10, para.4(2); 1982 Sch.17, para.20.
(3)	1984 Sch.14, para.16.
166	1975 Sch.10, para.10.
167(1)	1975 Sch.10, para.11(1).
(2)	1975 Sch.10, para.11(2); 1976 ss.86(7), 87(5B); 1978 s.73(1); 1980 s.87(2), (4).
(3)(4)	1975 Sch.10, para.11(3), (4).
(5)	1975 Sch.10, para.11(5); 1982 Sch.17, para.22.
168	1975 Sch.10, para.13.
169(1)	1975 Sch.10, para.12(1).
(2)	1975 Sch.10, para.12(2); 1984 s.107(2).
170	1975 Sch.10, para.8.
171(1)	1975 Sch.10, para.9(1)(a).
(2)	1975 Sch.10, para.9(2); 1976 s.118(9).
172	1975 Sch.10, para.9(1)(b).
173	1975 Sch.10, para.9(1)(d).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

174(1)	1975 Sch.10, para.9(1)(e),(f); 1984 s.96(8), Sch.9, para.14.
(2)	1975 s.51(1), Sch.10, para.9(2A); 1976 s.100(1).
175	1975 Sch.10, para.9(1)(c).
176	1975 Sch.10, para.9A; 1976 s.102(1); 1982 Sch.17, para.21.
177(1)	1981 s.98(1).
(2)	1982 s.97(1).
(3)	1981 s.98(1); 1982 s.97(1).
(4)	1982 s.97(2).
178(1)	1975 s.51(1), Sch.10, para.14(1).
(2)	1976 s.104.
(3)	1975 Sch.10, para.14(2).
(4)	1975 Sch.10, para.19.
(5)	1975 Sch.10, para.21.
179(1)	1975 Sch.10, para.15.
(2)	1975 Sch.10, para.16.
(3)	1975 Sch.10, para.20.
180(1)	1975 Sch.10, para.17.
(2)(3)	1975 Sch.10, para.18(1), (2).
181	1975 Sch.10, para.25.
182	1975 Sch.10, para.26.
183(1)(2)	1975 Sch.10, para.27(1), (2); 1979 c.14 Sch.7, para.9.
(3) to (6)	1975 Sch.10, para.27(3) to (6).
184	1975 Sch.10, para.24.
185(1)(2)	1975 Sch.10, para.28(1), (2).
(3)	1975 Sch.10, para.18(2).
186	1975 Sch.10, para.23.
187(1)	1975 Sch.10, para.29(1); 1979 c.14 Sch.7, para.9.
(2) to (6)	1975 Sch.10, para.29(2) to (6).
188	1975 Sch.10, para.30.
189	1975 Sch.10, para.22.
190(1)	1975 s.51(1), Sch.10, para.31(1); 1976 s.101(2), Sch.13.

(2)	1975 Sch.10, para.32(4); 1976 s.101(2), Sch.13.
(3)	1975 Sch.10, para.31(2); 1976 s.101(2), Sch.13.
(4)	1975 Sch.10, para.39; 1976 s.101(2), Sch.13.
191	1975 Sch.10, para.32(1) to (3); 1976 s.101(2), Sch.13.
192	1975 Sch.10, para.37; 1976 s.101(2), Sch.13.
193	1975 Sch.10, para.33; 1976 s.101(2), Sch.13.
194(1)	1975 Sch.10, para.34(1); 1976 s.101(2), Sch.13.
(2)	1975 Sch.10, para.34(2); 1976 s.101(2), Sch.13; 1979 c.14 Sch.7, para.9.
195	1975 Sch.10, para.35; 1976 s.101(2), Sch.13.
196	1975 Sch.10, para.36; 1976 s.101(2), Sch.13.
197	1975 Sch.10, para.38; 1976 s.101(2), Sch.13.
198(1) to (3)	1975 Sch.10, para.40(1) to (3); 1976 s.101(2), Sch.13.
(4)	1975 Sch.10, para.40(4); 1976 s.101(2), Sch.13; 1981 c.66 Sch.3, para.2.
199(1)	1975 s.25(2), (9).
(2)	1975 s.25(4).
(3)	1975 s.26(1).
(4)	1975 s.25(6).
(5)	1975 s.25(10).
200(1)	1975 s.25(5).
(2)	1975 s.26(1).
(3)	1975 s.25(5).
(4)	1975 s.25(6), (10).
201(1)	1975 s.25(3); 1982 Sch.17, para.1.
(2)	1975 s.25(4).
(3)	1976 Sch.14, para.20.
(4)	1975 Sch.5, para.1(8).
(5)	1975 s.25(9); 1982 Sch.17, para.2.
(6)	1975 s.25(10).
202(1)	1975 s.39(3), Sch.5, para.24(1); 1984 Sch.21, para.14(2).
(2)	1975 s.39(3)(a), (b).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3)	1975 s.39(3)(c).
(4)	1975 s.26(2); 1984 Sch.21, para.3(b).
203(1)	1975 s.25(8); 1976 s.119(1).
(2) to (4)	1976 s.119(2) to (4).
204(1) to (4)	1975 s.27(1) to (4).
(5)	1975 s.27(5); 1981 s.46(8).
(6)(7)	1975 s.27(6), (7).
205	1975 s.25(1).
206	1975 s.26(3).
207(1)	1976 s.78(2), (3).
(2)	1976 s.78(3); 1977 s.53.
(3)	1976 s.82(8); 1982 Sch.17, para.26.
(4)	1975 ss.32(1), 34(3).
(5)	1975 ss.32(2), 34(4); 1977 s.53.
208	1975 Sch.9, para.2(2).
209(1)	1975 s.26(4).
(2)(3)	1976 s.123(5).
210	1975 Sch.5, para.16(3).
211(1)(2)	1975 s.28(1); 1983 (No.2) s.13(1).
(3)	1975 s.28(1A); 1983 (No.2) s.13(1).
(4)	1975 s.28(8); 1983 (No.2) s.13(2).
212(1) to (3)	1975 s.28(3) to (5).
(4)	1975 s.28(8); 1983 (No.2) s.13(2).
213	1975 s.28(2).
214(1)(2)	1975 s.28(6), (7).
(3)	1975 s.28(8); 1983 (No.2) s.13(2).
215	1975 Sch.4, para.1.
216(1)	1975 Sch.4, para.2(1); 1976 Sch.14, para.4; 1982 Sch.17, para.7.
(2)	1975 Sch.4, para.2(2A); 1980 s.94(4); 1983 Sch.9, para.4.
(3)(4)	1975 Sch.4, para.2(2), (3); 1982 Sch.17, para.7.
(5)	1975 Sch.4, para.2(4); 1980 s.94(5).
(6)	1975 Sch.4, para.2(5); 1980 s.94(6).

