



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART I

#### GENERAL

##### *Main charges and definitions*

#### **1 Charge on transfers.**

[<sup>F1</sup>Inheritance tax] shall be charged on the value transferred by a chargeable transfer.

##### **Textual Amendments**

**F1** 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.

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**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) [F2 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.
- (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**  
**F2** Words in s. 3(3) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 8](#)

**[F33A 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 [F4but 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;

F5 .....

[ Any reference in this Act to a potentially exempt transfer is also a reference to a F6(1A) 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.

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- (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) [<sup>F7</sup> 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, . . . <sup>F8</sup>, 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, . . . <sup>F9</sup>
- (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.
- [ Subject to subsection (6) below, a transfer of value falls within subsection (1A)(c) <sup>F10</sup>(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 <sup>F11</sup>. . . 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.]
- [<sup>F12</sup>(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

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is one treated as made on the coming to an end of an interest which falls within section 5(1B) below.]

[<sup>F13</sup>(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) [<sup>F14</sup>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

- F3** Finance Act 1986 Sch. 19 para. 1, *in relation to transfers of value made on or after 18 March 1986.*
- F4** Words in s. 3A(1)(a) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 9\(2\)](#)
- F5** Words in s. 3A(1) repealed (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 178, {Sch. 26 Pt. 6 Note 1}](#)
- F6** S. 3A(1A)(1B) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 9\(3\)](#)
- F7** Words in s. 3A(2) inserted (22.3.2006) by [Finance Act 2006, s. 156, Sch. 20 paras. 7, {9\(4\)}](#)
- F8** *Repealed by Finance Act 1987 (No. 2) s. 96(2)(a) and Sch. 9 Part III, with effect from 17 March 1987.*
- F9** *Repealed by Finance Act 1987 (No. 2) s. 96(2)(b) and Sch. 9 Part III with effect from 17 March 1987.*
- F10** S. 3A(3A)(3B) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 9\(5\)](#)
- F11** 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\(2\)\(a\)](#)
- F12** S. 3A(6A) inserted (with effect as mentioned in [s. 53\(10\)](#) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 53\(2\)\(b\)](#)
- F13** [Finance Act 1987 \(No. 2\) s. 96\(1\), \(3\)](#), *in relation to transfers of value made on or after 17 March 1987.*
- F14** 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, [<sup>F15</sup> 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 [<sup>F16</sup> unless it falls within subsection (1B) below], and
  - (b) the] estate of a person immediately before his death does not include excluded property [<sup>F17</sup> 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).]

[<sup>F18</sup>(1A) An interest in possession falls within this subsection if—

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

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- (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.]

[<sup>F19</sup>(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 [<sup>F20</sup>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

- F15** Words in s. 5(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 para. 7, 10\(2\)](#)
- F16** 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\(3\)\(a\)](#)
- F17** 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\(2\)](#)
- F18** S. 5(1A) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 10\(3\)](#)
- F19** S. 5(1B) inserted (with effect as mentioned in [s. 53\(10\)](#) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 53\(3\)\(b\)](#)
- F20** 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.

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[<sup>F21</sup>(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.]

[<sup>F22</sup>[<sup>F23</sup>(1B) A relevant decoration or award is excluded property if it has never been the subject of a disposition for a consideration in money or money's worth.

(1BA) In subsection (1B) “relevant decoration or award” means a decoration or other similar award—

- (a) that is designed to be worn to denote membership of—
  - (i) an Order that is, or has been, specified in the Order of Wear published in the London Gazette (“the Order of Wear”), or
  - (ii) an Order of a country or territory outside the United Kingdom,
- (b) that is, or has been, specified in the Order of Wear,
- (c) that was awarded for valour or gallant conduct,
- (d) that was awarded for, or in connection with, a person being, or having been, a member of, or employed or engaged in connection with, the armed forces of any country or territory,
- (e) that was awarded for, or in connection with, a person being, or having been, an emergency responder within the meaning of section 153A (death of emergency service personnel etc), or
- (f) that was awarded by the Crown or a country or territory outside the United Kingdom for, or in connection with, public service or achievement in public life.]

(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 <sup>M1</sup>Finance (No. 2) Act 1931 (or section 47 of the <sup>M2</sup>Finance (No. 2) Act 1915) for exemption from taxation so long as the securities are in the beneficial ownership of persons [<sup>F24</sup>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 [<sup>F25</sup>certified SAYE savings arrangement] within the meaning of [<sup>F26</sup>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) [<sup>F27</sup>or (5A)] below is excluded property.

[<sup>F28</sup>(5) This section is subject to Schedule A1 (non-excluded overseas property).]

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### Textual Amendments

- F21** S. 6(1A) inserted (with effect as stated in s. 186(8) of the amending Act) by [Finance Act 2003 \(c. 14\), s. 186\(2\)](#)
- F22** S. 6(1B)(1BA) substituted for s. 6(1B) (with effect in accordance with s. 74(2) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 74\(1\)](#)
- 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)
- F27** Words in s. 6(4) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 37 para. 2](#)
- F28** [S. 6\(5\)](#) inserted (with effect in accordance with Sch. 10 para. 9 of the amending Act) by [Finance \(No. 2\) Act 2017 \(c. 32\), Sch. 10 para. 3](#)

### Marginal Citations

- M1** 1931 c. 49.  
**M2** 1915 c. 89.

## Rates

### 7 Rates.

- (1) <sup>F29</sup>Subject to subsections (2), (4) and (5) below<sup>F30</sup> and to <sup>F31</sup>section 8D and Schedule 1A] 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 <sup>F32</sup>seven years] ending with the date of the transfer, at the rate or rates applicable to that value under the . . . <sup>F33</sup>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
- (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.
- <sup>F34</sup>(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 <sup>F35</sup>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.

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- [<sup>F36</sup>(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

- F29** Finance Act 1986 Sch. 19, para. 2(1)(a), with effect from 18 March 1986.
- F30** Words in s. 7(1) inserted (with effect in accordance with Sch. 33 para. 10(1) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 33 para. 3](#)
- F31** Words in s. 7(1) inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 9\(2\)](#)
- F32** Finance Act 1986 Sch. 19, para. 2(1)(b), with effect from 18 March 1986. Originally “ten years”.
- F33** Repealed by Finance Act 1986 s. 101(3) and Sch. 19, para. 2(1)(c), with effect from 18 March 1986.
- F34** 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.”
- F35** Finance Act 1986 Sch. 19, para. 2(3), with effect from 18 March 1986. Originally “each of the Tables”.
- F36** Finance Act 1986 Sch. 19, para. 2(4), with effect from 18 March 1986.

## 8 Indexation of rate bands.

- (1) If the [<sup>F37</sup>consumer prices index for the month of September in any year] is higher than it was for the [<sup>F38</sup>previous September], then, unless Parliament otherwise 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 [<sup>F39</sup>a new Table for the Table] applying (whether by virtue of this section or otherwise) to earlier chargeable transfers.
- (1A) . . . . . <sup>F40</sup>
- (2) The new [<sup>F41</sup>Table] shall differ from the [<sup>F41</sup>Table] it replaces in that for each of the amounts specified in the first and second columns there shall be substituted amounts



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arrived at by increasing the previous amounts by the same percentage as the percentage increase in the [<sup>F42</sup>consumer 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.

