



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART III

#### SETTLED PROPERTY

#### CHAPTER I

#### PRELIMINARY

#### **43 Settlement and related expressions.**

- (1) The following provisions of this section apply for determining what is to be taken for the purposes of this Act to be a settlement, and what property is, accordingly, referred to as property comprised in a settlement or as settled property.
- (2) “Settlement” means any disposition or dispositions of property, whether effected by instrument, by parol or by operation of law, or partly in one way and partly in another, whereby the property is for the time being—
  - (a) held in trust for persons in succession or for any person subject to a contingency, or
  - (b) held by trustees on trust to accumulate the whole or part of any income of the property or with power to make payments out of that income at the discretion of the trustees or some other person, with or without power to accumulate surplus income, or
  - (c) charged or burdened (otherwise than for full consideration in money or money’s worth paid for his own use or benefit to the person making the disposition) with the payment of any annuity or other periodical payment payable for a life or any other limited or terminable period,

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

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- (3) A lease of property which is for life or lives, or for a period ascertainable only by reference to a death, or which is terminable on, or at a date ascertainable only by reference to, a death, shall be treated as a settlement and the property as settled property, unless the lease was granted for full consideration in money or money's worth; and where a lease not granted as a lease at a rack rent is at any time to become a lease at an increased rent it shall be treated as terminable at that time.
- (4) In relation to Scotland "settlement" also includes—
- (a) an entail,
  - (b) any deed by virtue of which an annuity is charged on, or on the rents of, any property (the property being treated as the property comprised in the settlement), and
  - (c) any deed creating or reserving a proper liferent of any property whether heritable or moveable (the property from time to time subject to the proper liferent being treated as the property comprised in the settlement);
- and for the purposes of this subsection "deed" includes any disposition, arrangement, contract, resolution, instrument or writing.
- (5) In the application of this Act to Northern Ireland this section shall have effect as if references to property held in trust for persons included references to property standing limited to persons and as if the lease referred to in subsection (3) did not include a lease in perpetuity within the meaning of section 1 of the <sup>M1</sup>Renewable Leasehold Conversion Act 1849 or a lease to which section 37 of that Act applies.

**Marginal Citations**

**M1** 1849 c. 105.

**44 Settlor.**

- (1) In this Act "settlor", in relation to a settlement, includes any person by whom the settlement was made directly or indirectly, and in particular (but without prejudice to the generality of the preceding words) includes any person who has provided funds directly or indirectly for the purpose of or in connection with the settlement or has made with any other person a reciprocal arrangement for that other person to make the settlement.
- (2) Where more than one person is a settlor in relation to a settlement and the circumstances so require, this Part of this Act (except section 48(4) to (6)) shall have effect in relation to it as if the settled property were comprised in separate settlements.

**45 Trustee.**

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

**46 Interest in possession: Scotland.**

In the application of this Act to Scotland, any reference to an interest in possession in settled property is a reference to an interest of any kind under a settlement by virtue of

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which the person in right of that interest is entitled to the enjoyment of the property or would be so entitled if the property were capable of enjoyment, including an interest of an assignee under an assignation of an interest of any kind (other than a reversionary interest) in property subject to a proper liferent; and the person in right of such an interest at any time shall be deemed to be entitled to a corresponding interest in the whole or any part of the property comprised in the settlement.

VALID FROM 22/03/2006

**[<sup>F1</sup>46A Contract of life insurance entered into before 22nd March 2006 which on that day is settled property in which interest in possession subsists**

- (1) Subsections (2) and (4) below apply where—
  - (a) a settlement commenced before 22nd March 2006,
  - (b) a contract of life insurance was entered into before that day,
  - (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,
  - (d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—
    - (i) were comprised in the settlement, and
    - (ii) were settled property in which a transitionally-protected interest (whether or not the same such interest throughout that period) subsisted,
  - (e) rights under the contract become, by reference to payment of the premium or as a result of the variation,—
    - (i) comprised in the settlement, and
    - (ii) part of the settled property in which the then-current transitionally-protected interest subsists, and
  - (f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it is a variation that—
    - (i) increased the benefits secured by the contract, or
    - (ii) extended the term of the insurance provided by the contract, was an allowed variation.
- (2) For the purposes of the provisions mentioned in subsection (3) below—
  - (a) the rights mentioned in subsection (1)(e) above shall be taken to have become comprised in the settlement, and
  - (b) the person beneficially entitled to the then-current transitionally-protected interest shall be taken to have become beneficially entitled to his interest in possession so far as it subsists in those rights, before 22nd March 2006.
- (3) Those provisions are—
  - section 3A(2) above;
  - section 5(1A) above;
  - section 49(1A) and (1B) below;
  - section 51(1A) and (1B) below;
  - section 52(2A) and (3A) below;

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

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

(5) In this section—

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

“transitionally-protected interest” means—

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

#### Textual Amendments

**F1** Ss. 46A, 46B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 11(1)(2)

VALID FROM 22/03/2006

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

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

- (a) a settlement commenced before 22nd March 2006,
- (b) a contract of life insurance was entered into before that day,
- (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day,
- (d) immediately before that day, and at all subsequent times up to the particular time, there were rights under the contract that—
  - (i) were comprised in the settlement, and
  - (ii) were settled property to which section 71 below applied,
- (e) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and
- (f) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—

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- (i) increased the benefits secured by the contract, or
  - (ii) extended the term of the insurance provided by the contract,was an allowed variation.
- (2) If the rights mentioned in subsection (1)(e) above would, but for subsection (1A) of section 71 below, become property to which that section applies, those rights shall become settled property to which that section applies when they become comprised in the settlement.
- (3) Subsection (5) below also applies where—
  - (a) a settlement commenced before 22nd March 2006,
  - (b) a contract of life insurance was entered into before that day,
  - (c) a premium payable under the contract is paid, or an allowed variation is made to the contract, at a particular time on or after that day when there are rights under the contract—
    - (i) that are comprised in the settlement and are settled property to which section 71A or 71D below applies,
    - (ii) that immediately before that day were settled property to which section 71 below applied, and
    - (iii) that on or after that day, but before the particular time, became property to which section 71A or 71D below applies in circumstances falling within subsection (4) below,
  - (d) rights under the contract become, by reference to payment of the premium or as a result of the variation, comprised in the settlement, and
  - (e) any variation of the contract on or after 22nd March 2006 but before the particular time, so far as it was a variation that—
    - (i) increased the benefits secured by the contract, or
    - (ii) extended the term of the insurance provided by the contract,was an allowed variation.
- (4) The circumstances referred to in subsection (3)(c)(iii) above are—
  - (a) in the case of property to which section 71D below applies, that the property on becoming property to which section 71D below applies ceased to be property to which section 71 below applied without ceasing to be settled property;
  - (b) in the case of property to which section 71A below applies—
    - (i) that the property on becoming property to which section 71A below applies ceased, by the operation of section 71(1B) below, to be property to which section 71 below applied, or
    - (ii) that the property, having become property to which section 71D below applied in circumstances falling within paragraph (a) above, on becoming property to which 71A below applies ceased, by the operation of section 71D(5)(a) below, to be property to which section 71D below applied.
- (5) If payment of the premium is a transfer of value made by an individual, that transfer of value is a potentially exempt transfer.
- (6) In this section “allowed variation”, in relation to a contract, means a variation that takes place by operation of, or as a result of exercise of rights conferred by, provisions forming part of the contract immediately before 22nd March 2006.]

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#### Textual Amendments

**F1** Ss. 46A, 46B inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 11(1)(2)

### 47 Reversionary interest.

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

VALID FROM 24/07/2002

#### [<sup>F2</sup>47A Settlement power

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

#### Textual Amendments

**F2** S. 47A inserted (24.7.2002 with effect as mentioned in s.119(6)(7) of the amending Act) by 2002 c. 23, s. 119(2)(6)(7)

### 48 Excluded property.

- (1) A reversionary interest is excluded property unless—
  - (a) it has at any time been acquired (whether by the person entitled to it or by a person previously entitled to it) for a consideration in money or money’s worth, or
  - (b) it is one to which either the settlor or his spouse is or has been beneficially entitled, or
  - (c) it is the interest expectant on the determination of a lease treated as a settlement by virtue of section 43(3) above.
- (2) In relation to a reversionary interest under a settlement made before 16th April 1976, subsection (1) above shall have effect with the omission of paragraph (b); and, if the person entitled to a reversionary interest under a settlement made on or after 16th April 1976 acquired the interest before 10th March 1981, that subsection shall have effect with the omission of the words “or has been” in paragraph (b).
- (3) Where property comprised in a settlement is situated outside the United Kingdom—
  - (a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and
  - (b) section 6(1) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property.

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- (4) Where securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above are comprised in a settlement, that subsection shall not apply to them; but the securities are excluded property if—
  - (a) a person neither domiciled nor ordinarily resident in the United Kingdom is entitled to a qualifying interest in possession in them, or
  - (b) no qualifying interest in possession subsists in them but it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied, or who are or might become beneficially entitled to an interest in possession in it, are persons neither domiciled nor ordinarily resident in the United Kingdom.
  
- (5) Where—
  - (a) property ceased to be comprised in one settlement before 10th December 1981 and after 19th April 1978 and, by the same disposition, became comprised in another settlement, or
  - (b) property ceased to be comprised in one settlement after 9th December 1981 and became comprised in another without any person having in the meantime become beneficially entitled to the property (and not merely to an interest in possession in the property),
 subsection (4)(b) above shall, in its application to the second settlement, be construed as requiring the matters there stated to be shown both in relation to the property comprised in that settlement and in relation to the property that was comprised in the first settlement.
  
- (6) Subsection (5) above shall not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the second settlement before 10th December 1981.
  
- (7) In this section “qualifying interest in possession” has the same meaning as in Chapter III of this Part of this Act.

## CHAPTER II

### INTERESTS IN POSSESSION AND REVERSIONARY INTERESTS

#### 49 Treatment of interests in possession.

- (1) A person beneficially entitled to an interest in possession in settled property shall be treated for the purposes of this Act as beneficially entitled to the property in which the interest subsists.
- (2) Where a person becomes entitled to an interest in possession in settled property as a result of a disposition for a consideration in money or money’s worth, any question whether and to what extent the giving of the consideration is a transfer of value or chargeable transfer shall be determined without regard to subsection (1) above.
- (3) .....

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#### Textual Amendments

- F3** Finance Act 1986 Sch. 19 para. 14, with effect from 18 March 1986 and repealed by Finance Act (No.2) 1987 s. 96(4) and Sch. 9 Part III, in relation to transfers of value made on or after 17 March 1987.

VALID FROM 22/03/2006

#### [<sup>F4</sup>49A Immediate post-death interest

- (1) Where a person (“L”) is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is an “immediate post-death interest” only if the following conditions are satisfied.
- (2) Condition 1 is that the settlement was effected by will or under the law relating to intestacy.
- (3) Condition 2 is that L became beneficially entitled to the interest in possession on the death of the testator or intestate.
- (4) Condition 3 is that—
  - (a) section 71A below does not apply to the property in which the interest subsists, and
  - (b) the interest is not a disabled person's interest.
- (5) Condition 4 is that Condition 3 has been satisfied at all times since L became beneficially entitled to the interest in possession.