(7)	1975 Sch.4, para.2(7); 1976 Sch.11, para.3; 1982 Sch.17, para.7.
217	1975 Sch.4, para.3.
218(1)(2)	1975 Sch.4, para.4(1), (2).
(3)	1975 Sch.4, para.4(3); 1982 Sch.17, para.8.
219	1975 Sch.4, para.5.
220(1)	1975 Sch.4, para.11(1).
(2)	1975 Sch.4, para.11(2); 1975 c.21 ss.289F(1), (8), 289G(1) to (5); 1982 c.48 ss.37, 38(1), (6), (8), 46(1), (4)(a), 54; S.I. 1984/703 (N.I. 3) Arts. 5, 6.
221(1) to (5)	1975 Sch.4, para.6(1) to (5).
(6)	1975 Sch.4, para.6(6); 1976 Sch.14, para.5; 1984 Sch.21, para.6.
222	1975 Sch.4, para.7.
223	1975 Sch.4, para.8.
224	1975 Sch.4, para.9.
225(1)	1975 Sch.4, para.10(1).
(2)	1975 Sch.4, para.10(2); 1984 Sch.22, para.6.
(3) to (6)	1975 Sch.4, para.10(3) to (6).
(7)	1984 s.124(2).
226(1) to (3)	1975 Sch.4, para.12(1) to (3).
(4)	1975 Sch.4, para.12(4); 1976 Sch.11, para.3; 1982 Sch.17, para.10.
(5)(6)	1975 Sch.4, para.12(5), (6).
227(1)	1975 Sch.4, paras.13(1), (5), 14(1), (4); 1982 Sch.17, paras.11, 12; 1983 (No.2) s.11(1).
(2)	1975 Sch.4, paras.13(1), 14(1).
(3)	1975 Sch.4, paras.13(1), (6), 14(1), (5).
(4)	1975 Sch.4, paras.13(4), 14(3).
(5)	1975 Sch.4, paras. 13(6), 14(5).
(6)	1975 Sch.4, para.14(3).
(7)	1975 Sch.4, para.14(1), (2), (6); 1984 Sch.21, para.7.
228(1)	1975 Sch.4, para.13(1), (6); 1982 Sch.17, para.11.
(2)	1975 Sch.4, para.13(2).

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3)	1975 Sch.4, para.13(3), (6); 1983 (No.2) s.11(2).
(4)	1975 Sch.4, para.13(8).
229	1975 Sch.4, para.15; 1983 (No.2) s.11(1).
230(1)	1975 Sch.4, paras. 17(1), 19(6); 1980 c.17 ss.12(1)(a), 13(1); S.I. 1983/879 Sch.2, para.1(2).
(2)	1975 Sch.4, para.17(2).
(3)	1975 Sch.4, para.17(3); 1979 c.46 Sch.4, para.15; 1980 c.17 s.12(1)(b); S.I. 1983/879 Sch.2, para.1(3); S.R. (N.I.) 1976/80.
(4)	1975 Sch.4, para.17(4); 1976 s.124; 1980 c.17 s.12(1)(b); S.I. 1983/879 Sch.2, para.1(4).
(5)	1975 Sch.4, para.17(5); 1980 c.17 s.12(1)(d); S.I. 1983/879 Sch.2, para.1(5).
231(1)	1975 Sch.4, para.18(1).
(2)	1975 Sch.4, para.19(6); 1980 c.17 s.13(1).
(3)	1975 Sch.4, para.18(2).
232	1975 Sch.4, para.27.
233(1)	1975 Sch.4, para.19(1); 1976 s.83(5), Sch.11, para.3; 1982 Sch.17, para.13.
(2)	1975 Sch.4, para.19(1); S.I. 1982/1585.
(3)(4)	1975 Sch.4, para.19(4), (5).
234(1)(2)	1975 Sch.4, para.16(1), (2); 1981 s.96(2).
(3)	1975 Sch.4, para.16(3).
235	1975 Sch.4, para.19(3), (4).
236(1)	1975 Sch.4, para.19(2).
(2)	1976 s.122(8), (8A); S.I. 1979/927.
(3)	1976 ss.87(7), 88(3), 122(8).
(4)	1976 s.123(2), (4); 1984 Sch.21, para.22.
237(1)	1975 Sch.4, para.20(1); 1982 Sch.17, para.14.
(2) to (6)	1975 Sch.4, para.20(2) to (6).
238(1)	1975 Sch.4, para.21(1), (4).
(2)(3)	1975 Sch.4, para.21(2), (3).
239(1) to (3)	1975 Sch.4, para.25(1) to (3).
(4)	1975 Sch.4, para.25(4); 1978 s.68(6).