[<sup>F43</sup>(3) In this section, “consumer prices index” means the all items consumer prices index published by the Statistics Board.]

(4) The Treasury shall before 6th April [<sup>F38</sup>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 [<sup>F44</sup>Table] in Schedule 1 to this Act; and any such order shall be made by statutory instrument.

#### Textual Amendments

- F37** Words in s. 8(1) substituted (with effect in accordance with s. 208(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 208\(2\)](#)
- F38** Words in s. 8(1)(3)(4) substituted (27.7.1993: the substituting section applying in relation to chargeable transfers made on or after 6.4.1994) by [1993 c. 34, s. 197\(1\)\(2\)](#).
- F39** Finance Act 1986 Sch. 19, para. 3(1), *with effect from 18 March 1986. Originally* “new Tables for the Tables”.
- F40** 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.*
- F41** Finance Act 1986 Sch. 19, para. 3(3), *with effect from 18 March 1986. Originally* “Tables”.
- F42** Words in s. 8(2) substituted (with effect in accordance with s. 208(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 208\(3\)](#)
- F43** S. 8(3) substituted (with effect in accordance with s. 208(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 208\(4\)](#)
- F44** Finance Act 1986 Sch. 19, para. 3(4), *with effect from 18 March 1986. Originally* “Tables”.

#### Modifications etc. (not altering text)

- C1** S. 8(1) restricted (7.4.2005) by [Finance Act 2005 \(c. 7\), s. 98\(6\)](#)
- C2** S. 8(1) excluded (19.7.2006) by [Finance Act 2006 \(c. 25\), s. 155\(5\)](#)
- C3** S. 8 restricted (19.3.1997 with effect as mentioned in [s. 93\(2\)](#) of the amending Act) by [1997 c. 16, s. 93\(2\)](#)
- C4** S. 8 restricted (8.4.2010) by [Finance Act 2010 \(c. 13\), s. 8\(3\)](#)
- C5** S. 8 excluded (17.7.2014) by [Finance Act 2014 \(c. 26\), Sch. 25 para. 2](#)
- C6** S. 8 excluded (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 10](#)
- C7** 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](#)
- C8** S. 8(1) restricted (24.7.2002) by [2002 c. 23, s. 118\(2\)](#)

#### [<sup>F45</sup>8A Transfer of unused nil-rate band between spouses and civil partners

- (1) This section applies where—
- immediately before the death of a person (a “deceased person”), the deceased person had a spouse or civil partner (“the survivor”), and
  - the deceased person had unused nil-rate band on death.

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

$M > VT$

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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 [<sup>F46</sup>that the maximum amount chargeable at nil per cent. under section 8D(2) is equal to the person's residence nil-rate amount and] 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—

$$\text{ENRBMD} \times 100$$

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).

#### **Textual Amendments**

**F45** 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](#))

**F46** Words in s. 8A(2) inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(3\)](#)

## **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

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- (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

**F45** 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)—

$$(ENRBMDTANRBME) \times 100$$

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

$$TANRBME$$

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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

- F45** 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](#))

#### [<sup>F47</sup>8D Extra nil-rate band on death if interest in home goes to descendants etc

- (1) Subsections (2) and (3) apply for the purpose of calculating the amount of the charge to tax under section 4 on a person's death if the person dies on or after 6 April 2017.
- (2) If the person's residence nil-rate amount is greater than nil, the portion of VT that does not exceed the person's residence nil-rate amount is charged at the rate of 0%.
- (3) References in section 7(1) to the value transferred by the chargeable transfer under section 4 on the person's death are to be read as references to the remainder (if any) of VT.
- (4) The person's residence nil-rate amount is calculated in accordance with sections 8E to 8G [<sup>F48</sup>(and see also section 8M)].
- (5) For the purposes of those sections and this section—
- (a) the “residential enhancement” is—
    - (i) £100,000 for the tax year 2017-18,
    - (ii) £125,000 for the tax year 2018-19,
    - (iii) £150,000 for the tax year 2019-20, and
    - (iv) £175,000 for the tax year 2020-21 and subsequent tax years,
 but this is subject to subsections (6) and (7),
  - (b) the “taper threshold” is £2,000,000 for the tax year 2017-18 and subsequent tax years, but this is subject to subsections (6) and (7),
  - (c) TT is the taper threshold at the person's death,
  - (d) E is the value of the person's estate immediately before the person's death,
  - (e) VT is the value transferred by the chargeable transfer under section 4 on the person's death,

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- (f) the person's "default allowance" is the total of—
  - (i) the residential enhancement at the person's death, and
  - (ii) the person's brought-forward allowance (see section 8G), and
- (g) the person's "adjusted allowance" is—
  - (i) the person's default allowance, less
  - (ii) the amount given by—

E – T T 2

but is nil if that amount is greater than the person's default allowance.

- (6) Subsection (7) applies if—
  - (a) the consumer prices index for the month of September in any tax year ("the prior tax year") is higher than it was for the previous September, and
  - (b) the prior tax year is the tax year 2020-21 or a later tax year.
- (7) Unless Parliament otherwise determines, the amount of each of—
  - (a) the residential enhancement for the tax year following the prior tax year, and
  - (b) the taper threshold for that following tax year,is its amount for the prior tax year increased by the same percentage as the percentage increase in the index and, if the result is not a multiple of £1,000, rounded up to the nearest amount which is such a multiple.
- (8) The Treasury must before 6 April 2021 and each subsequent 6 April make an order specifying the amounts that in accordance with subsections (6) and (7) are the residential enhancement and taper threshold for the tax year beginning on that date; and any such order is to be made by statutory instrument.
- (9) In this section—
  - [<sup>F49</sup>"consumer prices index" means the all items consumer prices index published by the Statistics Board,]
  - "tax year" means a year beginning on 6 April and ending on the following 5 April, and
  - "the tax year 2017-18" means the tax year beginning on 6 April 2017 (and any corresponding expression in which two years are similarly mentioned is to be read in the same way).

#### Textual Amendments

- F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)
- F48** Words in s. 8D(4) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 2\(2\)](#)
- F49** Words in s. 8D(9) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 2\(3\)](#)

### 8E Residence nil-rate amount: interest in home goes to descendants etc

- (1) Subsections (2) to (7) apply if—
  - (a) the person's estate immediately before the person's death includes a qualifying residential interest, and
  - (b) N% of the interest is closely inherited, where N is a number—
    - (i) greater than 0, and
    - (ii) less than or equal to 100,

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and in those subsections “NV/100” means N% of so much (if any) of the value transferred by the transfer of value under section 4 as is attributable to the interest.

(2) Where—

- (a) E is less than or equal to TT, and
- (b) NV/100 is less than the person's default allowance,

the person's residence nil-rate amount is equal to NV/100 and an amount, equal to the difference between NV/100 and the person's default allowance, is available for carry-forward.

(3) Where—

- (a) E is less than or equal to TT, and
- (b) NV/100 is greater than or equal to the person's default allowance,

the person's residence nil-rate amount is equal to the person's default allowance (and no amount is available for carry-forward).

(4) Where—

- (a) E is greater than TT, and
- (b) NV/100 is less than the person's adjusted allowance,

the person's residence nil-rate amount is equal to NV/100 and an amount, equal to the difference between NV/100 and the person's adjusted allowance, is available for carry-forward.