#### Textual Amendments

- F4** Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 5(1)(2)

VALID FROM 22/03/2006

#### 49B Transitional serial interests

Where a person is beneficially entitled to an interest in possession in settled property, for the purposes of this Chapter that interest is a “transitional serial interest” only—

- (a) if section 49C or 49D below so provides, or
- (b) if, and to the extent that, section 49E below so provides.]

#### Textual Amendments

- F4** Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 5(1)(2)



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VALID FROM 22/03/2006

**[<sup>F4</sup>49C Transitional serial interest: interest to which person becomes entitled during period 22nd March 2006 to 5th April 2008**

- (1) Where a person (“B”) is beneficially entitled to an interest in possession in settled property (“the current interest”), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.
- (2) Condition 1 is that—
  - (a) the settlement commenced before 22nd March 2006, and
  - (b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which B, or some other person, was beneficially entitled to an interest in possession (“the prior interest”).
- (3) Condition 2 is that the prior interest came to an end at a time on or after 22nd March 2006 but before 6th April 2008.
- (4) Condition 3 is that B became beneficially entitled to the current interest at that time.
- (5) Condition 4 is that—
  - (a) section 71A below does not apply to the property in which the interest subsists, and
  - (b) the interest is not a disabled person's interest.]

**Textual Amendments**

**F4** Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 5(1)(2)

VALID FROM 22/03/2006

**[<sup>F4</sup>49D Transitional serial interest: interest to which person becomes entitled on death of spouse or civil partner on or after 6th April 2008**

- (1) Where a person (“E”) is beneficially entitled to an interest in possession in settled property (“the successor interest”), that interest is a transitional serial interest for the purposes of this Chapter if the following conditions are met.
- (2) Condition 1 is that—
  - (a) the settlement commenced before 22nd March 2006, and
  - (b) immediately before 22nd March 2006, the property then comprised in the settlement was property in which a person other than E was beneficially entitled to an interest in possession (“the previous interest”).
- (3) Condition 2 is that the previous interest came to an end on or after 6th April 2008 on the death of that other person (“F”).
- (4) Condition 3 is that, immediately before F died, F was the spouse or civil partner of E.
- (5) Condition 4 is that E became beneficially entitled to the successor interest on F's death.

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(6) Condition 5 is that—

- (a) section 71A below does not apply to the property in which the successor interest subsists, and
- (b) the successor interest is not a disabled person's interest.]

#### Textual Amendments

**F4** Ss. 49A-49E inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 5\(1\)\(2\)](#)

VALID FROM 22/03/2006

#### **[<sup>F4</sup>49E Transitional serial interest: contracts of life insurance**

(1) Where—

- (a) a person (“C”) is beneficially entitled to an interest in possession in settled property (“the present interest”), and
- (b) on C's becoming beneficially entitled to the present interest, the settled property consisted of, or included, rights under a contract of life insurance entered into before 22nd March 2006,

the present interest so far as subsisting in rights under the contract, or in property comprised in the settlement that directly or indirectly represents rights under the contract, is a “transitional serial interest” for the purposes of this Chapter if the following conditions are met.

(2) Condition 1 is that—

- (a) the settlement commenced before 22nd March 2006, and
- (b) immediately before 22nd March 2006—
  - (i) the property then comprised in the settlement consisted of, or included, rights under the contract, and
  - (ii) those rights were property in which C, or some other person, was beneficially entitled to an interest in possession (“the earlier interest”).

(3) Condition 2 is that—

- (a) the earlier interest came to an end at a time on or after 6th April 2008 (“the earlier-interest end-time”) on the death of the person beneficially entitled to it and C became beneficially entitled to the present interest—
  - (i) at the earlier-interest end-time, or
  - (ii) on the coming to an end, on the death of the person beneficially entitled to it, of an interest in possession to which that person became beneficially entitled at the earlier-interest end-time, or
  - (iii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession to the first of which a person became beneficially entitled at the earlier-interest end-time and each of which ended on the death of the person beneficially entitled to it, or
- (b) C became beneficially entitled to the present interest—

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- (i) on the coming to an end, on the death of the person entitled to it, of an interest in possession that is a transitional serial interest under section 49C above, or
  - (ii) on the coming to an end of the second or last in an unbroken sequence of two or more consecutive interests in possession the first of which was a transitional serial interest under section 49C above and each of which ended on the death of the person beneficially entitled to it.
- (4) Condition 3 is that rights under the contract were comprised in the settlement throughout the period beginning with 22nd March 2006 and ending with C's becoming beneficially entitled to the present interest.
- (5) Condition 4 is that—
- (a) section 71A below does not apply to the property in which the present interest subsists, and
  - (b) the present interest is not a disabled person's interest.]

#### Textual Amendments

**F4** Ss. 49A-49E inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 5(1)(2)

## 50 Interests in part, etc.

- (1) Where the person referred to in section 49(1) above is entitled to part only of the income (if any) of the property, the interest shall be taken to subsist in such part only of the property as bears to the whole the same proportion as the part of the income to which he is entitled bears to the whole of the income.
- (2) Where the part of the income of any property to which a person is entitled is a specified amount (or the whole less a specified amount) in any period, his interest in the property shall be taken, subject to subsection (3) below, to subsist in such part (or in the whole less such part) of the property as produces that amount in that period.
- (3) The Treasury may from time to time by order prescribe a higher and a lower rate for the purposes of this section; and where tax is chargeable in accordance with subsection (2) above by reference to the value of the part of a property which produces a specified amount or by reference to the value of the remainder (but not where chargeable transfers are made simultaneously and tax is chargeable by reference to the value of that part as well as by reference to the value of the remainder) the value of the part producing that specified amount—
  - (a) shall, if tax is chargeable by reference to the value of that part, be taken to be not less than it would be if the property produced income at the higher rate so prescribed, and
  - (b) shall, if tax is chargeable by reference to the value of the remainder, be taken to be not more than it would be if the property produced income at the lower rate so prescribed;

but the value to be taken by virtue of paragraph (a) above as the value of part of a property shall not exceed the value of the whole of the property.

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- (4) The power to make orders under subsection (3) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (5) Where the person referred to in section 49(1) above is not entitled to any income of the property but is entitled, jointly or in common with one or more other persons, to the use and enjoyment of the property, his interest shall be taken to subsist in such part of the property as corresponds to the proportion which the annual value of his interest bears to the aggregate of the annual values of his interest and that or those of the other or others.
- (6) Where, under section 43(3) above, a lease of property is to be treated as a settlement, the lessee's interest in the property shall be taken to subsist in the whole of the property less such part of it as corresponds to the proportion which the value of the lessor's interest (as determined under Part VI of this Act) bears to the value of the property.

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

**C1** See S.I. 1980/1000 (in Part III Statutory Regulations etc.) for the current rates applicable.

**51 Disposal of interest in possession.**

- (1) Where a person beneficially entitled to an interest in possession in settled property disposes of his interest the disposal—
  - (a) is not a transfer of value, but
  - (b) shall be treated for the purposes of this Chapter as the coming to an end of his interest;
 and tax shall be charged accordingly under section 52 below.
- (2) Where a disposition satisfying the conditions of section 11 above is a disposal of an interest in possession in settled property, the interest shall not by virtue of subsection (1) above be treated as coming to an end.
- (3) References in this section to any property or to an interest in any property include references to part of any property or interest.

**52 Charge on termination of interest in possession.**

- (1) Where at any time during the life of a person beneficially entitled to an interest in possession in settled property his interest comes to an end, tax shall be charged, subject to section 53 below, as if at that time he had made a transfer of value and the value transferred had been equal to the value of the property in which his interest subsisted.
- (2) If the interest comes to an end by being disposed of by the person beneficially entitled to it and the disposal is for a consideration in money or money's worth, tax shall be chargeable under this section as if the value of the property in which the interest subsisted were reduced by the amount of the consideration; but in determining that amount the value of a reversionary interest in the property or of any interest in other property comprised in the same settlement shall be left out of account.
- (3) Where a transaction is made between the trustees of the settlement and a person who is, or is connected with,—

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- (a) the person beneficially entitled to an interest in the property, or
- (b) a person beneficially entitled to any other interest in that property or to any interest in any other property comprised in the settlement, or
- (c) a person for whose benefit any of the settled property may be applied,

and, as a result of the transaction, the value of the first-mentioned property is less than it would be but for the transaction, a corresponding part of the interest shall be deemed for the purposes of this section to come to an end, unless the transaction is such that, were the trustees beneficially entitled to the settled property, it would not be a transfer of value.

- (4) References in this section or section 53 below to any property or to an interest in any property include references to part of any property or interest; and—
  - (a) the tax chargeable under this section on the coming to an end of part of an interest shall be charged as if the value of the property (or part) in which the interest subsisted were a corresponding part of the whole; and
  - (b) if the value of the property (or part) to which or to an interest in which a person becomes entitled as mentioned in subsection (2) of section 53 below is less than the value on which tax would be chargeable apart from that subsection, tax shall be chargeable on a value equal to the difference.

### **53 Exceptions from charge under section 52.**

- (1) Tax shall not be chargeable under section 52 above if the settled property is excluded property.
- (2) Tax shall not be chargeable under section 52 above (except in the case mentioned in subsection (4)(b) of that section) if the person whose interest in the property comes to an end becomes on the same occasion beneficially entitled to the property or to another interest in possession in the property.
- (3) Tax shall not be chargeable under section 52 above if the interest comes to an end during the settlor's life and on the same occasion the property in which the interest subsisted reverts to the settlor.
- (4) Tax shall not be chargeable under section 52 above if on the occasion when the interest comes to an end—
  - (a) the settlor's spouse, or
  - (b) where the settlor has died less than two years earlier, the settlor's widow or widower,
 becomes beneficially entitled to the settled property and is domiciled in the United Kingdom.
- (5) Subsections (3) and (4) above shall not apply in any case where—
  - (a) the settlor or the spouse (or in a case within subsection (4)(b), the widow or widower) of the settlor had acquired a reversionary interest in the property for a consideration in money or money's worth, or
  - (b) their application depends upon a reversionary interest having been transferred into a settlement on or after 10th March 1981.
- (6) For the purposes of subsection (5) above a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that interest or of other property.

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- (7) Where the acquisition of the interest was before 12th April 1978, subsection (5)(a) above shall have effect, so far as it relates to subsection (3) above, with the omission of the reference to the spouse of the settlor.
- (8) Subsection (6) above shall not apply where the person concerned became entitled to the interest before 12th April 1978.

#### **54 Exceptions from charge on death**

- (1) Where a person is entitled to an interest in possession in settled property which on his death, but during the settlor's life, reverts to the settlor, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.
- (2) Where on the death of a person entitled to an interest in possession in settled property—
  - (a) the settlor's spouse, or
  - (b) if the settlor has died less than two years earlier, the settlor's widow or widower,
 becomes beneficially entitled to the settled property and is domiciled in the United Kingdom, the value of the settled property shall be left out of account in determining for the purposes of this Act the value of the deceased's estate immediately before his death.
- (3) Subsections (5) and (6) of section 53 above shall apply in relation to subsections (1) and (2) above as they apply in relation to section 53(3) and (4).
- (4) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.