(5)	1975 Sch.4, para.25(5), 1976 Sch.14, para.7; 1982 Sch.17, para.15.
240(1)(2)	1975 Sch.4, para.23(1), (2).
(3)	1975 Sch.4, para.23(3); 1984 s.105(1).
241	1975 Sch.4, para.24.
242	1975 Sch.4, para.22.
243	1975 Sch.4, para.22A; 1984 s.106(1).
244	1975 Sch.4, para.22B; 1984 s.106(1).
245	1975 Sch.4, para.28.
246	1975 Sch.4, para.29.
247	1975 Sch.4, para.30.
248	1975 Sch.4, para.31.
249	1975 Sch.4, para.32.
250	1975 Sch.4, para.33.
251	1975 Sch.4, para.35.
252	1975 Sch.4, para.34.
253	1975 Sch.4, para.37.
254(1)	1975 Sch.4, para.36.
(2)	1975 Sch.4, para.36A; 1984 s.106(2).
255	1975 Sch.4, para.26.
256(1)	1980 s.94(1).
(2)	1980 s.94(2); 1981 c.54 Sch.5.
(3)	1980 s.94(3).
(4)	1980 s.94(9).
257(1)(2)	1975 Sch.4, para.39(1), (2).
(3)	1975 Sch.4, para.39(3); S.I. 1979/1575 (N.I. 14) Sch.2, para.12.
258	1975 Sch.4, para.41.
259	1975 Sch.4, para.42(2).
260	1975 Sch.4, para.42(1).
261	1975 Sch.4, para.40.
262	1975 s.40.
263	1975 s.42.
264(1)	1976 s.114(1).
(2)(3)	1976 s.114(2), (3); 1981 s.93(4).
(4)(5)	1976 s.114(3A), (3B); 1981 s.93(4).

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(6)(7)	1976 s.114(4), (5).
(8)	1976 s.114(6); 1981 s.93(5); 1983 Sch.9, para.7.
(9)	1976 s.114(7).
265	1975 s.43(1).
266(1)	1975 s.43(2).
(2)(3)	1975 s.43(3), (4); 1976 s.113(1).
(4)	1975 s.43(5); 1976 s.113(1); 1982 Sch.17, para.3.
267(1)	1975 s.45(1); 1984 Sch.21, para.4.
(2)	1975 Sch.7, paras. 3(3), 5(2), 7(6).
(3)	1975 s.45(1), Sch.5, para.2(2); 1982 ss.108(8), 122(4).
(4)	1975 s.45(2).
268	1975 s.44.
269(1) to (3)	1975 Sch.4, para.13(7); 1976 Sch.10, para.13(2); 1981 Sch.14, para.15.
(4)	1975 Sch.4, para.13(7); 1976 Sch.10, para.13(2); 1978 s.66(1), (2); 1981 Sch.14, para.15.
270	1975 s.51(4); 1979 c.14 Sch.7, paras.8(a), 9.
271	1975 s.51(5); 1982 Sch.17, para.6.
272	1975 s.51(1); 1984 Sch.21, para. 5(b) (“land”); 1975 s.59(2) (“the Taxes Act”).
273 to 278	
Sch.1	1975 s.37(3); 1984 s.101.
Sch.2 para. 1	1980 Sch.15, para.1.
2	1980 Sch.15, para.2.
3	1980 Sch.15, para.2A; 1982 Sch.17, para.31; 1984 Sch.21, para.23.
4	1980 Sch.15, para.4.
5	1980 Sch.15, para.5; 1984 Sch.21, para.23.
6	1980 Sch.15, para.6; 1982 Sch.17, para.32; 1984 Sch.21, para.23.
7	1980 Sch.15, para.7.
Sch.3	1975 Sch.6, para.12; 1980 s.118(5); 1983 s.46(5).
Sch.4 para. 1(1)	1982 s.93(1).

Status: *Point in time view as at 01/04/2011.*
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(2)	1982 s.93(9).
(3)	1982 s.94(5).
2(1)	1982 s.93(2).
(2)(3)	1982 s.94(1).
3(1)	1982 s.93(3).
(2) to (4)	1982 s.94(2) to (4).
(5)	1982 s.94(6).
4	1982 s.93(4), (5).
5 to 7	1982 s.93(6) to (8).
8 to 15	1982 Sch.16, paras. 2 to 9.
16 to 18	1982 Sch.16, para.1.
Sch.5 para. 1	1975 s.32.
2(1)	1975 s.33(1).
(2)	1975 s.33(3); 1976 s.83(2).
(3), (4)	1975 s.33(4), (5).
3(1) to (4)	1975 s.34(3) to (6).
(5)	1975 s.34(9).
4	1975 s.34(8); 1976 s.83(2).
5(1)	1975 s.31(2).
(2)	1975 s.34(2).
(3)	1975 s.31(3).
6	1976 s.83(2).
Sch.6 para. 1	1975 s.49(5), Sch.12, para.1.
2	1975 s.22(4), Sch.5, para.4(7); 1984 Sch.21, paras. 1, 11.
3	1975 Sch.5, para.23.
4(1)	1976 s.83(6).
(2)	1976 s.83(3A), (7); 1982 Sch.17, para.27.
(3)	1976 s.83(7).
(4)(5)	1976 s.83(8), (9).