(5) Where—

- (a) E is greater than TT, and
- (b) NV/100 is greater than or equal to the person's adjusted allowance,

the person's residence nil-rate amount is equal to the person's adjusted allowance (and no amount is available for carry-forward).

(6) Subsections (2) to (5) have effect subject to subsection (7) [<sup>F50</sup>and sections 8FC and 8M(2B) to (2E)].

(7) Where the person's residence nil-rate amount as calculated under subsections (2) to (5) without applying this subsection is greater than VT—

- [<sup>F51</sup>(a) the person's residence nil-rate amount is equal to VT,
- (b) where E is less than or equal to TT, an amount, equal to the difference between VT and the person's default allowance, is available for carry-forward, and
- (c) where E is greater than TT, an amount, equal to the difference between VT and the person's adjusted allowance, is available for carry-forward.]

(8) See also—

[<sup>F52</sup>section 8FC (modifications of this section where there is entitlement to a downsizing addition),]

section 8H (meaning of “qualifying residential interest” [<sup>F53</sup>, “qualifying former residential interest” and “residential property interest”]),

section 8J (meaning of “inherit”),

section 8K (meaning of “closely inherited”), and

section 8M (cases involving conditional exemption).

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I. (See end of Document for details)*

#### Textual Amendments

- F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)
- F50** Words in s. 8E(6) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 3\(2\)](#)
- F51** S. 8E(7)(a)-(c) substituted for s. 8E(7)(a)(b) (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 3\(3\)](#)
- F52** Words in s. 8E(8) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 3\(4\)\(a\)](#)
- F53** Words in s. 8E(8) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 3\(4\)\(b\)](#)

### **8F Residence nil-rate amount: no interest in home goes to descendants etc**

- (1) Subsections (2) and (3) apply if the person's estate immediately before the person's death—
- does not include a qualifying residential interest, or
  - includes a qualifying residential interest but none of the interest is closely inherited.
- (2) The person's residence nil-rate amount is nil.
- (3) An amount—
- equal to the person's default allowance, or
  - if E is greater than TT, equal to the person's adjusted allowance, is available for carry-forward.
- (4) See also—
- [<sup>F54</sup>section 8FD (which applies instead of this section where there is entitlement to a downsizing addition),]
- section 8H (meaning of “qualifying residential interest” [<sup>F55</sup>, “qualifying former residential interest” and “residential property interest”]),
- section 8J (meaning of “inherit”),
- section 8K (meaning of “closely inherited”), and
- section 8M (cases involving conditional exemption).]

#### Textual Amendments

- F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)
- F54** Words in s. 8F(4) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 4\(a\)](#)
- F55** Words in s. 8F(4) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 4\(b\)](#)

### **[<sup>F56</sup>8FA Downsizing addition: entitlement: low-value death interest in home**

- (1) There is entitlement to a downsizing addition in calculating the person's residence nil-rate amount if each of conditions A to F is met (see subsection (8) for the amount of the addition).
- (2) Condition A is that—
- the person's residence nil-rate amount is given by section 8E(2) or (4), or
  - the person's estate immediately before the person's death includes a qualifying residential interest but none of the interest is closely inherited, and—

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- (i) where E is less than or equal to TT, so much of VT as is attributable to the person's qualifying residential interest is less than the person's default allowance, or
- (ii) where E is greater than TT, so much of VT as is attributable to the person's qualifying residential interest is less than the person's adjusted allowance.

Section 8E(6) and (7) do not apply, and any entitlement to a downsizing addition is to be ignored, when deciding whether paragraph (a) of condition A is met.

- (3) Condition B is that not all of VT is attributable to the person's qualifying residential interest.
- (4) Condition C is that there is a qualifying former residential interest in relation to the person (see sections 8H(4A) to (4F) and 8HA).
- (5) Condition D is that the value of the qualifying former residential interest exceeds so much of VT as is attributable to the person's qualifying residential interest.

Section 8FE(2) explains what is meant by the value of the qualifying former residential interest.

- (6) Condition E is that at least some of the remainder is closely inherited, where “the remainder” means everything included in the person's estate immediately before the person's death other than the person's qualifying residential interest.
- (7) Condition F is that a claim is made for the addition in accordance with section 8L(1) to (3).
- (8) Where there is entitlement as a result of this section, the addition—
  - (a) is equal to the lost relievable amount (see section 8FE) if that amount is less than so much of VT as is attributable to so much of the remainder as is closely inherited, and
  - (b) otherwise is equal to so much of VT as is attributable to so much of the remainder as is closely inherited.
- (9) Subsection (8) has effect subject to section 8M(2G) (reduction of downsizing addition in certain cases involving conditional exemption).

- (10) See also—
  - section 8FC (effect of an addition: section 8E case),
  - section 8FD (effect of an addition: section 8F case),
  - section 8H (meaning of “qualifying residential interest”, “qualifying former residential interest” and “residential property interest”),
  - section 8J (meaning of “inherit”),
  - section 8K (meaning of “closely inherited”), and
  - section 8M (cases involving conditional exemption).

#### **Textual Amendments**

**F56** Ss. 8FA-8FE inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 5](#)



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*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I. (See end of Document for details)*

### **8FB Downsizing addition: entitlement: no residential interest at death**

- (1) There is also entitlement to a downsizing addition in calculating the person's residence nil-rate amount if each of conditions G to K is met (see subsection (7) for the amount of the addition).
- (2) Condition G is that the person's estate immediately before the person's death (“the estate”) does not include a residential property interest.
- (3) Condition H is that VT is greater than nil.
- (4) Condition I is that there is a qualifying former residential interest in relation to the person (see sections 8H(4A) to (4F) and 8HA).
- (5) Condition J is that at least some of the estate is closely inherited.
- (6) Condition K is that a claim is made for the addition in accordance with section 8L(1) to (3).
- (7) Where there is entitlement as a result of this section, the addition—
  - (a) is equal to the lost relievable amount (see section 8FE) if that amount is less than so much of VT as is attributable to so much of the estate as is closely inherited, and
  - (b) otherwise is equal to so much of VT as is attributable to so much of the estate as is closely inherited.
- (8) Subsection (7) has effect subject to section 8M(2G) (reduction of downsizing addition in certain cases involving conditional exemption).
- (9) See also—
  - section 8FD (effect of an addition: section 8F case),
  - section 8H (meaning of “qualifying residential interest”, “qualifying former residential interest” and “residential property interest”),
  - section 8J (meaning of “inherit”),
  - section 8K (meaning of “closely inherited”), and
  - section 8M (cases involving conditional exemption).

#### **Textual Amendments**

**F56** Ss. 8FA-8FE inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 5](#)

### **8FC Downsizing addition: effect: section 8E case**

- (1) Subsection (2) applies if—
  - (a) as a result of section 8FA, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, and
  - (b) the person's residence nil-rate amount is given by section 8E.
- (2) Section 8E has effect as if, in subsections (2) to (5) of that section, each reference to NV/100 were a reference to the total of—
  - (a) NV/100, and
  - (b) the downsizing addition.