#### **[<sup>F5</sup>54A] Special rate of charge where settled property affected by potentially exempt transfer.**

- (1) If the circumstances fall within subsection (2) below, this section applies to any chargeable transfer made—
  - (a) under section 52 above, on the coming to an end of an interest in possession in settled property during the life of the person beneficially entitled to it, or
  - (b) on the death of a person beneficially entitled to an interest in possession in settled property;
 and in the following provisions of this section the interest in possession mentioned in paragraph (a) or paragraph (b) above is referred to as "the relevant interest".
- (2) The circumstances referred to in subsection (1) above are—
  - (a) that the whole or part of the value transferred by the transfer is attributable to property in which the relevant interest subsisted and which became settled property in which there subsisted an interest in possession (whether the relevant interest or any previous interest) on the making by the settlor of a potentially exempt transfer at any time on or after 17th March 1987 and within the period of seven years ending with the date of the chargeable transfer; and
  - (b) that the settlor is alive at the time when the relevant interest comes to an end; and

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- (c) that, on the coming to an end of the relevant interest, any of the property in which that interest subsisted becomes settled property in which no qualifying interest in possession (as defined in section 59 below) subsists, other than property to which section 71 below applies; and
  - (d) that, within six months of the coming to an end of the relevant interest, any of the property in which that interest subsisted has neither—
    - (i) become settled property in which a qualifying interest in possession subsists or to which section 71 below applies, nor
    - (ii) become property to which an individual is beneficially entitled.
- (3) In the following provisions of this section “the special rate property”, in relation to a chargeable transfer to which this section applies, means the property in which the relevant interest subsisted or, in a case where—
- (a) any part of that property does not fall within subsection (2)(a) above, or
  - (b) any part of that property does not become settled property of the kind mentioned in subsection (2)(c) above,
- so much of that property as appears to the Board or, on appeal, to the Special Commissioners to be just and reasonable.
- (4) Where this section applies to a chargeable transfer (in this section referred to as “the relevant transfer”), the tax chargeable on the value transferred by the transfer shall be whichever is the greater of the tax that would have been chargeable apart from this section and the tax determined in accordance with subsection (5) below.
- (5) The tax determined in accordance with this subsection is the aggregate of—
- (a) the tax that would be chargeable on a chargeable transfer of the description specified in subsection (6) below, and
  - (b) so much (if any) of the tax that would, apart from this section, have been chargeable on the value transferred by the relevant transfer as is attributable to the value of property other than the special rate property.
- (6) The chargeable transfer postulated in subsection (5)(a) above is one—
- (a) the value transferred by which is equal to the value transferred by the relevant transfer or, where only part of that value is attributable to the special rate property, that part of that value;
  - (b) which is made at the time of the relevant transfer by a transferor who has in the preceding seven years made chargeable transfers having an aggregate value equal to the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of seven years ending with the date of the potentially exempt transfer; and
  - (c) for which the applicable rate or rates are one-half of the rate or rates referred to in section 7(1) above.
- (7) This section has effect subject to section 54B below.]

#### Textual Amendments

**F5** Finance Act 1987 (No. 2) Sch. 7 para. 1, with effect from 17 March 1987.

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

**C2** S. 54A modified (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 2(4)(6)

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**C3** S. 54A modified (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 20(4)

**[<sup>F6</sup>54B Provisions supplementary to section 54A.**

- (1) The death of the settlor, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax determined in accordance with subsection (5) of that section is greater than the tax that would be chargeable apart from that section.
- (2) The death of the person who was beneficially entitled to the relevant interest, at any time after a chargeable transfer to which section 54A above applies, shall not increase the tax chargeable on the value transferred by the transfer unless, at the time of the transfer, the tax that would be chargeable apart from that section is greater than the tax determined in accordance with subsection (5) of that section.
- (3) Where the tax chargeable on the value transferred by a chargeable transfer to which section 54A above applies falls to be determined in accordance with subsection (5) of that section, the amount referred to in paragraph (a) of that subsection shall be treated for the purposes of this Act as tax attributable to the value of the property in which the relevant interest subsisted.
- (4) Subsection (5) below shall apply if—
  - (a) during the period of seven years preceding the date on which a chargeable transfer to which section 54A above applies (“the current transfer”) is made, there has been another chargeable transfer to which that section applied, and
  - (b) the person who is for the purposes of the current transfer the settlor mentioned in subsection (2)(a) of that section is the settlor for the purposes of the other transfer (whether or not the settlements are the same);
 and in subsections (5) and (6) below the other transfer is referred to as the “previous transfer”.
- (5) Where this subsection applies, the appropriate amount in relation to the previous transfer (or, if there has been more than one previous transfer, the aggregate of the appropriate amounts in relation to each) shall, for the purposes of calculating the tax chargeable on the current transfer, be taken to be the value transferred by a chargeable transfer made by the settlor immediately before the potentially exempt transfer was made.
- (6) In subsection (5) above “the appropriate amount”, in relation to a previous transfer, means so much of the value transferred by the previous transfer as was attributable to the value of property which was the special rate property in relation to that transfer.
- (7) In this section—
 

“the relevant interest” has the meaning given by subsection (1) of section 54A above; and

“the special rate property” has the meaning given by subsection (3) of that section.]

**Textual Amendments**

**F6** Finance Act 1987 (No. 2) Sch. 7 para. 1, with effect from 17 March 1987.



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VALID FROM 24/07/2002

### [<sup>F7</sup>55A Purchased settlement powers

- (1) Where a person makes a disposition by which he acquires a settlement power for consideration in money or money's worth—
- (a) section 10(1) above shall not apply to the disposition;
  - (b) the person shall be taken for the purposes of this Act to make a transfer of value;
  - (c) the value transferred shall be determined without bringing into account the value of anything which the person acquires by the disposition; and
  - (d) sections 18 and 23 to 27 above shall not apply in relation to that transfer of value.
- (2) For the purposes of this section, a person acquires a settlement power if he becomes entitled—
- (a) to a settlement power,
  - (b) to exercise, or to secure or prevent the exercise of, a settlement power (whether directly or indirectly), or
  - (c) to restrict, or secure a restriction on, the exercise of a settlement power (whether directly or indirectly),

as a result of transactions which include a disposition (whether to him or another) of a settlement power or of any power of a kind described in paragraph (b) or (c) above which is exercisable in relation to a settlement power.]

#### Textual Amendments

- F7** S. 55A inserted (24.7.2002 with effect as mentioned in s. 119(6) of the amending Act) by 2002 c. 23, s. 119(3)(6)

### 55 Reversionary interest acquired by beneficiary.

- (1) Notwithstanding section 5(1) above, where a person entitled to an interest (whether in possession or not) in any settled property acquires a reversionary interest ex pendent (whether immediately or not) on that interest, the reversionary interest is not part of his estate for the purposes of this Act.
- (2) Section 10(1) above shall not apply to a disposition by which a reversionary interest is acquired in the circumstances mentioned in subsection (1) above . . . <sup>F8</sup>

#### Textual Amendments

- F8** Finance Act 1986 Sch. 19 para. 15, with effect from 18 March 1986 and repealed by Finance (No.2) Act 1987 s. 96(5) and Sch. 9 Part III, with effect from 17 March 1987.

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## 56 Exclusion of certain exemptions.

- (1) Sections 18 and 23 to 27 above shall not apply in relation to property which is given in consideration of the transfer of a reversionary interest if, by virtue of section 55(1) above, that interest does not form part of the estate of the person acquiring it.
- (2) Where a person acquires a reversionary interest in any settled property for a consideration in money or money's worth, section 18 above shall not apply in relation to the property when it becomes the property of that person on the termination of the interest on which the reversionary interest is expectant.
- (3) Sections 23 to 27 above shall not apply in relation to any property if—
  - (a) the property is an interest in possession in settled property and the settlement does not come to an end in relation to that settled property on the making of the transfer of value, or
  - (b) immediately before the time when it becomes the property of the exempt body it is comprised in a settlement and, at or before that time, an interest under the settlement is or has been acquired for a consideration in money or money's worth by that or another exempt body.
- (4) In subsection (3)(b) above "exempt body" means a charity, political party or other body within sections 23 to 26 above or the trustees of a settlement in relation to which a direction under paragraph 1 of Schedule 4 to this Act has effect; and for the purposes of subsection (3)(b) there shall be disregarded any acquisition from a charity, political party or body within sections 23 to 25.
- (5) For the purposes of subsections (2) and (3) above, a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition [<sup>F9</sup> for such consideration] (whether to him or another) of that interest or of other property.
- (6) Nothing in this section shall apply to a transfer of value if or to the extent that it is a disposition whereby the use of money or other property is allowed by one person to another.
- (7) Subsection (2) above shall not apply where the acquisition of the reversionary interest was before 16th April 1976; and where the acquisition was on or after that date but before 12th April 1978 that subsection shall have effect—
  - (a) with the substitution for the words "section 18 above" of the words "sections 18 and 23 to 26 above", and
  - (b) with the insertion after the word "person" in both places where it occurs of the words "or body".
- (8) Subsection (3)(b) above shall not apply where the acquisition of the interest was before 12th April 1978; and subsection (5) above shall not apply where the person concerned became entitled to the interest before that date.

### Textual Amendments

**F9** Finance Act 1987 (No. 2) Sch. 7, para. 2, with effect from 17 March 1987.

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## **57 Application of certain exemptions.**

- (1) Subject to subsection (3) below, references to transfers of value in sections 19 and 22 above shall be construed as including references to events on the happening of which tax is chargeable under section 52 above, and references to the transferor and (in section 22(3) and (4)) to a disposition shall be construed accordingly.
- (2) For the purposes of its application, by virtue of subsection (1) above, to the termination of interests in possession in settled property, section 22 above shall have effect as if—
  - (a) references to transfers of value made by gifts in consideration of marriage were references to the termination of such interests in consideration of marriage;
  - (b) references to outright gifts were references to cases where the property ceases on the termination to be settled property; and
  - (c) references to cases where the property is settled by the gift were references to cases where it remains settled property after the termination.
- (3) Subsection (1) above shall not apply to a transfer of value—
  - (a) unless the transferor has in accordance with subsection (4) below given to the trustees of the settlement a notice informing them of the availability of an exemption, and
  - (b) except to the extent specified in that notice.
- (4) A notice under subsection (3) above shall be in such form as may be prescribed by the Board and shall be given before the end of the period of six months beginning with the date of the transfer of value.
- (5) Section 27 above shall apply where the value transferred by a transfer of value is attributable to property which immediately after the transfer remains comprised in a settlement as it applies where property becomes comprised in a settlement by virtue of the transfer.