TABLE OF DESTINATIONS

(Showing where the corresponding provisions of the original capital transfer tax legislation can be found in the 1984 consolidation Act known generally for the purposes of this volume as the Inheritance Tax Act 1984).

Section of Act	Section of 1984 Act	Section of Act	Section of 1984 Act

Status: *Point in time view as at 01/04/2011.*
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F.A. 1975 (1975 c. 7)

Section	
19(1)	1
(2)	
20(1)	
(2)(3)	3(1)(2)
(4)	10, 55(2)
(5)	2(1), 66(5), 67 (3)(4), 68(4)
(6)	2(2)
(7)	3(3), 10(3)
21	
22(1)	4(1)
(2)	54(1)(3)
(3)	54(2)(3)
(4)	Sch.6, para.2
(5)-(8)	
(9)	4(2), 54(4)
23(1)(2)	5(1)(2)
(3)	55(1)
24(1)	
(2)	6(1)
(3)	48(1)
25(1)	205
(2)	199(1)
(3)	201(1)
(4)	199(2), 201(2)
(5)	200(1)(3)
(6)	199(4), 200(4)
(7)	
(8)	203(1)
(9)	199(1), 201(5)

F.A. 1975—continued

28(6)(7)	214(1)(2)
(8)	211(4), 212(4), 214(3)
29	
30	
31(1)	
(2)(3)	Sch.5, para.5(1), (3)
(4)	
32	207(4)(5), Sch.5, para.1
33(1)	Sch.5, para.2(1)
(2)	
(3)-(5)	Sch.5, para.2(2)-(4)
34(1)	
(2)	Sch.5, para.5(2)
(3)(4)	207(4)(5), Sch.5, para.3(1)(2)
(5)(6)	Sch.5, para.3(3)(4)
(7)	
(8)	Sch.5, para.4
(9)	Sch.5, para.3(5)
35	
36	
37(1)	7(1)
(2)	7(2)
(3)	7(3), Sch.1
38(1)	160

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(10)	199(5), 200(4), 201(6)	(2)	
26(1)	199(3), 200(2)	39(1)	94(1)
(2)	202(4)	(2)	94(2)
(2A)		(3)	202(1)-(3)
(3)	206	(4)	94(4)
(4)	209(1)	(5)	98(1)
		(6)	98(2), 102(1)
27	204	(6A)	94(3)
		(7)	
28(1)(1A)	211(1)-(3)	(8)	102(2)
(2)	213	(8A)	96
(3)-(5)	212(1)-(3)	(8B)(8C)	97(1)(2)
		(8D)	95
		(9)	94(1)
F.A. 1975—continued		F.A. 1975—continued	
Section 40	262	Sch.4 para. 7	222
41		8	223
		9	224
42	263	10	225
43(1)	265	11(1)	220(1)
(2)	266(1)	(2)	220(2)
(3)(4)	266(2)(3)	12(1)(2)	226(1)(2)
(5)	266(4)	(3)	226(3)
		(4)	226(4)
44	268	(5)(6)	226(5)(6)
45(1)	267(1)(3)	13(1)	227(1)(2)(3), 228(1)
(2A)		(2)	228(2)
(3)		(3)	228(3)
		(4)	227(4)
46	11, 51(2)	(5)	227(1)
47(1)		(6)	227(3), (5), 228(1)(3)
(1A)	144		
(1AA)	144	(7)	269
(1B)	17, 143	(8)	228(4)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2)		14(1)	227(1)(2)(3)(7)
(3)	17, 145	(2)	227(7)
(4)	93	(3)	227(4)(6)
(5)		(4)	227(1)
49(1)(2)		(5)	227(3)(5)
(3)		(6)	227(7)
(4)		15	229
(5)	Sch.6, para.1	16(1)(2)	234(1)(2)
		(3)	234(3)
51(1)	272, 47, 5(4), 164, 174(2), 178(1), 190(1)	(4)	
		(5)-(7)	
		17(1)	230(1)
(2)	3(4)	(2)	230(2)
(2A)	2(3)	(3)	230(3)
(3)		(4)	230(4)
(4)	270	(5)	230(5)
(5)	271	18(1)	231(1)
		(2)	231(3)
Sch.4 para. 1	215	19(1)	233(1)(2)
2(1)	216(1)	(2)	236(1)
(2)	216(3)	(3)	235(1)
(2A)	216(2)	(4)	233(3), 235(2)
(3)	216(4)	(5)	233(4)
(4)	216(5)	(6)	230(1), 231(2)
(5)	216(6)	20(1)	237(1)
(6)		(2)-(6)	237(2)-(6)
(7)	216(7)	21(1)-(3)	238(1)-(3)
3	217	(4)	238(1)
4(1)(2)	218(1)(2)	22	242
(3)	218(3)	22A	243
5	219	22B	244
6(1)-(5)	221(1)-(5)	23(1)(2)	240(1)(2)
(6)	221(6)	(3)	240(3)
		24	241