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I. (See end of Document for details)*

**Textual Amendments**

**F56** Ss. 8FA-8FE inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 5](#)

**8FD Downsizing addition: effect: section 8F case**

- (1) This section applies if—
  - (a) as a result of section 8FA or 8FB, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, and
  - (b) apart from this section, the person's residence nil-rate amount is given by section 8F.
- (2) Subsections (3) to (6) apply instead of section 8F.
- (3) The person's residence nil-rate amount is equal to the downsizing addition.
- (4) Where—
  - (a) E is less than or equal to TT, and the downsizing addition is equal to the person's default allowance, or
  - (b) E is greater than TT, and the downsizing addition is equal to the person's adjusted allowance,
 no amount is available for carry-forward.
- (5) Where—
  - (a) E is less than or equal to TT, and
  - (b) the downsizing addition is less than the person's default allowance,
 an amount, equal to the difference between the downsizing addition and the person's default allowance, is available for carry-forward.
- (6) Where—
  - (a) E is greater than TT, and
  - (b) the downsizing addition is less than the person's adjusted allowance,
 an amount, equal to the difference between the downsizing addition and the person's adjusted allowance, is available for carry-forward.

**Textual Amendments**

**F56** Ss. 8FA-8FE inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 5](#)

**8FE Calculation of lost relievable amount**

- (1) This section is about how to calculate the person's lost relievable amount for the purposes of sections 8FA(8) and 8FB(7).
- (2) For the purposes of this section and section 8FA(5), the value of the person's qualifying former residential interest is the value of the interest at the time of completion of the disposal of the interest.
- (3) In this section, the person's “former allowance” is the total of—
  - (a) the residential enhancement at the time of completion of the disposal of the qualifying former residential interest,

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- (b) any brought-forward allowance that the person would have had if the person had died at that time, having regard to the circumstances of the person at that time (see section 8G as applied by subsection (4)), and
  - (c) if the person's allowance on death includes an amount of brought-forward allowance which is greater than the amount of brought-forward allowance given by paragraph (b), the difference between those two amounts.
- (4) For the purposes of calculating any brought-forward allowance that the person (“P”) would have had as mentioned in subsection (3)(b)—
  - (a) section 8G (brought-forward allowance) applies, but as if references to the residential enhancement at P's death were references to the residential enhancement at the time of completion of the disposal of the qualifying former residential interest, and
  - (b) assume that a claim for brought-forward allowance was made in relation to an amount available for carry-forward from a related person's death if, on P's death, a claim was in fact made in relation to the amount.
- (5) For the purposes of subsection (3)(c), where the person's allowance on death is equal to the person's adjusted allowance, the amount of brought-forward allowance included in the person's allowance on death is calculated as follows.
  - Step 1* Express the person's brought-forward allowance as a percentage of the person's default allowance.
  - Step 2* Multiply—
$$E - T T 2$$
by the percentage given by step 1.
  - Step 3* Reduce the person's brought-forward allowance by the amount given by step 2.The result is the amount of brought-forward allowance included in the person's allowance on death.
- (6) If completion of the disposal of the qualifying former residential interest occurs before 6 April 2017—
  - (a) for the purposes of subsection (3)(a), the residential enhancement at the time of completion of the disposal is treated as being £100,000, and
  - (b) for the purposes of subsection (3)(b), the amount of brought-forward allowance that the person would have had at that time is treated as being nil.
- (7) In this section, the person's “allowance on death” means—
  - (a) where E is less than or equal to TT, the person's default allowance, or
  - (b) where E is greater than TT, the person's adjusted allowance.
- (8) For the purposes of this section, “completion” of the disposal of a residential property interest occurs at the time of the disposal or, if the disposal is under a contract which is completed by a conveyance, at the time when the interest is conveyed.
- (9) Where, as a result of section 8FA, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, take the following steps to calculate the person's lost relievable amount.
  - Step 1* Express the value of the person's qualifying former residential interest as a percentage of the person's former allowance, but take that percentage to be 100% if it would otherwise be higher.

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*Step 2* Express QRI as a percentage of the person's allowance on death, where QRI is so much of VT as is attributable to the person's qualifying residential interest, but take that percentage to be 100% if it would otherwise be higher.

*Step 3* Subtract the percentage given by step 2 from the percentage given by step 1, but take the result to be 0% if it would otherwise be negative. The result is P%.

*Step 4* The person's lost relievable amount is equal to P% of the person's allowance on death.

- (10) Where, as a result of section 8FB, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, take the following steps to calculate the person's lost relievable amount.

*Step 1* Express the value of the person's qualifying former residential interest as a percentage of the person's former allowance, but take that percentage to be 100% if it would otherwise be higher.

*Step 2* Calculate that percentage of the person's allowance on death. The result is the person's lost relievable amount.]

#### Textual Amendments

**F56** Ss. 8FA-8FE inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 5](#)

#### [<sup>F47</sup>8G Meaning of “brought-forward allowance”

- (1) This section is about the amount of the brought-forward allowance (see section 8D(5)(f)) for a person (“P”) who dies on or after 6 April 2017.
- (2) In this section “related person” means a person other than P where—
- the other person dies before P, and
  - immediately before the other person dies, P is the other person's spouse or civil partner.
- (3) P's brought-forward allowance is calculated as follows—
- identify each amount available for carry-forward from the death of a related person (see sections 8E [<sup>F57</sup>, 8F and 8FD], and subsections (4) and (5)),
  - express each such amount as a percentage of the residential enhancement at the death of the related person concerned,
  - calculate the percentage that is the total of those percentages, and
  - the amount that is that total percentage of the residential enhancement at P's death is P's brought-forward allowance or, if that total percentage is greater than 100%, P's brought-forward allowance is the amount of the residential enhancement at P's death,
- but P's brought-forward allowance is nil if no claim for it is made under section 8L.
- (4) Where the death of a related person occurs before 6 April 2017—
- an amount equal to £100,000 is treated for the purposes of subsection (3) as being the amount available for carry-forward from the related person's death, but this is subject to subsection (5), and
  - the residential enhancement at the related person's death is treated for those purposes as being £100,000.

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- (5) If the value (“RPE”) of the related person's estate immediately before the related person's death is greater than £2,000,000, the amount treated under subsection (4)(a) as available for carry-forward is reduced (but not below nil) by—

R P E – £2,000,000 2

#### Textual Amendments

**F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)

**F57** Words in s. 8G(3)(a) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 6](#)

### **8H** Meaning of “qualifying residential interest” <sup>F58</sup>, “qualifying former residential interest” and “residential property interest”]

- (1) This section applies for the purposes of sections 8E <sup>F59</sup> to 8FE and section 8M].
- (2) <sup>F60</sup>A] “residential property interest”, in relation to a person, means an interest in a dwelling-house which has been the person's residence at a time when the person's estate included that, or any other, interest in the dwelling-house.
- (3) Where a person's estate immediately before the person's death includes residential property interests in just one dwelling-house, the person's interests in that dwelling-house are a qualifying residential interest in relation to the person.
- (4) Where—
- (a) a person's estate immediately before the person's death includes residential property interests in each of two or more dwelling-houses, and
  - (b) the person's personal representatives nominate one (and only one) of those dwelling-houses,
- the person's interests in the nominated dwelling-house are a qualifying residential interest in relation to the person.

[ Subsection (4B) or (4C) applies where—

- <sup>F61</sup>(4A) (a) a person disposes of a residential property interest in a dwelling-house on or after 8 July 2015 (and before the person dies), and
- (b) the person's personal representatives nominate—
- (i) where there is only one such dwelling-house, that dwelling-house, or
  - (ii) where there are two or more such dwelling-houses, one (and only one) of those dwelling-houses.