### **[<sup>F10</sup>57A Relief where property enters maintenance fund.**

- (1) Subject to the following provisions, subsection (2) below applies where—
  - (a) a person dies who immediately before his death was beneficially entitled to an interest in possession in property comprised in a settlement, and
  - (b) within two years after his death the property becomes held on trusts (whether of that or another settlement) by virtue of which a direction under paragraph 1 of Schedule 4 to this Act is given in respect of the property.
- (2) Where this subsection applies, this Act shall have effect as if the property had on the death of the deceased become subject to the trusts referred to in subsection (1)(b) above; and accordingly no disposition or other event occurring between the date of the death and the date on which the property becomes subject to those trusts shall, so far as it relates to the property, be a transfer of value or otherwise constitute an occasion for a charge to tax.
- (3) Where property becomes held on trusts of the kind specified in paragraph (b) of subsection (1) above as the result of proceedings before a court and could not have become so held without such proceedings, that paragraph shall have effect as if it referred to three years instead of two.
- (4) Subsection (2) above shall not apply if—

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- (a) the disposition by which the property becomes held on the trusts referred to in subsection (1)(b) above depends on a condition or is defeasible; or
  - (b) the property which becomes held on those trusts is itself an interest in settled property; or
  - (c) the trustees who hold the property on those trusts have, for a consideration in money or money's worth, acquired an interest under a settlement in which the property was comprised immediately before the death of the person referred to in subsection (1)(a) above or at any time thereafter; or
  - (d) the property which becomes held on those trusts does so for a consideration in money or money's worth, or is acquired by the trustees for such a consideration, or has at any time since the death of the person referred to in subsection (1)(a) above been acquired by any other person for such a consideration.
- (5) If the value of the property when it becomes held on the trusts referred to in subsection (1)(b) above is lower than so much of the value transferred on the death of the person referred to in subsection (1)(a) as is attributable to the property, subsection (2) above shall apply to the property only to the extent of the lower value.
- (6) For the purposes of this section, a person shall be treated as acquiring property for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that or other property. <sup>F10</sup>]]

#### Textual Amendments

**F10** Finance Act 1987 Sch. 9, para. 1, *in relation to deaths occurring on or after 17 March 1987.*

## CHAPTER III

### SETTLEMENTS WITHOUT INTERESTS IN POSSESSION

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

- C4** See Finance Act 1990 s. 126—*exemption for pools payments to trustees for football ground improvements in respect of events on or after 6 April 1990.*
- C5** Pt. 3 Ch. 3 modified (22.7.2004) by Finance Act 2004 (c. 12), s. 283, **Sch. 36 para. 57(1)** (with s. 283(5))
- C6** Pt. 3 Ch. 3 modified (22.7.2004) by Finance Act 2004 (c. 12), s. 283, **Sch. 36 para. 56(2)(b)** (with s. 283(5))
- C7** Part III Chapter III (ss.58-85) excluded by Finance Act 1991 (c.31, SIF 63:1), **s. 121(4)**.  
Pt. III Ch. III (ss. 58-85) restricted (3.5.1994) by 1994 c. 9, **s. 248**

#### *Interpretation*

#### **58 Relevant property.**

- (1) In this Chapter “relevant property” means settled property in which no qualifying interest in possession subsists, other than—

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- (a) property held for charitable purposes only, whether for a limited time or otherwise;
  - (b) property to which section 71, 73, 74 or 86 below applies;
  - (c) property held on trusts which comply with the requirements mentioned in paragraph 3(1) of Schedule 4 to this Act, and in respect of which a direction given under paragraph 1 of that Schedule has effect;
  - (d) property which is part of or held for the purposes of a fund or scheme to which section 151 below applies;
  - (e) property comprised in a trade or professional compensation fund; and
  - (f) excluded property.
- (2) The reference in subsection (1)(d) above to property which is part of or held for the purposes of a fund or scheme does not include a reference to a benefit which, having become payable under the fund or scheme, becomes comprised in a settlement.
- (3) In subsection (1)(e) above “trade or professional compensation fund” means a fund which is maintained or administered by a representative association of persons carrying on a trade or profession and the only or main objects of which are compensation for or relief of losses or hardship that, through the default or alleged default of persons carrying on the trade or profession or of their agents or servants, are incurred or likely to be incurred by others.

## **59 Qualifying interest in possession.**

- (1) In this Chapter “qualifying interest in possession” means an interest in possession to which an individual, or where subsection (2) below applies a company, is beneficially entitled.
- (2) This subsection applies where—
- (a) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and
  - (b) the company has acquired the interest for full consideration in money or money’s worth from an individual who was beneficially entitled to it.
- (3) Where the acquisition mentioned in paragraph (b) of subsection (2) above was before 14th March 1975—
- (a) the condition set out in paragraph (a) of that subsection shall be treated as satisfied if the business of the company was at the time of the acquisition such as is described in that paragraph, and
  - (b) that condition need not be satisfied if the company is authorised to carry on long-term business under section 3 or 4 of the Insurance Companies Act 1982.

## **60 Commencement of settlement.**

In this Chapter references to the commencement of a settlement are references to the time when property first becomes comprised in it.

## **61 Ten-year anniversary.**

- (1) In this Chapter “ten-year anniversary” in relation to a settlement means the tenth anniversary of the date on which the settlement commenced and subsequent anniversaries at ten-yearly intervals, but subject to subsections (2) to (4) below.

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- (2) The ten-year anniversaries of a settlement treated as made under section 80 below shall be the dates that are (or would but for that section be) the ten-year anniversaries of the settlement first mentioned in that section.
- (3) No date falling before 1st April 1983 shall be a ten-year anniversary.
- (4) Where—
  - (a) the first ten-year anniversary of a settlement would apart from this subsection fall during the year ending with 31st March 1984, and
  - (b) during that year an event occurs in respect of the settlement which could not have occurred except as the result of some proceedings before a court, and
  - (c) the event is one on which tax was chargeable under Chapter II of Part IV of the <sup>M2</sup>Finance Act 1982 (or, apart from Part II of Schedule 15 to that Act, would have been so chargeable),
 the first ten-year anniversary shall be taken to be 1st April 1984 (but without affecting the dates of later anniversaries).

**Marginal Citations**

M2 1982 c. 39.

**62 Related settlements.**

- (1) For the purposes of this Chapter two settlements are related if and only if—
  - (a) the settlor is the same in each case, and
  - (b) they commenced on the same day,
 but subject to subsection (2) below.
- (2) Two settlements are not related for the purposes of this Chapter if all the property comprised in one or both of them was immediately after the settlement commenced held for charitable purposes only without limit of time (defined by a date or otherwise).

**63 Minor interpretative provisions.**

In this Chapter, unless the context otherwise requires—

“payment” includes a transfer of assets other than money;

“quarter” means period of three months.

*Principal charge to tax*

**64 Charge at ten-year anniversary.**

Where immediately before a ten-year anniversary all or any part of the property comprised in a settlement is relevant property, tax shall be charged at the rate applicable under sections 66 and 67 below on the value of the property or part at that time.

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## **65 Charge at other times.**

- (1) There shall be a charge to tax under this section—
  - (a) where the property comprised in a settlement or any part of that property ceases to be relevant property (whether because it ceases to be comprised in the settlement or otherwise); and
  - (b) in a case in which paragraph (a) above does not apply, where the trustees of the settlement make a disposition as a result of which the value of relevant property comprised in the settlement is less than it would be but for the disposition.
- (2) The amount on which tax is charged under this section shall be—
  - (a) the amount by which the value of relevant property comprised in the settlement is less immediately after the event in question that it would be but for the event, or
  - (b) where the tax payable is paid out of relevant property comprised in the settlement immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (3) The rate at which tax is charged under this section shall be the rate applicable under section 68 or 69 below.
- (4) Subsection (1) above does not apply if the event in question occurs in a quarter beginning with the day on which the settlement commenced or with a ten-year anniversary.
- (5) Tax shall not be charged under this section in respect of—
  - (a) a payment of costs or expenses (so far as they are fairly attributable to relevant property), or
  - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,or in respect of a liability to make such a payment.
- (6) Tax shall not be charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.
- (7) Tax shall not be charged under this section by reason only that property comprised in a settlement ceases to be situated in the United Kingdom and thereby becomes excluded property by virtue of section 48(3)(a) above.
- (8) If the settlor of a settlement was not domiciled in the United Kingdom when the settlement was made, tax shall not be charged under this section by reason only that property comprised in the settlement is invested in securities issued by the Treasury subject to a condition of the kind mentioned in section 6(2) above and thereby becomes excluded property by virtue of section 48(4)(b) above.
- (9) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

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

- C8 S. 65 restricted (31.7.1998 with effect as mentioned in s. 161(1) of the amending Act) by 1998 c. 36, s. 161(3)
- C9 S. 65 restricted (retrospective to 20.3.1993) by Finance Act 2013 (c. 29), s. 86(4)(6)

*Rates of principal charge*

**66 Rate of ten-yearly charge.**

- (1) Subject to subsection (2) below, the rate at which tax is charged under section 64 above at any time shall be three tenths of the effective rate (that is to say the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (3) below.
- (2) Where the whole or part of the value mentioned in section 64 above is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period of ten years ending immediately before the ten-year anniversary concerned, the rate at which tax is charged on that value or part shall be reduced by one-fortieth for each of the successive quarters in that period which expired before the property became, or last became, relevant property comprised in the settlement.
- (3) The chargeable transfer postulated in subsection (1) above is one—
  - (a) the value transferred by which is equal to an amount determined in accordance with subsection (4) below;
  - (b) which is made immediately before the ten-year anniversary concerned by a transferor who has in the <sup>[F11]</sup>preceding seven years] made chargeable transfers having an aggregate value determined in accordance with subsection (5) below; and
  - <sup>[F12]</sup>(c) on which tax is charged in accordance with section 7(2) of this Act]
- (4) The amount referred to in subsection (3)(a) above is equal to the aggregate of—
  - (a) the value on which is charged under section 64 above;
  - (b) the value immediately after it became comprised in the settlement of any property which was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement; and
  - (c) the value, immediately after a related settlement commenced, of the property then comprised in it;
 but subject to subsection (6) below.
- (5) The aggregate value referred to in subsection (3)(b) above is equal to the aggregate of—
  - (a) the values transferred by any chargeable transfers made by the settlor in the period of <sup>[F13]</sup>seven] years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974, and
  - (b) the amounts on which any charges to tax were imposed under section 65 above in respect of the settlement in the ten years before the anniversary concerned;
 but subject to subsection (6) and section 67 below.



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- (6) In relation to a settlement which commenced before 27th March 1974—
- (a) subsection (4) above shall have effect with the omission of paragraphs (b) and (c); and
  - (b) subsection (5) above shall have effect with the omission of paragraph (a); and where tax is chargeable under section 64 above by reference to the first ten-year anniversary of a settlement which commenced before 9th March 1982, the aggregate mentioned in subsection (5) above shall be increased by the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the <sup>M3</sup>Finance Act 1975) made out of settled property before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the <sup>M4</sup>Finance Act 1982 applied, 1st April 1983, or, as the case may be, 1st April 1984) and within the period of ten years before the anniversary concerned.

#### Textual Amendments

- F11** Finance Act 1986 Sch. 19 para. 16(1), with effect from 18 March 1986 originally “preceding ten years”.
- F12** Finance Act 1986 Sch. 19 para. 16(2), with effect from 18 March 1986. Originally “(c) for which the appropriate Table of rates is the second Table in Schedule 1 to this Act.”
- F13** Finance Act 1986 Sch. 19 para. 16(3), with effect from 18 March 1986. Originally “ten”.

#### Marginal Citations

- M3** 1975 c.7.  
**M4** 1982 c.39.

## 67 Added property, etc.

- (1) This subsection applies where, after the settlement commenced and after 8th March 1982, but before the anniversary concerned, the settlor made a chargeable transfer as a result of which the value of the property comprised in the settlement was increased.
- (2) For the purposes of subsection (1) above, it is immaterial whether the amount of the property so comprised was increased as a result of the transfer, but a transfer as a result of which the value increased but the amount did not shall be disregarded if it is shown that the transfer—
- (a) was not primarily intended to increase the value, and
  - (b) did not result in the value being greater immediately after the transfer by an amount exceeding five per cent. of the value immediately before the transfer.
- (3) Where subsection (1) above applies in relation to a settlement which commenced after 26th March 1974, section 66(5)(a) above shall have effect as if it referred to the greater of—
- (a) the aggregate of the values there specified, and
  - (b) the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of [<sup>F14</sup>seven] years ending with the day on which the chargeable transfer falling within subsection (1) above was made—
    - (i) disregarding transfers made on that day or before 27th March 1974, and
    - (ii) excluding the values mentioned in subsection (5) below;

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and where the settlor made two or more chargeable transfers falling within subsection (1) above, paragraph (b) above shall be taken to refer to the transfer in relation to which the aggregate there mentioned is the greatest.