F.A. 1975—continued	
Sch.4 para. 25(1)-(3)	239(1)-(3)
(4)	239(4)
(5)	239(5)
26	255
27	232
28	245
29	246
30	247
31	248
32	249
33	250
34	252
35	251
36	254(1)
36A	254(2)
37	253
38(1)	
(2)	
(3)	
(4)	
39(1)(2)	257(1)(2)
(3)	257(3)
40	261
41	258
42(1)	260
(2)	259
43	
44	
Sch.5 para. 1(1)	43(1), 44(1), 45
(2)(3)	43(2)(3)
(4)(5)	43(4)
(6)	44(1)
(7)	45

F.A. 1975—continued	
Sch.5 para. 5	
6-15	
16(1)	151(1)
(2)	151(2)
(3)	151(3), 210
(4)	151(4)
(5)	
(6)	151(5)
17(1)	86(1)
(1A)	86(2)
(2)	86(3)
(3)	86(4)
(4)	
(4A)	86(5)
(5)-(9)	
17A(1)	87(1)
(2)(3)	87(2)(3)
18(1)	88(1)
(2)	88(2)
(3)	
19(1)-(3)	89(1)-(3)
(4)	89(4)
19A	90
20	
21	
22	91
22A(1)(2)	92(1)(2)
(3)	
23	Sch.6, para.3
24(1)	99(1), 202(1)
(2)	99(2)
(3)	99(3)
(4)	
(5)	101(1)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(8)	44(2), 201(4)	(5A)	101(2)
(9)	46	(6)	102(1)
(10)	43(5)		
2(1)	48(3)	Sch.6 para. 1(1)	18(1)
(2)	267(3)	(2)	18(2)
3(1)	49(1)	(3)(4)	
(2)(3)	50(1)(2)	2(1)	19(1)
(4)	50(3)(4)	(2)	19(2)(3)
(5)(6)	50(5)(6)	(3)	19(4)
(7)	50(4)	3	
4(1)	51(1)	4(1)	20(1)
(2)	52(1)	(2)	20(2)
(3)	53(2)	5	21(1)-(4)
(4)	52(2)	6	22(1)-(5)
(5)	53(3)(5)	7	
(6)	53(4)(5)	8	19(5), 20(3), 21(5), 22(6), 94(5)
(7)	Sch.6, para.2		
(8)			
(9)	52(3)	9	
(10)	51(3), 52(4)	10(1)	23(1)
(11)	53(1)	(2)	
		(3)	23(6)
F.A. 1975—continued		F.A. 1975—continued	
Sch.6 para. 10(4)(5)		Sch.7 para. 3(2AA)	48(6)
11(1)	24(1)	(2B)	
(1A)		(3)	267(2)
(2)	24(2)	(4)	48(7)
12(1)	25(1), Sch.3	4	153
(2)		5(1)	6(3)
13(1)	26(1)	(2)	267(2)
(1A)		6(1)(2)	6(4), 155(1)
(2)	26(2)	(3)-(7)	155(2)-(6)
(3)(4)	26(3)(4)	(8)	
(5)(6)	26(5)(6)	(9)	155(7)

(7)	26(8), 76(2)	7(1)(2)	158(1)(2)
(8)	26(9)	(3)	158(3)
14		(4)(5)	158(4)(5)
		(6)	158(6), 267(2)
Sch.6 Pt. II		8	159
para. 15(1)(2)	18(3), 23(2), 24(3), 25(2), 26(7)	Sch.8	
		Pt. I	
(2A)	56(1)	Pt. II	
(3)	23(2)-(5), 24(3), 25(2), 26(7), 56(3)	Sch.9 para. 1(1)(2)	125(1)(2) 125(3)
(4)	23(2)-(4), 24(3), 25(2), 26(7)	2(1)(2)	126(1) 208
(4A)	56(2)	(3)(4)	126(2)(3)
(4B)	56(3)(4)	3(1)	127(1), 128
(5)	18(4), 23(6), 24(4), 25(2), 26(7)	(2)	127(2)
		4	129
		5	125(1)
(6)		6(1)	130(1)
		(2)	130(2)
Pt. III para. 16	36	Sch.10	
17	37(1)	Pt. I	
18	37(2)	para. 1(1)	5(3)
19(1)	38(1)	(2)	5(4), 162(3)
(2)	38(2)	(3)	5(5)
(3)	38(3)	(4)	162(2)
(3A)(3B)	38(4)(5)	(5)	162(1)
(4)	38(6)	2	162(4)
20	39	3	162(5)
21	40	4(1)	165(1)
22	41	(2)	165(2)
22A	42(4)	5	163
23(1)(2)	42(1)(2)	6	164
(3)	42(3)	7(1)	161(1)
		(2)	161(2)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Sch.7 para. 1(1)	154(1)	(3)-(5)	161(3)-(5)
(2)	154(2)	8	170
(3)		9(1)	171(1), 172, 173, 174(1), 175
2	152		
3(1)	6(2), 48(4)	(2)	171(2)
(2)	48(4)	(2A)	174(2)
(2A)	48(5)	(3)	
		(4)	
		9A	176
F.A. 1975—continued		F.A. 1976 (1976 c.40)	
Sch.10 para. 10	166	Section 73	
11(1)	167(1)	74	
(2)	167(2)	75	130(2)
(3)(4)	167(3)(4)		
(5)	167(5)	76(1)(2)	30(1)(2)
12(1)	169(1)	(3)	30(3)
(2)	169(2)	(4)	30(4)
13	168	(5)	
Pt. II para. 14(1)	178(1)	77	31
(2)	178(3)	78(1)	32(1)
15	179(1)	(2)	32(2), 207(1)
16	179(2)	(3)	32(3), 207(1)(2)
17	180(1)	(4)	32(4)
18(1)	180(2)	(5)-(7)	32(5)-(7)
(2)	180(3), 185(3)	79(1)	33(1)
19	178(4)	(2)	
20	179(3)	(3)(4)	33(3)(4)
21	178(5)	(5)(6)	
22	189	(7)	33(7)
23	186	(8)	33(2)(5)
24	184	(9)	
25	181	80(1)	34(1)
26	182	(2)(3)	34(2)(3)
27(1)(2)	183(1)(2)	(4)	34(4)