(4B) Where—

- (a) the person—
  - (i) disposes of a residential property interest in the nominated dwelling-house at a post-occupation time, or
  - (ii) disposes of two or more residential property interests in the nominated dwelling-house at the same post-occupation time or at post-occupation times on the same day, and
- (b) the person does not otherwise dispose of residential property interests in the nominated dwelling-house at post-occupation times,

the interest disposed of is, or the interests disposed of are, a qualifying former residential interest in relation to the person.

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*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I. (See end of Document for details)*

(4C) Where—

- (a) the person disposes of residential property interests in the nominated dwelling-house at post-occupation times on two or more days, and
- (b) the person's personal representatives nominate one (and only one) of those days,

the interest or interests disposed of at post-occupation times on the nominated day is or are a qualifying former residential interest in relation to the person.

(4D) For the purposes of subsections (4A) to (4C)—

- (a) a person is to be treated as not disposing of a residential property interest in a dwelling-house where the person disposes of an interest in the dwelling-house by way of gift and the interest is, in relation to the gift and the donor, property subject to a reservation within the meaning of section 102 of the Finance Act 1986 (gifts with reservation), and
- (b) a person is to be treated as disposing of a residential property interest in a dwelling-house if the person is treated as making a potentially exempt transfer of the interest as a result of the operation of section 102(4) of that Act (property ceasing to be subject to a reservation).

(4E) Where—

- (a) a transfer of value by a person is a conditionally exempt transfer of a residential property interest, and
- (b) at the time of the person's death, no chargeable event has occurred with respect to that interest,

that interest may not be, or be included in, a qualifying former residential interest in relation to the person.

(4F) In subsections (4B) and (4C) “post-occupation time” means a time—

- (a) on or after 8 July 2015,
- (b) after the nominated dwelling-house first became the person's residence, and
- (c) before the person dies.

(4G) For the purposes of subsections (4A) to (4C), if the disposal is under a contract which is completed by a conveyance, the disposal occurs at the time when the interest is conveyed.]

(5) A reference in this section to a dwelling-house—

- (a) includes any land occupied and enjoyed with it as its garden or grounds, but
- (b) does not include, in the case of any particular person, any trees or underwood in relation to which an election is made under section 125 as it applies in relation to that person's death.

(6) If at any time when a person's estate includes an interest in a dwelling-house, the person—

- (a) resides in living accommodation which for the person is job-related, and
  - (b) intends in due course to occupy the dwelling-house as the person's residence,
- this section applies as if the dwelling-house were at that time occupied by the person as a residence.

(7) Section 222(8A) to (8D) of the 1992 Act (meaning of “job-related”), but not section 222(9) of that Act, apply for the purposes of subsection (6).]

*Status: Point in time view as at 16/11/2017.*

*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I. (See end of Document for details)*

#### Textual Amendments

- F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)  
**F58** Words in s. 8H heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 7\(2\)](#)  
**F59** Words in s. 8H(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 7\(3\)](#)  
**F60** Word in s. 8H(2) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 7\(4\)](#)  
**F61** Ss. 8H(4A)-(4G) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 7\(5\)](#)

#### [<sup>F62</sup>8HA Qualifying former residential interest<sup>7</sup>: interests in possession

- (1) This section applies for the purposes of determining whether certain interests may be, or be included in, a qualifying former residential interest in relation to a person (see section 8H(4A) to (4C)).
- (2) This section applies where—
  - (a) a person (“P”) is beneficially entitled to an interest in possession in settled property, and
  - (b) the settled property consists of, or includes, an interest in a dwelling-house.
- (3) Subsection (4) applies where—
  - (a) the trustees of the settlement dispose of the interest in the dwelling-house to a person other than P,
  - (b) P's interest in possession in the settled property subsists immediately before the disposal, and
  - (c) P's interest in possession—
    - (i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the disposal, or
    - (ii) falls within subsection (8).
- (4) The disposal is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).
- (5) Subsection (6) applies where—
  - (a) P disposes of the interest in possession in the settled property, or P's interest in possession in the settled property comes to an end in P's lifetime,
  - (b) the interest in the dwelling-house is, or is part of, the settled property immediately before the time when that happens, and
  - (c) P's interest in possession—
    - (i) falls within subsection (7) throughout the period beginning with P becoming beneficially entitled to it and ending with the time mentioned in paragraph (b), or
    - (ii) falls within subsection (8).
- (6) The disposal, or (as the case may be) the coming to an end of P's interest in possession, is to be treated as a disposal by P of the interest in the dwelling-house to which P is beneficially entitled as a result of the operation of section 49(1).
- (7) An interest in possession falls within this subsection if—
  - (a) P became beneficially entitled to it before 22 March 2006 and section 71A does not apply to the settled property; or

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- (b) P becomes beneficially entitled to it on or after 22 March 2006 and the interest is—
- (i) an immediate post-death interest,
  - (ii) a disabled person's interest, or
  - (iii) a transitional serial interest.
- (8) An interest in possession falls within this subsection if P becomes beneficially entitled to it on or after 22 March 2006 and it falls within section 5(1B).]

#### Textual Amendments

**F62** S. 8HA inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 8](#)

#### [<sup>F47</sup>8J Meaning of “inherited”

- (1) This section explains for the purposes of sections 8E [<sup>F63</sup>, 8F, 8FA, 8FB and 8M] whether a person (“B”) inherits, from a person who has died (“D”), property which forms part of D's estate immediately before D's death.
- (2) B inherits the property if there is a disposition of it (whether effected by will, under the law relating to intestacy or otherwise) to B.
- (3) Subsection (2) does not apply if—
  - (a) the property becomes comprised in a settlement on D's death, or
  - (b) immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession.
- (4) Where the property becomes comprised in a settlement on D's death, B inherits the property if—
  - (a) B becomes beneficially entitled on D's death to an interest in possession in the property, and that interest in possession is an immediate post-death interest or a disabled person's interest, or
  - (b) the property becomes, on D's death, settled property—
    - (i) to which section 71A or 71D applies, and
    - (ii) held on trusts for the benefit of B.
- (5) Where, immediately before D's death, the property was settled property in which D was beneficially entitled to an interest in possession, B inherits the property if B becomes beneficially entitled to it on D's death.
- (6) Where the property forms part of D's estate immediately before D's death as a result of the operation of section 102(3) of the Finance Act 1986 (gifts with reservation) in relation to a disposal of the property made by D by way of gift, B inherits the property if B is the person to whom the disposal was made.