- (4) Where subsection (1) above applies in relation to a settlement which commenced before 27th March 1974, the aggregate mentioned in section 66(5) above shall be increased (or further increased) by the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of [<sup>F15</sup>seven] years ending with the day on which the chargeable transfer falling within subsection (1) above was made—
- (a) disregarding transfers made on that day or before 27th March 1974, and
  - (b) excluding the values mentioned in subsection (5) below; and where the settlor made two or more chargeable transfers falling within subsection (1) above, this subsection shall be taken to refer to the transfer in relation to which the aggregate to be added is the greatest.
- (5) The values excluded by subsections (3)(b)(ii) and (4)(b) above are—
- (a) any value attributable to property whose value is taken into account in determining the amount mentioned in section 66(4) above; and
  - (b) any value attributable to property in respect of which a charge to tax has been made under section 65 above and by reference to which an amount mentioned in section 66(5)(b) above is determined.
- (6) Where the property comprised in a settlement immediately before the ten-year anniversary concerned, or any part of that property, had on any occasion within the preceding ten years ceased to be relevant property then, if on that occasion tax was charged in respect of the settlement under section 65 above, the aggregate mentioned in section 66(5) above shall be reduced by an amount equal to the lesser of—
- (a) the amount on which tax was charged under section 65 (or so much of that amount as is attributable to the part in question), and
  - (b) the value on which tax is charged under section 64 above (or so much of that value as is attributable to the part in question);
- and if there were two or more such occasions relating to the property or the same part of it, this subsection shall have effect in relation to each of them.
- (7) References in subsection (6) above to the property comprised in a settlement immediately before an anniversary shall, if part only of the settled property was then relevant property, be construed as references to that part.

#### **Textual Amendments**

**F14** Finance Act 1986 Sch. 19 para. 17, with effect from 18 March 1986. Originally “ten”.

**F15** Finance Act 1986 Sch. 19 para. 17, with effect from 18 March 1986. Originally “ten”.

## **68 Rate before first ten-year anniversary.**

- (1) The rate at which tax is charged under section 65 above on an occasion preceding the first ten-year anniversary after the settlement’s commencement shall be the appropriate fraction of the effective rate at which tax would be charged on the value

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transferred by a chargeable transfer of the description specified in subsection (4) below (but subject to subsection (6) below).

- (2) For the purposes of this section the appropriate fraction is three tenths multiplied by so many fortieths as there are complete successive quarters in the period beginning with the day on which the settlement commenced and ending with the day before the occasion of the charge, but subject to subsection (3) below.
- (3) Where the whole or part of the amount on which tax is charged is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period referred to in subsection (2) above, then in determining the appropriate fraction in relation to that amount or part—
  - (a) no quarter which expired before the day on which the property became, or last became, relevant property comprised in the settlement shall be counted, but
  - (b) if that day fell in the same quarter as that in which the period ends, that quarter shall be counted whether complete or not.
- (4) The chargeable transfer postulated in subsection (1) above is one—
  - (a) the value transferred by which is equal to an amount determined in accordance with subsection (5) below;
  - (b) which is made at the time of the charge to tax under section 65 by a transferor who has in the period of [<sup>F16</sup>seven] years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of [<sup>F17</sup>seven] years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974; and
  - [<sup>F18</sup>(c) on which tax is charged in accordance with section 7(2) of this Act.]
- (5) The amount referred to in subsection (4)(a) above is equal to the aggregate of—
  - (a) the value, immediately after the settlement commenced, of the property then comprised in it;
  - (b) the value, immediately after a related settlement commenced, of the property then comprised in it; and
  - (c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 65 (whether or not it has remained so comprised).
- (6) Where the settlement commenced before 27th March 1974, subsection (1) above shall have effect with the substitution of a reference to three tenths for the reference to the appropriate fraction; and in relation to such a settlement the chargeable transfer postulated in that subsection is one—
  - (a) the value transferred by which is equal to the amount on which tax is charged under section 65 above;
  - (b) which is made at the time of that charge to tax by a transferor who has in the period of [<sup>F19</sup>seven] years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to the aggregate of—
    - (i) any amounts on which any charges to tax have been imposed under section 65 above in respect of the settlement in [<sup>F20</sup>the period of ten years ending with that day]; and

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- (ii) the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the <sup>M5</sup>Finance Act 1975) made out of the settled property before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the <sup>M6</sup>Finance Act 1982 applied, 1st April 1983, or, as the case may be, 1st April 1984) and within the said period of ten years; and
- [<sup>F21</sup>(c) on which tax is charged in accordance with section 7(2) of this Act.]

#### Textual Amendments

- F16** Finance Act 1986 Sch. 19 para. 18(1), with effect from 18 March 1986. Originally “ten”.
- F17** Finance Act 1986 Sch. 19 para. 18(1), with effect from 18 March 1986. Originally “ten”.
- F18** Finance Act 1986 Sch. 19 para. 18(2), with effect from 18 March 1986. Originally “(c) for which the appropriate Table of rates is the second Table in Schedule 1 to this Act.”.
- F19** Finance Act 1986 Sch. 19 para. 18(3)(a), with effect from 18 March 1986. Originally “ten”.
- F20** Finance Act 1986 Sch. 19 para. 18(3)(b), with effect from 18 March 1986. Originally “that period of ten years”.
- F21** Finance Act 1986 Sch. 19 para. 18(2), with effect from 18 March 1986. Originally “for which the appropriate Table of rates is the second Table in Schedule 1 to this Act.”

#### Marginal Citations

- M5** 1975 c. 7.  
**M6** 1982 c. 39.

## 69 Rate between ten-year anniversaries.

- (1) Subject to subsection (2) below, the rate at which tax is charged under section 65 above on an occasion following one or more ten-year anniversaries after the settlement’s commencement shall be the appropriate fraction of the rate at which it was last charged under section 64 (or would have been charged apart from section 66(2)).
- (2) If at any time before the occasion of the charge under section 65 and on or after the most recent ten-year anniversary—
- (a) property has become comprised in the settlement, or
  - (b) property which was comprised in the settlement immediately before the anniversary, but was not then relevant property, has become relevant property,
- then, whether or not the property has remained comprised in the settlement or has remained relevant property, the rate at which tax is charged under section 65 shall be the appropriate fraction of the rate at which it would last have been charged under section 64 (apart from section 66(2)) if immediately before that anniversary the property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below.
- (3) In the case of property within subsection (2)(a) above which either—
- (a) was relevant property immediately after it became comprised in the settlement, or
  - (b) was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement,

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the value to be attributed to it for the purposes of subsection (2) above is its value immediately after it became comprised in the settlement; and in any other case the value to be so attributed is the value of the property when it became (or last became) relevant property.

- (4) For the purposes of this section the appropriate fraction is so many fortieths as there are complete successive quarters in the period beginning with the most recent ten-year anniversary and ending with the day before the occasion of the charge; but subsection (3) of section 68 above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) of that section.

#### *Special cases—charges to tax*

### **70 Property leaving temporary charitable trusts.**

- (1) This section applies to settled property held for charitable purposes only until the end of a period (whether defined by a date or in some other way).
- (2) Subject to subsections (3) and (4) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of an application for charitable purposes, and
  - (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by an application of property for charitable purposes) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) Tax shall not be charged under this section in respect of—
- (a) a payment of costs or expenses (so far as they are fairly attributable to property to which this section applies), or
  - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,
- or in respect of a liability to make such a payment.
- (4) Tax shall not be charged under this section by virtue of subsection (2)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.
- (5) The amount on which tax is charged under this section shall be—
- (a) the amount by which the value of property which is comprised in the settlement and to which this section applies is less immediately after the event giving rise to the charge than it would be but for the event, or
  - (b) where the tax payable is paid out of settled property to which this section applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (6) The rate at which tax is charged under this section shall be the aggregate of the following percentages—

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- (a) 0.25 per cent. for each of the first forty complete successive quarters in the relevant period,
  - (b) 0.20 per cent. for each of the next forty,
  - (c) 0.15 per cent. for each of the next forty,
  - (d) 0.10 per cent. for each of the next forty, and
  - (e) 0.05 per cent. for each of the next forty.
- (7) Where the whole or part of the amount on which tax is charged under this section is attributable to property which was excluded property at any time during the relevant period then, in determining the rate at which tax is charged under this section in respect of that amount or part, no quarter throughout which that property was excluded property shall be counted.
- (8) In subsections (6) and (7) above “the relevant period” means the period beginning with the later of—
- (a) the day on which the property in respect of which tax is chargeable became (or last became) property to which this section applies, and
  - (b) 13th March 1975,
- and ending with the day before the event giving rise to the charge.
- (9) Where the property in respect of which tax is chargeable—
- (a) was relevant property immediately before 10th December 1981, and
  - (b) became (or last became) property to which this section applies on or after that day and before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the <sup>M7</sup>Finance Act 1982 applied, 1st April 1983 or, as the case may be, 1st April 1984),
- subsection (8) above shall have effect as if the day referred to in paragraph (a) of that subsection were the day on which the property became (or last became) relevant property before 10th December 1981.
- (10) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

#### **Marginal Citations**

**M7** 1982 c.39.

## **71 Accumulation and maintenance trusts.**

- (1) Subject to subsection (2) below, this section applies to settled property if—
- (a) one or more persons (in this section referred to as beneficiaries) will, on or before attaining a specified age not exceeding twenty-five, become beneficially entitled to it or to an interest in possession in it, and
  - (b) no interest in possession subsists in it and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.
- (2) This section does not apply to settled property unless either—

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- (a) not more than twenty-five years have elapsed since the commencement of the settlement or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) of subsection (1) above became satisfied with respect to the property, or
  - (b) all the persons who are or have been beneficiaries are or were either—
    - (i) grandchildren of a common grandparent, or
    - (ii) children, widows or widowers of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in subsection (1)(a) above.
- (3) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, and
  - (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (4) Tax shall not be charged under this section—
- (a) on a beneficiary's becoming beneficially entitled to, or to an interest in possession in, settled property on or before attaining the specified age, or
  - (b) on the death of a beneficiary before attaining the specified age.
- (5) Subsections (3) to (8) and (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (3)(b) above for the reference in section 70(4) to section 70(2)(b)).
- (6) Where the conditions stated in paragraphs (a) and (b) of subsection (1) above were satisfied on 15th April 1976 with respect to property comprised in a settlement which commenced before that day, subsection (2)(a) above shall have effect with the substitution of a reference to that day for the reference to the commencement of the settlement, and the condition stated in subsection (2)(b) above shall be treated as satisfied if—
- (a) it is satisfied in respect of the period beginning with 15th April 1976, or
  - (b) it is satisfied in respect of the period beginning with 1st April 1977 and either there was no beneficiary living on 15th April 1976 or the beneficiaries on 1st April 1977 included a living beneficiary, or
  - (c) there is no power under the terms of the settlement whereby it could have become satisfied in respect of the period beginning with 1st April 1977, and the trusts of the settlement have not been varied at any time after 15th April 1976.
- (7) In subsection (1) above “persons” includes unborn persons; but the conditions stated in that subsection shall be treated as not satisfied unless there is or has been a living beneficiary.
- (8) For the purposes of this section a person's children shall be taken to include his illegitimate children, his adopted children and his stepchildren.