(3)-(6)	183(3)-(6)	(5)	34(2)(3)
28	185(1)(2)		
29(1)	187(1)	81(1)	78(1)
(2)-(6)	187(2)-(6)	(2)(3)	78(2)(3)
30	188	(4)	78(6)
Pt. III para. 31(1)		82(1)-(7)	63, 79(1)-(7)
	190(1)	(8)	207(3)
(2)	190(3)	(9)(10)	79(8)(9)
32(1)-(3)	191	(11)	61(1)
(4)	190(2)		
33	193	82A(1)-(3)	33(5), 78(3)
34(1)	194(1)	(4)	33(6), 78(3)
(2)	194(2)	(5)	33(2), 78(4)
35	195	(6)	78(5)
36	196	(7)	61(1), 78(4)
37	192	83(1)	
38	197	(2)	Sch.5, paras.2(2), 4, 6
39	190(4)		
40(1)-(3)	198(1)-(3)	(3)	35(2)
(4)	198(4)	(3A)	78(3), Sch.6, para.4(2)
Sch.12 para. 1	Sch.6, para.1	(4)	35(3), 79(10)
8(6)	Sch.8, para.2	5	233(1)
18(3)	Sch.8, para.3(1)(b)	6	Sch.6, para.4(1)
		(7)	Sch.6, para.4(2)(3)
		(8)(9)	Sch.6, para.4(4)(5)
		84	
F.A. 1976—continued		F.A. 1976—continued	
Section		Section	
85	26(2)	99(1)	131(1)
		(2)	131(2)
86(1)	148(1)	(3)	131(2)
(2)-(4)	148(2)-(4)	(4)	132(1)
(5)		(5)	140(2)
(6)	148(5)	(6)	131(3)

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7)	167(2)	(7)	132(2)
87(1)	149(1)	100(1)	174(2)
(2)-(4)	149(2)-(4)	(2)	
(5)	149(5)		
(5A)	149(6)	101(1)	
(5B)	167(2)	(2)	190-198
(6)	149(7)	(3)	
(7)	236(3)	102(1)	176
(8)(9)	149(8)(9)	(2)	
88(1)(2)	150	103(1)	161(2)
(3)	236(3)	(2)	
(4)			
		104	178(2)
89(1)-(5)	12		
(6)		105(1)	92
(7)		(2)	
		(3)(4)	
90(1)	13(1)		
(2)		106	
(3)	13(2)	107(1)	
(4)	13(3)(4)	(2)	86(5)
(5)	13(5)	(3)(4)	
(6)		(5)	
91(1)(2)	14(1)(2)	108(1)	87
(3)		(2)	
92(1)	15	109	90
(2)		110(1)	54(2)(3)
93		(2)	53(4)(5)
94(1)		(3)	
(2)	18(1)	(4)	
(3)	18(2)	111(1)-(3)	
95(1)		(4)	26(3)(4), 76(2)
(2)	23(4), 24(3), 25(2), 26(7), 56(3)	(5)	
		(6)	

Status: *Point in time view as at 01/04/2011.*
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		112	
(3)	56(2)		
(4)	56(7)	113(1)	266(2)-(4)
		(2)	
96(1)			
(2)	36	114(1)	264(1)
(3)	38(1)	(2)	264(2)
(4)	38(3)-(5)	(3)(3A)(3B)	264(3)-(5)
(5)	41	(4)(5)	264(6)(7)
(6)(7)	42(3)(4)	(6)	264(8)
		(7)	264(9)
97		(8)	
98		115	
		116	
F.A. 1976—continued		F.A. 1976—continued	
Section		Sch.10 para. 4(1)	106, 107(1)
117(1)	29(1), 56(6)		
(2)-(4)	29(2)-(4)	(2)(3)	107(2)(3)
(5)	29(5)	(4)	108
(6)	29(2)(5), 56(6)	(5)	107(4)
		5	109
118(1)	94(3), 95, 96, 97	6	110
(2)	100(1)	7	111
(3)	100(2)	8	112
(4)		9	
(5)	99(1)	10	114(1)
(6)	94(2)	11	114(2)
(7)	98(1)	12	
(8)	94(5)	13(1)	103(2)
(9)	171(2)	(2)	269
(10)			
		Sch.11 para. 1	
119	203		
120(1)	48(1)	2	