#### Textual Amendments

**F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 9\(4\)](#)

**F63** Words in s. 8J(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 9](#)



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## **8K Meaning of “closely inherited”**

- (1) In relation to the death of a person (“D”), something is “closely inherited” for the purposes of sections 8E [F64, 8F, 8FA, 8FB and 8M] if it is inherited for those purposes (see section 8J) by—
  - (a) a lineal descendant of D,
  - (b) a person who, at the time of D's death, is the spouse or civil partner of a lineal descendant of D, or
  - (c) a person who—
    - (i) at the time of the death of a lineal descendant of D who died no later than D, was the spouse or civil partner of the lineal descendant, and
    - (ii) has not, in the period beginning with the lineal descendant's death and ending with D's death, become anyone's spouse or civil partner.
- (2) The rules in subsections (3) to (8) apply for the interpretation of subsection (1).
- (3) A person who is at any time a step-child of another person is to be treated, at that and all subsequent times, as if the person was that other person's child.
- (4) Any rule of law, so far as it requires an adopted person to be treated as not being the child of a natural parent of the person, is to be disregarded (but this is without prejudice to any rule of law requiring an adopted person to be treated as the child of an adopter of the person).
- (5) A person who is at any time fostered by a foster parent is to be treated, at that and all subsequent times, as if the person was the foster parent's child.
- (6) Where—
  - (a) an individual (“G”) is appointed (or is treated by law as having been appointed) under section 5 of the Children Act 1989, or under corresponding law having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, as guardian (however styled) of another person, and
  - (b) the appointment takes effect at a time when the other person (“C”) is under the age of 18 years,C is to be treated, at all times after the appointment takes effect, as if C was G's child.
- (7) Where—
  - (a) an individual (“SG”) is appointed as a special guardian (however styled) of another person (“C”) by an order of a court—
    - (i) that is a special guardianship order as defined by section 14A of the Children Act 1989, or
    - (ii) that is a corresponding order under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, and
  - (b) the appointment takes effect at a time when C is under the age of 18 years,C is to be treated, at all times after the appointment takes effect, as if C was SG's child.
- (8) In particular, where under any of subsections (3) to (7) one person is to be treated at any time as the child of another person, that first person's lineal descendants (even if born before that time) are accordingly to be treated at that time (and all subsequent times) as lineal descendants of that other person.

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- (9) In subsection (4) “adopted person” means—
- (a) an adopted person within the meaning of Chapter 4 of Part 1 of the Adoption and Children Act 2002, or
  - (b) a person who would be an adopted person within the meaning of that Chapter if, in section 66(1)(e) of that Act and section 38(1)(e) of the Adoption Act 1976, the reference to the law of England and Wales were a reference to the law of any part of the United Kingdom.
- (10) In subsection (5) “foster parent” means—
- (a) someone who is approved as a local authority foster parent in accordance with regulations made by virtue of paragraph 12F of Schedule 2 to the Children Act 1989,
  - (b) a foster parent with whom the person is placed by a voluntary organisation under section 59(1)(a) that Act,
  - (c) someone who looks after the person in circumstances in which the person is a privately fostered child as defined by section 66 of that Act, or
  - (d) someone who, under legislation having effect in Scotland or Northern Ireland or any country or territory outside the United Kingdom, is a foster parent (however styled) corresponding to a foster parent within paragraph (a) or (b).

#### Textual Amendments

**F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)

**F64** Words in s. 8K(1) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 10](#)

## 8L Claims for brought-forward allowance [<sup>F65</sup> and downsizing addition]

- (1) A claim for brought-forward allowance for a person (see section 8G) [<sup>F66</sup> or for a downsizing addition for a person (see sections 8FA to 8FD)] may be made—
- (a) by the person's personal representatives within the permitted period, or
  - (b) (if no claim is so made) by any other person liable to the tax chargeable on the person's death within such later period as an officer of Revenue and Customs may in the particular case allow.
- (2) In subsection (1)(a) “the permitted period” means—
- (a) the period of 2 years from the end of the month in which the person dies or (if it ends later) the period of 3 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.
- (3) A claim under subsection (1) made within either of the periods mentioned in subsection (2)(a) may be withdrawn no later than one month after the end of the period concerned.
- (4) Subsection (5) applies if—
- (a) no claim under this section has been made for brought-forward allowance for a person (“P”),

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- (b) the amount of the charge to tax under section 4 on the death of another person (“A”) would be different if a claim under subsection (1) had been made for brought-forward allowance for P, and
  - (c) the amount of the charge to tax under section 4 on the death of P, and the amount of the charge to tax under section 4 on the death of any person who is neither P nor A, would not have been different if a claim under subsection (1) had been made for brought-forward allowance for P.
- (5) A claim for brought-forward allowance for P may be made—
- (a) by A's personal representatives within the allowed period, or
  - (b) (if no claim is so made) by any other person liable to the tax chargeable on A's death within such later period as an officer of Revenue and Customs may in the particular case allow.
- (6) In subsection (5)(a) “the allowed period” means—
- (a) the period of 2 years from the end of the month in which A dies or (if it ends later) the period of 3 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.
- (7) A claim under subsection (5) made within either of the periods mentioned in subsection (6)(a) may be withdrawn no later than one month after the end of the period concerned.

#### Textual Amendments

**F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\), s. 9\(4\)](#)

**F65** Words in s. 8L heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 11\(a\)](#)

**F66** Words in s. 8L(1) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), Sch. 15 para. 11\(b\)](#)

### 8M Residence nil-rate amount: cases involving conditional exemption

[<sup>F67</sup>(1) This section applies where—

- (a) a person (“D”) dies on or after 6 April 2017,
  - (b) ignoring the application of this section, D's residence nil-rate amount is greater than nil, and
  - (c) some or all of the transfer of value under section 4 on D's death is a conditionally exempt transfer of property consisting of, or including, any of the following—
    - (i) some or all of a qualifying residential interest;
    - (ii) some or all of a residential property interest, at least some portion of which is closely inherited, and which is not, and is not included in, a qualifying residential interest;
    - (iii) one or more closely inherited assets that are not residential property interests.
- (2) Subsections (2B) to (2E) apply for the purposes of sections 8E to 8FD if—
- (a) ignoring the application of this section, D's residence nil-rate amount is given by section 8E, and

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- (b) some or all of the transfer of value under section 4 is a conditionally exempt transfer of property mentioned in subsection (1)(c)(i).

(2A) In subsections (2B) to (2E), but subject to subsection (3)(a), “the exempt percentage of the QRI” is given by—

$$X \text{ QRI} \times 100$$

where—

X is the attributable portion of the value transferred by the conditionally exempt transfer,

QRI is the attributable portion of the value transferred by the transfer of value under section 4, and

“the attributable portion” means the portion (which may be the whole) attributable to the qualifying residential interest.

(2B) If—

- (a) the exempt percentage of the QRI is 100%, and  
 (b) D has no entitlement to a downsizing addition,

D's residence nil-rate amount and amount available for carry-forward are given by section 8F(2) and (3) (instead of section 8E).

(2C) If—

- (a) the exempt percentage of the QRI is 100%, and  
 (b) D has an entitlement to a downsizing addition,

D's residence nil-rate amount and amount available for carry-forward are given by section 8FD(3) to (6) (instead of section 8E as modified by section 8FC(2)).

See also subsection (2G).

(2D) If—

- (a) the exempt percentage of the QRI is less than 100%, and  
 (b) D has no entitlement to a downsizing addition,

D's residence nil-rate amount and amount available for carry-forward are given by section 8E but as if, in subsections (2) to (5) of that section, each reference to NV/100 were a reference to NV/100 multiplied by the percentage that is the difference between 100% and the exempt percentage of the QRI.

(2E) If—

- (a) the exempt percentage of the QRI is less than 100%, and  
 (b) D has an entitlement to a downsizing addition,

D's residence nil-rate amount and amount available for carry-forward are given by section 8E as modified by section 8FC(2), but as if the reference to NV/100 in section 8FC(2)(a) were a reference to NV/100 multiplied by the percentage that is the difference between 100% and the exempt percentage of the QRI.