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VALID FROM 22/03/2006

### **[<sup>F22</sup>71A Trusts for bereaved minors**

- (1) This section applies to settled property (including property settled before 22nd March 2006) if—
  - (a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or
  - (b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts,
 but this section does not apply to property in which a disabled person's interest subsists.
- (2) This subsection applies to trusts—
  - (a) established under the will of a deceased parent of the bereaved minor, or
  - (b) established under the Criminal Injuries Compensation Scheme,
 which secure that the conditions in subsection (3) below are met.
- (3) Those conditions are—
  - (a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—
    - (i) the settled property,
    - (ii) any income arising from it, and
    - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
  - (b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and
  - (c) that, for so long as the bereaved minor is living and under the age of 18, either—
    - (i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
    - (ii) no such income may be applied for the benefit of any other person.
- (4) Trusts such as are mentioned in paragraph (a) or (b) of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—
  - (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
  - (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
  - (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
  - (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
  - (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.



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- (5) In this section “the Criminal Injuries Compensation Scheme” means—
- (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
  - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
  - (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.
- (6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before “which” there were inserted the purposes of.]

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

VALID FROM 22/03/2006

#### **[<sup>F22</sup>71B Charge to tax on property to which section 71A applies**

- (1) Subject to subsections (2) and (3) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which section 71A above applies, and
  - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—
- (a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or
  - (b) the death under that age of the bereaved minor, or
  - (c) being paid or applied for the advancement or benefit of the bereaved minor.
- (3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—
- (a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,
  - (b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,
  - (c) as if, for the purposes of section 70(8) above as applied by this subsection, property—
    - (i) which is property to which section 71A above applies,
    - (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and

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- (iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied, had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and
- (d) as if, for the purposes of section 70(8) above as applied by this subsection, property—
- (i) which is property to which section 71A above applies,
  - (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and
  - (iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion (“the 71D-to-71A occasion”) to be property to which section 71D below applied, had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.
- (4) In subsection (3)(d) above—
- (a) “the relevant earlier occasion” means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but
  - (b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied without ceasing to be settled property, “the relevant earlier occasion” means the occasion (or last occasion) when the property became property to which section 71 above applied.

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

VALID FROM 22/03/2006

#### **71C Sections 71A and 71B: meaning of “bereaved minor”**

In sections 71A and 71B above “bereaved minor” means a person—

- (a) who has not yet attained the age of 18, and
- (b) at least one of whose parents has died.

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

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VALID FROM 22/03/2006

**[<sup>F22</sup>71D Age 18-to-25 trusts**

- (1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—
  - (a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,
  - (b) at least one of the person's parents has died, and
  - (c) subsection (2) below applies to the trusts.
- (2) This subsection applies to trusts—
  - (a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or
  - (b) established under the Criminal Injuries Compensation Scheme, which secure that the conditions in subsection (6) below are met.
- (3) Subsection (4) has effect where—
  - (a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and
  - (b) immediately after the property ceases to be property to which section 71 above applies—
    - (i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and
    - (ii) the trusts secure that the conditions in subsection (6) below are met.
- (4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—
  - (a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and
  - (b) the trusts continue to secure that the conditions in subsection (6) below are met.
- (5) This section does not apply—
  - (a) to property to which section 71A above applies,
  - (b) to property to which section 71 above, or section 89 below, applies, or
  - (c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—
    - (i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or
    - (ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.
- (6) Those conditions are—

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- (a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above (“B”), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—
    - (i) the settled property,
    - (ii) any income arising from it, and
    - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
  - (b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and
  - (c) that, for so long as B is living and under the age of 25, either—
    - (i) B is entitled to all of the income (if there is any) arising from any of the settled property, or
    - (ii) no such income may be applied for the benefit of any other person.
- (7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—
- (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
  - (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
  - (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
  - (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
  - (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.
- (8) In this section “the Criminal Injuries Compensation Scheme” means—
- (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
  - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
  - (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.
- (9) The preceding provisions of this section apply in relation to Scotland—
- (a) as if, in subsection (2) above, before “which” there were inserted the purposes of, and
  - (b) as if, in subsections (3)(b)(ii) and (4)(b) above, before “trusts” there were inserted purposes of the.]

#### **Textual Amendments**

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

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VALID FROM 22/03/2006

### **71E Charge to tax on property to which section 71D applies**

- (1) Subject to subsections (2) to (4) below, there shall be a charge to tax under this section—
  - (a) where settled property ceases to be property to which section 71D above applies, or
  - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
  - (a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
  - (b) the death, under the age of 18, of B,
  - (c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
  - (d) being paid or applied for the advancement or benefit of B—
    - (i) at a time when B is living and under the age of 18, or
    - (ii) on B's attaining the age of 18.
- (3) Tax is not charged under this section in respect of—
  - (a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
  - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,or in respect of a liability to make such a payment.
- (4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.
- (5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

#### **Textual Amendments**

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

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VALID FROM 22/03/2006

## 71F Calculation of tax charged under section 71E in certain cases

- (1) Where—
  - (a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and
  - (b) that event happens after B has attained the age of 18, the tax is calculated in accordance with this section.
- (2) Those events are—
  - (a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,
  - (b) the death of B, and
  - (c) property being paid or applied for the advancement or benefit of B.
- (3) The amount of the tax is given by—

$$\text{Chargeable amount} \times \text{Relevant fraction} \times \text{Settlement rate}$$

- (4) For the purposes of subsection (3) above, the “Chargeable amount” is—
  - (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
  - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (5) For the purposes of subsection (3) above, the “Relevant fraction” is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—
  - (a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and
  - (b) ending with the day before the occasion of the charge.
- (6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in subsection (5) above then, in determining the “Relevant fraction” in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.
- (7) For the purposes of subsection (3) above, the “Settlement rate” is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.
- (8) The chargeable transfer postulated in subsection (7) above is one—
  - (a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,
  - (b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the

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- occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and
- (c) on which tax is charged in accordance with section 7(2) above.
- (9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—
- (a) the value, immediately after the settlement commenced, of the property then comprised in it,
- (b) the value, immediately after a related settlement commenced, of the property then comprised in it, and
- (c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised).

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

VALID FROM 22/03/2006

#### **71G Calculation of tax charged under section 71E in all other cases**

- (1) Where—
- (a) tax is charged under section 71E above, and
- (b) the tax does not fall to be calculated in accordance with section 71F above, the tax is calculated in accordance with this section.
- (2) The amount on which the tax is charged is—
- (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
- (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—
- (a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,
- (b) if the other references in those subsections to section 70 above were references to section 71E above, and
- (c) if, for the purposes of section 70(8) above, property—
- (i) which is property to which section 71D above applies,
- (ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and

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(iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property, had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

VALID FROM 22/03/2006

#### **71H Sections 71A to 71G: meaning of “parent”**

- (1) In sections 71A to 71G above “parent” includes step-parent.
- (2) For the purposes of sections 71A to 71G above, a deceased individual (“D”) shall be taken to have been a parent of another individual (“Y”) if, immediately before D died, D had—
  - (a) parental responsibility for Y under the law of England and Wales,
  - (b) parental responsibilities in relation to Y under the law of Scotland, or
  - (c) parental responsibility for Y under the law of Northern Ireland.
- (3) In subsection (2)(a) above “parental responsibility” has the same meaning as in the Children Act 1989.
- (4) In subsection (2)(b) above “parental responsibilities” has the meaning given by section 1(3) of the Children (Scotland) Act 1995.
- (5) In subsection (2)(c) above “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995.]

#### Textual Amendments

**F22** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

#### **72 Property leaving employee trusts and newspaper trusts.**

- (1) This section applies to settled property to which section 86 below applies if no qualifying interest in possession subsists in it.
- (2) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—
  - (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property, and
  - (b) where a payment is made out of settled property to which this section applies for the benefit of a person within subsection (3) below, or a person connected with such a person, and



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- (c) in a case which paragraphs (a) and (b) above do not apply, where the trustees make a disposition (otherwise than by way of a payment out of the settled property) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) A person is within this subsection if—
- (a) he has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year; or
- (b) in a case where the employment in question is employment by a close company, he is a participator in relation to that company and either—
- (i) is beneficially entitled to, or to rights entitling him to acquire, not less than 5 per cent. of, or of any class of the shares comprised in, its issued share capital, or
- (ii) would, on a winding-up of the company, be entitled to not less than 5 per cent. of its assets; or
- (c) he has acquired an interest in the settled property for a consideration in money or money's worth.
- (4) If the trusts are those of a profit sharing scheme approved in accordance with Schedule 9 to the [F23 Taxes Act 1988], tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares in pursuance of the scheme.
- (5) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (2)(c) above for the reference in section 70(4) to section 70(2)(b)).
- (6) In this section—
- (a) “close company” and “participator” have the same meanings as in Part IV of this Act; and
- (b) “year” means the period beginning with 26th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April;

and a person shall be treated for the purposes of this section as acquiring an interest for a consideration in money or money's worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that interest or of other property.

#### Textual Amendments

**F23** Substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29](#), para. 32. Originally “Finance Act 1978”.

### 73 Pre-1978 protective trusts.

- (1) This section applies to settled property which is held on trusts to the like effect as those specified in section 33(1)(ii) of the <sup>M8</sup>Trustee Act 1925 and which became held on those trusts on the failure or determination before 12th April 1978 of trusts to the like effect as those specified in section 33(1)(i).
- (2) Subject to subsection (3) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit

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of the principal beneficiary within the meaning of section 33 of the Trustee Act 1925, and

- (b) in a case which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

- (3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.

#### Marginal Citations

**M8** 1925 c.19.

#### 74 Pre-1981 trusts for disabled persons.

- (1) This section applies to settled property transferred into settlement before 10th March 1981 and held on trusts under which, during the life of a disabled person, no interest in possession in the settled property subsists, and which secure that any of the settled property which is applied during his life is applied only or mainly for his benefit.

- (2) Subject to subsection (3) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit of the person mentioned in subsection (1) above, and
- (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

- (3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.

- (4) In this section “disabled person” means a person who—
- (a) is by reason of mental disorder (within the meaning of the <sup>M9</sup>Mental Health Act 1983) incapable of administering his property or managing his affairs, or
- (b) is in receipt of an attendance allowance under section 35 of the <sup>M10</sup>Social Security Act 1975 or the <sup>M11</sup>Social Security (Northern Ireland) Act 1975.
- [<sup>F24</sup>, or
- (c) is in receipt of a disability living allowance under section 37ZA of the Social Security Act 1975 by virtue of entitlement to the care component at the highest or middle rate.]

#### Textual Amendments

**F24** S. 74(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes and 6.4.1992) by [Disability Living Allowance and Disability Working Allowance Act 1991 \(c. 21, SIF 113:1\)](#), s. 4(2), **Sch. 2 para. 14(1)**; S.I. 1991/2617, **art. 2(c)(f)**.

#### Marginal Citations

**M9** 1983 c.20.

**M10** 1975 c.14.

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**M11** 1975 c.15.