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2)	48(2)	3	216(7), 226(4), 233(1)
121(1)	17, 143, 144		
(2)		4	
		5	36
122(1)-(5)	146(1)-(5)	6	
(6)	146(6)		
(7)	146(7)	Sch.12 para. 1	140(1)
(7A)	146(8)		
(8)	236(2)(3)	2	133
(8A)	146(9), 236(2)	3	134
(9)		4	135
		5	136
123(1)	147(1)	6	137
(2)	147(2), 236(4)	7	138
(3)	147(3)	8	139(1)-(3)
(4)	147(4), 236(4)	9	139(4)
(5)	209(2)(3)		
(6)	17	Sch.13	190-198
(7)-(10)	147(5)-(8)	Sch.14 para. 1	
(11)	147(9)		
(12)		2, 3	
(13)		4	216(1)
124	230(4)	5	221(6)
125(1)	159	6	
(2)		7	239(5)
		8	
132(3)(d)		9	
Sch.10 para. 1	103(1)	10	46
		11, 12	
2(1)	104(1)	13	
(1A)	104(1)	14-17	
(2)	104(2)	18	151(1)
3(1)	105(1), 103(3)	19	
(1A)	105(2)	20	201(3)

(2)(3)	105(3)(4)
(4)	113
(5)	105(5)
(6)	105(6)

F.A. 1977 (1977 c.36)

Section	
49	
50	
51	
52	
53(1)	207(2)(5)
(2)	
59(3)(d)	

F.A. 1978 (1978 c.42)

Section	
62	
63	
64(1)	
(2)	104(1)
(3)	105(1)
(4)	105(2)
(5)	107(4)
(6)	
(7)	
65(1)	127(2)
(2)	
66(1)(2)	269(4)
(3)	
67(1)-(4)	28(1)-(4)
(5)(6)	28(5)(6)(7)

F.A. 1978—continued

Section	
73(1)	167(2)
(2)	
74(1)	3(3), 10(3)
(2)	
80(3)(d)	
Sch. 11 para. 1	
2	
3(1)	13(2)
(2)	13(3)(4)
(3)	

F.A. 1980 (1980 c.48)

Section	
85(1)	
(2)	
(3)	9
86(1)	
(2)	
(3)	20(1)
(4)	
(5)	
87(1)	
(2)	148(5), 167(2)
(3)	149(5)
(4)	149(6), 167(2)
(5)	

Status: *Point in time view as at 01/04/2011.*
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(7)	
(8)	
68(1)	17, 142(1)
(2)(3)	142(2)(3)
(4)	142(4)(7)
(5)	142(5)(6)
(6)	239(4)
(7)	
69(1)	53(5), 54(3)
(2)(3)	
(4)	56(2)
(5)	56(3)(4)
(6)	53(6), 54(3), 56(5)
(7)	49(2)
(8)	53(7)(8), 56(7)(8)
70	
71(1)	88(2)
(2)	
72(1)	48(5)
(2)	
F.A. 1980—continued	
Sch.14	
Sch.15 para. 1, 2	Sch.2, paras.1, 2
2A	Sch.2 para.3
3	
4	Sch.2, para.4
4A	
5	Sch.2, para.5
6	Sch.2, para.6
7	Sch.2, para.7
8	
F.A. 1981 (1981 c.35)	
Section	

88(1)-(6)	
(7)	
89-91	
92	146(8)
93(1)	47
(2)	43(4), 46
(3)	142(7)
(4)	
94(1)	256(1)
(2)	256(2)
(3)	256(3)
(4)	216(2)
(5)	216(5)
(6)	216(6)
(7)	
(8)	
(9)	256(4)
118(5)	Sch.3
122(3)(b)	
F.A. 1981—continued	
Section	
102	
103	89
104(1)	53(5), 54(3)
(2)	56(1)
(3)	48(1)(2)
105	
106	
135(1)(Part)	156
139(4)	
Sch.13	

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

46(8)	204(5)	Sch.14 para. 1(1)	
92(1)			115(1)
(2)		(2)-(4)	115(2)-(4)
(3)		2(1)	116(1)
(4)		(2)	116(2)
(5)		(3)	116(3)
(6)(7)		(4)	116(4)
		(5)-(7)	116(5)-(7)
93(1)	7(1)	3	117
(2)	148(1)	4	118
(3)	149(1)	5	119
(4)	264(2)-(5)	6	120(2)
(5)	264(8)	7	120(1)
		8	121
94(1)	19	9	122(1)(2)
(2)	20(1)	10	122(3)
(3)-(6)	57(1)-(4)	11	123(1)
(7)			
		12	123(2)-(4)
95		13	123(5)
96(1)		14	124
(2)	234(1)(2)	15	269
(3)(a)	125(1)	16	
(b)	148(5)	Sch.15	
(c)	149(6)		
(d)	114(1)	F.A. 1982 (1982 c.39)	
(e)	Sch.8, para.12		
(4)		Section 90(1)	
97(1)	16(1)	(2)	
(2)	16(2)		
(3)		91(1)-(4)	8
		(5)	9
98(1)	177(1)(3)		
(2)		92(1)	18(2)
		(2)	

Status: *Point in time view as at 01/04/2011.*
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99	
100(1)	
(2)	104(1)
(3)	105(1)
(4)	105(6)
101(1)-(7)	141
(8)-(9)	