See also subsection (2G).

(2F) Subsection (2G) applies for the purposes of sections 8FA to 8FD if—

- (a) some or all of the transfer of value under section 4 is a conditionally exempt transfer of property mentioned in subsection (1)(c)(ii) or (iii) (or both),

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- (b) D has an entitlement to a downsizing addition, and
  - (c) DA exceeds Y (see subsection (2H)).
- (2G) Subject to subsection (3)(aa) and (ab), the amount of the downsizing addition is treated as reduced by whichever is the smaller of—
- (a) the difference between DA and Y, and
  - (b) Z.
- (2H) In subsections (2F) and (2G)—
- DA is the amount of the downsizing addition to which D has an entitlement (ignoring the application of subsection (2G));
- Y is so much (if any) of the value transferred by the transfer of value under section 4 as—
- (a) is not transferred by a conditionally exempt transfer, and
  - (b) is attributable to—
    - (i) the closely inherited portion (which may be the whole) of any residential property interests that are not, and are not included in, a qualifying residential interest, or
    - (ii) closely inherited assets that are not residential property interests;
- Z is the total of—
- (a) the closely inherited conditionally exempt values of all residential property interests mentioned in subsection (1)(c)(ii), and
  - (b) so much of the value transferred by the conditionally exempt transfer as is attributable to property mentioned in subsection (1)(c)(iii).
- (2I) For the purposes of the definition of “Z”, “the closely inherited conditionally exempt value” of a residential property interest means—
- (a) so much of the value transferred by the conditionally exempt transfer as is attributable to the interest, multiplied by
  - (b) the percentage of the interest which is closely inherited.]
- (3) [<sup>F68</sup>For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to property forming the subject-matter of the conditionally exempt transfer where D is the relevant person for the purposes of section 33—
- (a) where subsections (2B) to (2E) apply and the chargeable event relates to property mentioned in subsection (1)(c)(i), in calculating the exempt percentage of the QRI, X is calculated as if the attributable portion of the value transferred by the conditionally exempt transfer had not included the portion (which may be the whole) of the qualifying residential interest on which the tax is chargeable,
  - (aa) where subsection (2G) applies and the chargeable event relates to property mentioned in subsection (1)(c)(ii), Z is calculated as if it had not included the portion (which may be the whole) of the closely inherited conditionally exempt value of the residential property interest on which the tax is chargeable,
  - (ab) where subsection (2G) applies and the chargeable event relates to an asset mentioned in subsection (1)(c)(iii) (“the taxable asset”), Z is calculated as if it had not included so much of the value transferred by the conditionally exempt transfer as is attributable to the taxable asset,]

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- (b) [<sup>F69</sup>in the cases mentioned in paragraphs (a), (aa) and (ab),] section 33 has effect as if for subsection (1)(b)(ii) there were substituted—
- “(i) if the relevant person is dead, the rate or rates that would have applied to that amount in accordance with section 8D(2) and (3) above and the appropriate provision of section 7 above if—
- (a) that amount had been added to the value transferred on the relevant person's death, and
- (b) the unrelieved portion of that amount had formed the highest part of that value.”,
- <sup>F70</sup>
- ...
- (c) for the purposes of that substituted section 33(1)(b)(ii) “the unrelieved portion” of the amount on which tax is chargeable is that amount itself [<sup>F71</sup>reduced (but not below nil) by] the amount (if any) by which—
- (i) D's residence nil-rate amount for the purposes of the particular calculation under section 33, exceeds
- (ii) D's residence nil-rate amount for the purposes of the charge to tax under section 4 on D's death [<sup>F72</sup>, and
- (d) where the chargeable event relates to property mentioned in subsection (1)(c)(i) and subsections (2B) to (2E) do not apply, section 33 has effect as if in subsection (1)(b)(ii) after “in accordance with” there were inserted “section 8D(2) and (3) above and ”.]
- (4) The following provisions of this section apply if immediately before D's death there is a person (“P”) who is D's spouse or civil partner.
- (5) For the purposes of calculating tax chargeable under section 32 or 32A by reference to a chargeable event related to [<sup>F73</sup>property which forms the subject-matter of the conditionally exempt transfer where the chargeable event] occurs after P's death, the amount that would otherwise be D's residence nil-rate amount for those purposes is reduced by the amount (if any) by which P's residence nil-rate amount, or the residence nil-rate amount of any person who dies after P but before the chargeable event occurs, was increased by reason of an amount being available for carry-forward from D's death.
- (6) Where tax is chargeable under section 32 or 32A by reference to a chargeable event related to [<sup>F74</sup>property which forms the subject-matter of the conditionally exempt transfer and the chargeable event] occurs before P's death, section 8G(3) has effect for the purpose of calculating P's brought-forward allowance as if—
- (a) before the “and” at the end of paragraph (c) there were inserted—
- “(ca) reduce that total (but not below nil) by deducting from it the recapture percentage,”,
- (b) in paragraph (d), before “total”, in both places, there were inserted “reduced”, and
- (c) the reference to the recapture percentage were to the percentage given by—

$$T A R E E \times 100$$

where—

REE is the residential enhancement at the time of the chargeable event, and

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TA is the amount on which tax is chargeable under section 32 or 32A.

- (7) If subsection (6) has applied by reason of a previous event or events related to [<sup>F75</sup>property which forms the subject-matter of the conditionally exempt transfer], the reference in subsection (6)(c) to the fraction—

T A R E E

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#### Textual Amendments

- F47** Ss. 8D-8M inserted (18.11.2015) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [s. 9\(4\)](#)
- F67** S. 8M(1)-(2I) substituted for s. 8M(1)(2) (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(2\)](#)
- F68** S. 8M(3)(a)-(ab) and words substituted for s. 8M(3)(a) and words (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(3\)](#)
- F69** Words in s. 8M(3)(b) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(4\)\(a\)](#)
- F70** Word in s. 8M(3)(b) omitted (15.9.2016) by virtue of [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(4\)\(b\)](#)
- F71** Words in s. 8M(3)(c) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(4\)\(c\)](#)
- F72** S. 8M(3)(d) and word inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(4\)\(d\)](#)
- F73** Words in s. 8M(5) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(5\)](#)
- F74** Words in s. 8M(6) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(6\)](#)
- F75** Words in s. 8M(7) substituted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [Sch. 15 para. 12\(7\)](#)

## 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 [<sup>F76</sup>a new Table] in Schedule 1.

#### Textual Amendments

- F76** Finance Act 1986 Sch. 19, para. 4 *with effect from 18 March 1986. Originally* “new Tables”.

*Dispositions that are not transfers of value [<sup>F77</sup>(and omissions that do not give rise to deemed dispositions)]*

#### Textual Amendments

- F77** Words in s. 10 cross-heading inserted (15.9.2016) by [Finance Act 2016 \(c. 24\)](#), [s. 94\(2\)](#)

## 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 intended, 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

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- (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 [<sup>F78</sup>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**

**F78** 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 [<sup>F79</sup>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 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;



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[<sup>F80</sup>“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 [<sup>F81</sup>or civil partner] , who is incapacitated by old age or infirmity from maintaining himself, or

(b) [<sup>F82</sup>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

**F79** 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)**

**F80** 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)**

**F81** 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)**

**F82** 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 [<sup>F83</sup>benefits 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 [<sup>F84</sup>it is a contribution under a registered pension scheme [<sup>F85</sup>, a qualifying non-UK pension scheme or a] section 615(3) scheme in respect of an employee of the person making the disposition.]