*Special cases—reliefs*

**75 Property becoming subject to employee trusts.**

- (1) Tax shall not be charged under section 65 above in respect of shares in or securities of a company which cease to be relevant property on becoming held on trusts of the description specified in section 86(1) below if the conditions in subsection (2) below are satisfied.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that the persons for whose benefit the trusts permit the settled property to be applied include all or most of the persons employed by or holding office with the company;
  - (b) that, at the date when the shares or securities cease to be relevant property or at a subsequent date not more than one year thereafter, both the conditions mentioned in subsection (2) of section 28 above (read with subsections (3) and (7)) are satisfied, without taking account of shares or securities held on other trusts; and
  - (c) that the trusts do not permit any of the property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of any of the persons mentioned in subsection (4) of section 28 above (read with subsections (5) to (7)) or for the benefit of the settlor or of any person connected with him.
- (3) In its application for the purposes of subsection (2)(c) above, section 28(4) shall be construed as if—
  - (a) references to section 28(1) were references to subsection (2) above, and
  - (b) references to the time of the transfer of value were references to the time when the property ceases to be relevant property.

**76 Property becoming held for charitable purposes, etc.**

- (1) Tax shall not be charged under this Chapter (apart from section 79 below) in respect of property which ceases to be relevant property, or ceases to be property to which section 70, 71, 72, 73 or 74 above or paragraph 8 of Schedule 4 to this Act applies, on becoming—
  - (a) property held for charitable purposes only without limit of time (defined by a date or otherwise);
  - (b) the property of a political party qualifying for exemption under section 24 above;
  - (c) the property of a body within Schedule 3 to this Act; or
  - (d) the property of a body not established or conducted for profit.
- (2) Subsection (1)(d) above shall not apply unless the Treasury so direct, whether before or after the time when the property becomes the property of the body in question, and the property is within subsection (2) of section 26 above; and—
  - (a) subsections (3) to (6) and (9) of that section shall apply for the purposes of this subsection as they apply for the purposes of that section; and

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- (b) for the purposes of section 26(2) as applied by this subsection, property is given with other property if both become the property of the same body on the making of the same payment or transfer out of a settlement.
- (3) If the amount on which tax would be charged apart from this section in respect of any property exceeds the value of the property immediately after it becomes property of a description specified in paragraphs (a) to (d) of subsection (1) above (less the amount of any consideration for its transfer received by the trustees), that subsection shall not apply but the amount on which tax is charged shall be equal to the excess.
- (4) The reference in subsection (3) above to the amount on which tax would be charged is a reference to the amount on which it would be charged—
- (a) assuming (if it is not in fact so) that the tax is not paid out of settled property, and
- (b) apart from Chapters I and II of Part V of this Act;
- and the reference in that subsection to the amount on which tax is charged is a reference to the amount on which it would be charged on that assumption and apart from those Chapters.
- (5) Subsection (1) above shall not apply in relation to any property if the disposition by which it becomes property of the relevant description is defeasible; but for this purpose a disposition which has not been defeated at a time twelve months after the property concerned becomes property of the relevant description and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.
- (6) Subsection (1) above shall not apply in relation to any property if it or any part of it may become applicable for purposes other than charitable purposes or purposes of a body mentioned in subsection (1)(b), (c) or (d) above.
- (7) Subsection (1) shall not apply in relation to any property if, at or before the time when it becomes property of the relevant description, an interest under the settlement is or has been acquired for a consideration in money or money's worth by an exempt body otherwise than from a charity or a body mentioned in subsection (1)(b) or (c) above.
- (8) In subsection (7) above "exempt body" means a charity or a body mentioned in subsection (1)(b), (c) or (d) above; and for the purposes of subsection (7) above a body shall be treated as acquiring an interest for a consideration in money or money's worth if it becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to that body or to another person) of that interest or of other property.

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

**C10** *By Finance Act 1985 s. 95, the functions of the Treasury were transferred to the Commissioners of Inland Revenue ("the Board").*

*Works of art, historic buildings, etc.*

**77 Maintenance funds for historic buildings, etc.**

Schedule 4 to this Act shall have effect.

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## 78 Conditionally exempt occasions.

- (1) A transfer of property or other event shall not constitute an occasion on which tax is chargeable under any provision of this Chapter other than section 64 if the property in respect of which the charge would have been made has been comprised in the settlement throughout the six years ending with the transfer or event, and—
  - (a) the property is, on a claim made for the purpose, designated by the Treasury under section 31 above, and
  - (b) the requisite undertaking described in that section is given with respect to the property by such person as the Treasury think appropriate in the circumstances of the case [F<sup>25</sup> or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case.]
- (2) References in this Chapter to a conditionally exempt occasion are to—
  - (a) a transfer or event which by virtue of subsection (1) above does not constitute an occasion on which tax is chargeable under this Chapter;
  - (b) a transfer or event which, by virtue of section 81(1) of the <sup>M12</sup>Finance Act 1976, did not constitute an occasion on which tax was chargeable under Chapter II of Part IV of the <sup>M13</sup>Finance Act 1982;
  - (c) a conditionally exempt distribution within the meaning given by section 81(2) of the Finance Act 1976 as it had effect in relation to events before 9th March 1982.
- (3) Where there has been a conditionally exempt occasion in respect of any property, sections 32, [F<sup>26</sup>32A], 33(1), 33(3) to (7) and 35(2) above shall have effect (and tax shall accordingly be chargeable under section 32 [F<sup>26</sup> or 32A]) as if—
  - (a) references to a conditionally exempt transfer and to such a transfer of property included references respectively to a conditionally exempt occasion and to such an occasion in respect of property;
  - (b) references to a disposal otherwise than by sale included references to any occasion on which tax is chargeable under any provision of this Chapter other than section 64;
  - (c) references to an undertaking given under section 30 above included references to an undertaking given under this section;and the references in section 33(5) above to the person who made a conditionally exempt transfer shall have effect in relation to a conditionally exempt occasion as references to the person who is the settlor of the settlement in respect of which the occasion occurred (or if there is more than one such person, whichever of them the Board may select).
- (4) Where by virtue of subsection (3) above the relevant person for the purposes of section 33 above is the settlor of a settlement, the rate (or each of the rates) mentioned in section 33(1)(b)(i) or (ii)—
  - (a) shall, if the occasion occurred before the first ten-year anniversary to fall after the property became comprised in the settlement concerned, be 30 per cent. of what it would be apart from this subsection, and
  - (b) shall, if the occasion occurred after the first and before the second ten-year anniversary to fall after the property became so comprised, be 60 per cent. of what it would be apart from this subsection;

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[<sup>F27</sup> and the appropriate provision of section 7 for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, subsection (1) and, if not, subsection (2).]

- (5) Where by virtue of subsection (3) above the relevant person for the purposes of section 33 above is the settlor of a settlement and that settlor died before 13th March 1975, section 33(1)(b) above shall have effect (subject to subsection (4) above) with the substitution for sub-paragraph (ii) of the following sub-paragraph:—

“(ii) the rate or rates that would have applied to that amount (“the chargeable amount”) [<sup>F28</sup> in accordance with the appropriate provision of section 7 above] if the relevant person had died when the chargeable event occurred, the value transferred on his death had been equal to the amount on which estate duty was chargeable when he in fact died, and the chargeable amount had been added to that value and had formed the highest part of it.”

- (6) Section 34 above shall not apply to a chargeable event in respect of property if the last conditionally exempt transfer of the property has been followed by a conditionally exempt occasion in respect of it.

#### **Textual Amendments**

- F25** Finance Act 1985 Sch. 26 para. 8(a), *in relation to events occurring after 18 March 1985.*
- F26** Finance Act 1985 Sch. 26 para. 8(b), *in relation to events occurring after 18 March 1985.*
- F27** Finance Act 1986 Sch. 19 para. 19(1), *with effect from 18 March 1986. Originally*  
 “and the appropriate Table for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, the first Table in Schedule 1 to this Act and, if not, the second Table.”
- F28** Finance Act 1986 Sch. 19 para. 19(2), *with effect from 18 March 1986. Originally*  
 “under the appropriate Table”.

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

- C11** By Finance Act 1985 s. 95, *the functions of the Treasury were transferred to the Commissioners of Inland Revenue (“the Board”).*

#### **Marginal Citations**

- M12** 1976 c. 40.
- M13** 1982 c. 39.

## **79 Exemption from ten-year charge.**

- (1) Where property is comprised in a settlement and there has been a conditionally exempt transfer of the property on or before the occasion on which it became comprised in the settlement, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence after the transfer of a chargeable event with respect to the property.
- (2) Where property is comprised in a settlement and there has been, on or before the occasion on which it became comprised in the settlement, a disposal of the property in relation to which subsection (4) of section [<sup>F29</sup>258 of the 1992 Act] (capital gains tax relief for works of art etc.) had effect, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence

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after the disposal of an event on the happening of which the property is treated as sold under subsection (5) of the said section [F<sup>29</sup>258].

(3) Where property is comprised in a settlement and there has been no such transfer or disposal of the property as is mentioned in subsection (1) or (2) above on or before the occasion on which it became comprised in the settlement, then, if—

- (a) the property has, on a claim made for the purpose, been designated by the Treasury under section 31 above,
- (b) the requisite undertaking described in that section has been given [F<sup>30</sup>with respect to the property] by such person as the Treasury think appropriate in the circumstances of the case, [F<sup>30</sup>or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section have been given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case], and
- (c) the property is relevant property,

section 64 above shall not have effect in relation to the property; but there shall be a charge to tax under this subsection on the first occurrence of an event which, if there had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under section 30 above, would be a chargeable event with respect to the property.

(4) Tax shall not be charged under subsection (3) above in respect of property if, after the occasion and before the occurrence there mentioned, there has been a conditionally exempt occasion in respect of the property.

(5) The amount on which tax is charged under subsection (3) above shall be an amount equal to the value of the property at the time of the event.

(6) The rate at which tax is charged under subsection (3) above shall be the aggregate of the following percentages—

- (a) 0·25 per cent. for each of the first forty complete successive quarters in the relevant period,
- (b) 0·20 per cent. for each of the next forty,
- (c) 0·15 per cent. for each of the next forty,
- (d) 0·10 per cent. for each of the next forty, and
- (e) 0·5 per cent. for each of the next forty.

(7) In subsection (6) above “the relevant period” means the period beginning with the latest of—

- (a) the day on which the settlement commenced,
- (b) the date of the last ten-year anniversary of the settlement to fall before the day on which the property became comprised in the settlement, and
- (c) 13th March 1975,

and ending with the day before the event giving rise to the charge.

(8) Subsection (9) below shall have effect where—

- (a) by virtue of subsection (3) above, section 64 does not have effect in relation to property on the first ten-year anniversary of the settlement to fall after the making of the claim and the giving of the undertaking,
- (b) on that anniversary a charge to tax falls to be made in respect of the settlement under section 64, and

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- (c) the property became comprised in the settlement, and the claim was made and the undertaking was given, within the period of ten years ending with that anniversary.
- (9) In calculating the rate at which tax is charged under section 64 above, the value of the consideration given for the property on its becoming comprised in the settlement shall be treated for the purposes of section 66(5)(b) above as if it were an amount on which a charge to tax was imposed in respect of the settlement under section 65 above at the time of the property becoming so comprised.
- (10) In subsection (1) above, the reference to a conditionally exempt transfer of any property includes a reference to a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the <sup>M14</sup>Finance Act 1975 and, in relation to such property, the reference to a chargeable event includes a reference to an event on the occurrence of which tax becomes chargeable under Schedule 5 to this Act.