F.A. 1982—continued

Section

94(1)	Sch.4, para.2(2)(3)
(2)	Sch.4, para.3(2)
(3)	Sch.4, para.3(3)
(4)	Sch.4, para.3(4)
(5)	Sch.4, para.1(3)
(6)	Sch.4, para.3(5)
95(1)	27(1), 57(5)
(2)	27(2), 56(1)(3)(4)
(3)	36
(4)	
96(1)-(5)	157
(6)	
97(1)	177(2)(3)
(2)	177(4)
(3)(4)	
98(1)	
(2)	86(1)
(3)	
(4)(5)	86(2)(3)
(6)	87(1)
(7)	
99(1)	
(2)	99(2)
(3)	101(1), 101(2),

(3)	
93(1)	Sch.4, para.1(1)
(2)	Sch.4, para.2(1)
(3)	Sch.4, para.3(1)
(4)(5)	Sch.4, para.4
(6)-(8)	Sch.4, paras.5-7
(9)	Sch.4, para.1(2)
(10)	

F.A. 1982—continued

Section

117	
118(1)	73(1), 74(1)
(2)	73(2), 74(2)
(3)	73(3), 74(3)
(4)	73(2), 74(2)
119	76
120(1)(2)	80(1)(2)
(3)	80(3)
121	81
122(1)-(3)	82
(4)	267(3)
123	83
124	84
125	85
126	58(3), 63
127	
157(4)	
Sch.10 para. 1(2)	Sch.8, para.8(a)
2(2)(a)	Sch.8, para.17(2)(a)
(3)	Sch.8, para.17(3)

Status: *Point in time view as at 01/04/2011.*
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	102(1)	3(2)(a)(b)	Sch.8, para.18(2)(a)(b)
100	156		
101		Sch.15 para. 1	
102	58(1)(2)	2	66(6)
		3	67(4)
103(1)(2)	59(1)(2)	4(1)	68(6)
(3)	59(3)	(2)-(4)	
104	60	5	68(6)
		6-8	68(6), 70(9)
105	61		
106	62	Sch.16 para. 1	Sch.4, paras.16-18
107	64	2	Sch.4, para.8
108(1)-(7)	65(1)-(7)	3, 4	Sch.4, paras.9, 10
(8)	65(8), 267(3)	5-9	Sch.4, paras.11-15
(9)	65(9)		
109	66		
110	67, 66(6)	Sch.17 para. 1	201(1)
111	68(1)-(5)	2	201(5)
		3	266(4)
112	69	4	144
113	70	5	2(3)
		6	271
114	71	7	216
115	75	8	218(3)
		9	
116	72		
F.A. 1982—continued		F.(No.2)A. 1983—continued	
Sch.17 para. 10	226(4)	10(1)	104(1)
		(2)	116(2)(4)
11	227(1), 228(1)	(3)	
12	227(1)		
13	233(1)	11(1)	227(1), 229
14	237(1)	(2)	228(3)
15	239(5)	12	

Status: *Point in time view as at 01/04/2011.*
Changes to legislation: *Inheritance Tax Act 1984 is up to date with all changes known to be in force on or before 24 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

16	44(2)		
17	151(5)	13(1)	211(1)-(3)
18		(2)	211(4), 212(4), 214(3)
19(1)			
(2)(3)	48(4)	(3)	
(4)	48(5)	16(3)	
(5)	48(7)		
20	165(2)	F.A. 1984 (1984 c. 43)	
21	176		
22	167(5)	Section	
23		96(8)	174(1)
24(1)		101(1)	
(2)	33(1)	(2)	Sch.1
(3)		(3)	
(4)	33(2)(5)		
25	34(2)(3)	102(1)	70(7), 71(5), 72(5), 73(3), 74(3)
26	33, 61(1), 63, 78, 79, 207(3)		
27	78(3), Sch.5 para.4(2)	(2)	70(8)
		(3)	
28			
29	146(6)	103(1)	144
30	103(1)	(2)	
31	Sch.2, para.3	104(1)	81(3)
32	Sch.2, para.6	(2)	48(6)
33		(3)	
34	115(1)		
		105(1)	240(3)
		(2)	
F.A. 1983 (1983 c.28)		(3)	
Section		106(1)	243, 244
46(5)	Sch.3	(2)	254(2)
47		107(1)	115(4)

		(2)	169(2)
Sch.9 para. 3		(3)	16(2)
	7(1)	(4)	
4	216(2)		
5	51(3)	128(4)	
6			
7	274(8)	Sch.9 para. 14	174(1)
F. (No. 2) A. 1983 (1983 c.49)		Sch.14 para. 16	165(3)
Section			
8(1)		Sch.21 para. 1	Sch.6, para.2
(2)		2	
(3)		3	202(4)
9(1)		4	267(1)
(2)	29(5)	5	272
(3)		6	221(6)
F.A. 1984—continued			
Sch.21 para. 7	227(7)		
8, 9			
10	44(2)		
11	Sch.6, para.2		
12	86(4)		
13	91(1)		
14(1)			
(2)	99(1)		
(3)	101(1)		
15	153		
16	5(3)		
17	163(1)		
18			
19	Sch.8, para.7(2)		
20, 21			
22	236(4)		
23	Sch.2, paras.3, 5, 6		
24			

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25	80(1), 81, 83
26	82(1), 84
Sch.22 para. 6 (Part)	225(2)

Status:
Point in time view as at 01/04/2011.

Changes to legislation:
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