[<sup>F86</sup>(2ZA) Where a person who is a member of a registered pension scheme, a qualifying non-UK pension scheme or a section 615(3) scheme omits to exercise pension rights under the pension scheme, section 3(3) above does not apply in relation to the omission.]

<sup>F87</sup>[<sup>F88</sup>(2A) .....

<sup>F87</sup>(2B) .....

<sup>F87</sup>(2C) .....

<sup>F87</sup>(2D) .....

<sup>F87</sup>(2E) .....

(2F) For the purposes of this section—

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- (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);<sup>F89</sup> . . .

<sup>F89</sup>(b) . . . . .

(2G) In this section—

“entitled”, in relation to a pension or lump sum, shall be construed in accordance with section 165(3) or [<sup>F90</sup>167(1A), or section 166(2),] of the Finance Act 2004;

<sup>F91</sup> . . . .

“pension” has the same meaning as in [<sup>F92</sup>Part 4] of that Act (see section 165(2) of that Act);

<sup>F91</sup> . . . .

<sup>F91</sup> . . . .]

<sup>F93</sup>(3) . . . . .

<sup>F93</sup>(4) . . . . .

- (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

- F83** Words in s. 12 sidenote substituted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 para. 2**
- F84** Words in s. 12(2) substituted (6.4.2006) by Finance Act 2004 (c. 12), **ss. 203(2)(a)**, 284 (with Sch. 36)
- F85** 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)**
- F86** S. 12(2ZA) inserted (with effect as mentioned in Sch. 16 paras. 85, 105 of the amending Act) by Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 47(2)**
- F87** S. 12(2A)-(2E) omitted (with effect as mentioned in Sch. 16 paras. 85, 105 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 47(3)**
- F88** S. 12(2A)-(2G) inserted (6.4.2006) by Finance Act 2006 (c. 25), s. 160, **Sch. 22 paras. 2, 12**
- F89** S. 12(2F)(b) and preceding word omitted (with effect as mentioned in Sch. 16 paras. 85, 105 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 50(2)**
- F90** Words in s. 12(2G) substituted (15.9.2016) by Finance Act 2016 (c. 24), **s. 94(3)**
- F91** Words in s. 12(2G) omitted (with effect as mentioned in Sch. 16 paras. 85, 105 of the amending Act) by virtue of Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 50(3)(a)**
- F92** Words in s. 12(2G) substituted (with effect as mentioned in Sch. 16 paras. 85, 105 of the amending Act) by Finance Act 2011 (c. 11), s. 65, **Sch. 16 para. 50(3)(b)**
- F93** 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)

#### [<sup>F94</sup>12A Pension drawdown fund not used up: no deemed disposition

- (1) Where a person has a drawdown fund, section 3(3) above does not apply in relation to any omission that results in the fund not being used up in the person's lifetime.

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- (2) For the purposes of subsection (1) above, a person has a drawdown fund if the person has—
- (a) a member's drawdown pension fund,
  - (b) a member's flexi-access drawdown fund,
  - (c) a dependant's drawdown pension fund,
  - (d) a dependant's flexi-access drawdown fund,
  - (e) a nominee's flexi-access drawdown fund, or
  - (f) a successor's flexi-access drawdown fund, and
- in respect of a money purchase arrangement under a registered pension scheme.
- (3) For the purposes of subsection (1) above, a person also has a drawdown fund if sums or assets held for the purposes of a money purchase arrangement under a corresponding scheme would, if that scheme were a registered pension scheme, be the person's—
- (a) member's drawdown pension fund,
  - (b) member's flexi-access drawdown fund,
  - (c) dependant's drawdown pension fund,
  - (d) dependant's flexi-access drawdown fund,
  - (e) nominee's flexi-access drawdown fund, or
  - (f) successor's flexi-access drawdown fund,
- in respect of the arrangement.
- (4) In this section—
- “corresponding scheme” means—
- (a) a qualifying non-UK pension scheme (see section 271A below), or
  - (b) a section 615(3) scheme that is not a registered pension scheme;
- “money purchase arrangement” has the same meaning as in Part 4 of the Finance Act 2004 (see section 152 of that Act);
- “member's drawdown pension fund”, “member's flexi-access drawdown fund”, “dependant's drawdown pension fund”, “dependant's flexi-access drawdown fund”, “nominee's flexi-access drawdown fund” and “successor's flexi-access drawdown fund” have the meaning given, respectively, by paragraphs 8, 8A, 22, 22A, 27E and 27K of Schedule 28 to that Act.]

#### Textual Amendments

- F94** S. 12A inserted (with effect in accordance with s. 94(5) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 94\(4\)](#)

### 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.

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- (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.
- (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 [F95] Schedule 9 to the M3 Taxes Act 1988], of any power to appropriate shares in pursuance of the scheme [F96; or].
  - [F96](c) if the trusts are those of [F97] 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 [F98] the meaning given by section [F99] 1159 of and Schedule 6 to]] the [F100] Companies Act [F101] 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**

**F95** *Substituted by Income and Corporation Taxes Act 1988 (c. 1. SIF 63:1), Sch. 29, para. 32. Originally “the Finance Act 1978”.*

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- F96** S. 13(4)(c) and the word “or” immediately preceding it inserted (28.7.2000) by **2000 c. 17, s. 138(2)**
- F97** 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)**
- F98** 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”.
- F99** 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)**
- F100** **Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), Sch. 2**, with effect from 1 July 1985. Originally “Companies Act 1948”.
- F101** 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.

### [<sup>F102</sup>13A Dispositions by close companies to employee-ownership trusts

- (1) A disposition of property made to trustees by a close company (“C”) whereby the property is to be held on trusts of the description specified in section 86(1) is not a transfer of value if—
- C meets the trading requirement,
  - the trusts are of a settlement which meets the all-employee benefit requirement, and
  - the settlement does not meet the controlling interest requirement immediately before the beginning of the tax year in which the disposition of property occurs but does meet it at the end of that year.
- (2) Sections 236I, 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether—
- C meets the trading requirement;
  - the settlement meets the all-employee benefit requirement;
  - the settlement meets the controlling interest requirement;
- with references in those sections to “C” being read accordingly.
- (3) In this section—
- “close company” has the same meaning as in Part 4 of this Act;
- “tax year” means a year beginning on 6 April and ending on the following 5 April.]

#### Textual Amendments

- F102** S. 13A inserted (with effect in accordance with Sch. 37 para. 10(2) of the amending Act) by **Finance Act 2014 (c. 26), Sch. 37 para. 10(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 [<sup>F103</sup>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

**F103** 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;
- <sup>F104</sup>(c) . . . . .
- (d) the renunciation of a claim to legitim [<sup>F105</sup>or rights under section 131 of the Civil Partnership Act 2004] within the period mentioned in section 147(6) below.

##### Textual Amendments

**F104** S. 17(c) omitted (1.10.2014) by virtue of [Inheritance and Trustees' Powers Act 2014 \(c. 16\), s. 12\(2\), Sch. 4 para. 4\(a\)](#) (with s. 12(4)); S.I. 2014/2039, art. 2

**F105** 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\(b\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance Tax Act 1984, PART I.