#### Textual Amendments

- F29** Words in s. 79(2) substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 8(3)** (with ss. 60, 101(1), 201(3)).
- F30** Finance Act 1985 Sch. 26 para. 9, *in relation to events occurring after 18 March 1985*.

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

- C12** By Finance Act 1985 s. 95, *the functions of the Treasury were transferred to the Commissioners of Inland Revenue (“the Board”)*.

#### Marginal Citations

- M14** 1975 c. 7.

VALID FROM 31/07/1998

### **[<sup>F31</sup>79A Variation of undertakings.**

- (1) An undertaking given under section 78 or 79 above may be varied from time to time by agreement between the Board and the person bound by the undertaking.
- (2) Where a Special Commissioner is satisfied that—
- (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
  - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
  - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,
- the Commissioner may direct that the undertaking is to have effect from a date specified by him as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the Special Commissioner must not be less than sixty days after the date of his direction.



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

#### Textual Amendments

- F31** S. 79A inserted (31.7.1998 with effect as mentioned in Sch. 25 para. 8(4) of the amending Act) by 1998 c. 36, s. 142, Sch. 25 para. 8(2)

### Miscellaneous

#### 80 Initial interest of settlor or spouse.

- (1) Where a settlor or his spouse is beneficially entitled to an interest in possession in property immediately after it becomes comprised in the settlement, the property shall for the purposes of this Chapter be treated as not having become comprised in the settlement on that occasion; but when the property or any part of it becomes held on trusts under which neither of those persons is beneficially entitled to an interest in possession, the property or part shall for those purposes be treated as becoming comprised in a separate settlement made by that one of them who ceased (or last ceased) to be beneficially entitled to an interest in possession in it.
- (2) References in subsection (1) above to the spouse of a settlor include references to the widow or widower of a settlor.
- (3) This section shall not apply if the occasion first referred to in subsection (1) above occurred before 27th March 1974.

#### 81 Property moving between settlements.

- (1) Where property which ceases to be comprised in one settlement becomes comprised in another then, unless in the meantime any person becomes beneficially entitled to the property (and not merely to an interest in possession in the property), it shall for the purposes of this Chapter be treated as remaining comprised in the first settlement.
- (2) Subsection (1) above shall not apply where the property ceased to be comprised in the first settlement before 10th December 1981; but where property ceased to be comprised in one settlement before 10th December 1981 and after 26th March 1974 and, by the same disposition, became comprised in another settlement, it shall for the purposes of this Chapter be treated as remaining comprised in the first settlement.
- (3) Subsection (1) above shall not apply where a reversionary interest in the property expectant on the termination of a qualifying interest in possession subsisting under the first settlement was settled on the trusts of the other settlement before 10th December 1981.

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VALID FROM 08/04/2010

### **[<sup>F32</sup>81A Reversionary interests in relevant property**

- (1) Where a reversionary interest in relevant property to which—
  - (a) a person who acquired it for a consideration in money or money's worth, or
  - (b) the settlor or the spouse or civil partner of the settlor,
 (a “relevant reversioner”) is beneficially entitled comes to an end by reason of the relevant reversioner becoming entitled to an interest in possession in the relevant property, the relevant reversioner is to be treated as having made a disposition of the reversionary interest at that time.
- (2) A transfer of value of a reversionary interest in relevant property to which a relevant reversioner is beneficially entitled is to be taken to be a transfer which is not a potentially exempt transfer.]

#### **Textual Amendments**

- F32** S. 81A inserted (with effect as mentioned in s. 52(2) of the amending Act) by [Finance Act 2010](#) (c. 13), s. 52(1)

### **82 Excluded property.**

- (1) For the purposes of this Chapter (except sections 78 and 79) property to which section 80 or 81 above applies shall not be taken to be excluded property by virtue of section 48(3)(a) above unless the condition in subsection (3) below is satisfied (in addition to the conditions in section 48(3) that the property is situated outside the United Kingdom and that the settlor was not domiciled there when the settlement was made).
- (2) Section 65(8) above shall not have effect in relation to property to which section 80 or 81 applies unless the condition in subsection (3) below is satisfied (in addition to the condition in section 65(8) that the settlor was not domiciled in the United Kingdom when the settlement was made).
- (3) The condition referred to in subsections (1) and (2) above is—
  - (a) in the case of property to which section 80 above applies, that the person who is the settlor in relation to the settlement first mentioned in that section, and
  - (b) in the case of property to which subsection (1) or (2) of section 81 above applies, that the person who is the settlor in relation to the second of the settlements mentioned in the subsection concerned,
 was not domiciled in the United Kingdom when that settlement was made.

### **83 Property becoming settled on a death.**

Property which becomes comprised in a settlement in pursuance of a will or intestacy shall for the purposes of this Chapter be taken to have become comprised in it on the death of the testator or intestate (whether it occurred before or after the passing of this Act).

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#### **84 Income applied for charitable purposes.**

For the purposes of this Chapter (except sections 78 and 79) where the trusts on which settled property is held require part of the income of the property to be applied for charitable purposes, a corresponding part of the settled property shall be regarded as held for charitable purposes.

#### **85 Credit for annual charges under Finance Act 1975.**

Any tax charged under paragraph 12(2) of Schedule 5 to the <sup>M15</sup>Finance Act 1975 and not already allowed as a credit under paragraph 12(3) of that Schedule or under section 125 of the <sup>M16</sup>Finance Act 1982 or under this section shall be allowed as a credit against tax chargeable under this Chapter (apart from section 79) in respect of the settled property or part concerned.

##### **Marginal Citations**

**M15** 1975 c. 7.

**M16** 1982 c. 39.

## **CHAPTER IV**

### **MISCELLANEOUS**

#### **86 Trusts for benefit of employees.**

- (1) Where settled property is held on trusts which, either indefinitely or until the end of a period (whether defined by a date or in some other way) do not permit any of the settled property to be applied otherwise than for the benefit of—
  - (a) persons of a class defined by reference to employment in a particular trade or profession, or employment by, or office with, a body carrying on a trade, profession or undertaking, or
  - (b) persons of a class defined by reference to marriage or relationship to, or dependence on, persons of a class defined as mentioned in paragraph (a) above,then, subject to subsection (3) below, this section applies to that settled property or, as the case may be, applies to it during that period.
- (2) Where settled property is held on trusts permitting the property to be applied for the benefit of persons within paragraph (a) or (b) of subsection (1) above, those trusts shall not be regarded as outside the description specified in that subsection by reason only that they also permit the settled property to be applied for charitable purposes.
- (3) Where any class mentioned in subsection (1) above is defined by reference to employment by or office with a particular body, this section applies to the settled property only if—
  - (a) the class comprises all or most of the persons employed by or holding office with the body concerned, or
  - (b) the trusts on which the settled property is held are those of a profit sharing scheme approved in accordance with Schedule 9 to the <sup>M17</sup>[<sup>F33</sup>Taxes Act 1988].

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- (4) Where this section applies to any settled property—
- (a) the property shall be treated as comprised in one settlement, whether or not it would fall to be so treated apart from this section, and
  - (b) an interest in possession in any part of the settled property shall be disregarded for the purposes of this Act (except section 55) if that part is less than 5 per cent. of the whole.
- (5) Where any property to which this section applies ceases to be comprised in a settlement and, either immediately or not more than one month later, the whole of it becomes comprised in another settlement, then, if this section again applies to it when it becomes comprised in the second settlement, it shall be treated for all the purposes of this Act as if it had remained comprised in the first settlement.

#### **Textual Amendments**

**F33** Substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29](#), para. 32. Originally “Finance Act 1978”.

#### **Marginal Citations**

**M17** [1988 c. 1](#).

## **87 Newspaper trusts.**

- (1) In relation to property comprised in a settlement to which this section applies, section 86 above shall have effect as if newspaper publishing companies were included among the persons within paragraphs (a) and (b) of subsection (1) of that section.
- (2) This section applies to a settlement if shares in a newspaper publishing company or a newspaper holding company are the only or principal property comprised in the settlement.
- (3) In this section—
 

“newspaper publishing company” means a company whose business consists wholly or mainly in the publication of newspapers in the United Kingdom;

“newspaper holding company” means a company which—

  - (a) has as its only or principal asset shares in a newspaper publishing company, and
  - (b) has powers of voting on all or most questions affecting the publishing company as a whole which if exercised would yield a majority of the votes capable of being exercised on them;

and for the purposes of this section shares shall be treated as the principal property comprised in a settlement or the principal asset of a company if the remaining property comprised in the settlement or the remaining assets of the company are such as may be reasonably required to enable the trustees or the company to secure the operation of the newspaper publishing company concerned.

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## 88 Protective trusts.

- (1) This section applies to settled property (other than property to which section 73 above applies) which is held on trusts to the like effect as those specified in section 33(1) of the <sup>M18</sup>Trustee Act 1925; and in this section “the principal beneficiary” and “the trust period” have the same meanings as in that section.
- (2) For the purposes of this Act—
  - (a) there shall be disregarded the failure or determination, before the end of the trust period, of trusts to the like effect as those specified in paragraph (i) of the said section 33(1), and
  - (b) the principal beneficiary shall be treated as beneficially entitled to an interest in possession in any property which is for the time being held on trusts to the like effect as those specified in paragraph (ii) of the said section 33(1).

### Marginal Citations

M18 1925 c. 19.

## 89 Trusts for disabled persons.

- (1) This section applies to settled property transferred into settlement after 9th March 1981 and held on trusts—
  - (a) under which, during the life of a disabled person, no interest in possession in the settled property subsists, and
  - (b) which secure that not less than half of the settled property which is applied during his life is applied for his benefit.
- (2) For the purposes of this Act the person mentioned in subsection (1) above shall be treated as beneficially entitled to an interest in possession in the settled property.
- (3) The trusts on which settled property is held shall not be treated as falling outside subsection (1) above by reason only of the powers conferred on the trustees by section 32 of the Trustee Act 1925 or section 33 of the <sup>M19</sup>Trustee Act (Northern Ireland) 1958 (powers of advancement).
- (4) The reference in subsection (1) above to a disabled person is, in relation to any settled property, a reference to a person who, when the property was transferred into settlement, was—
  - (a) incapable, by reason of mental disorder within the meaning of the <sup>M20</sup>Mental Health Act 1983, of administering his property or managing his affairs, or
  - (b) in receipt of an attendance allowance under section 35 of the <sup>M21</sup>Social Security Act 1975 or the <sup>M22</sup>Social Security (Northern Ireland) Act 1975. [<sup>F34</sup>, or
  - (c) in receipt of a disability living allowance under section 37ZA of the Social Security Act 1975 by virtue of entitlement to the care component at the highest or middle rate.]

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### Textual Amendments

- F34** S. 89(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes) by [Disability Living Allowance and Disability Working Allowance Act 1991 \(c. 21, SIF 113:1\)](#), s. 4(2), **Sch. 2 para. 14(2)**; S.I. 1991/2617, **art. 2(c)**.

### Marginal Citations

- M19** 1958 c. 23 (N.I).  
**M20** 1983 c. 20.  
**M21** 1975 c. 14.  
**M22** 1975 c. 15.

VALID FROM 22/03/2006

## <sup>F35</sup>89A Self-settlement by person with condition expected to lead to disability

- (1) This section applies to property transferred by a person (“A”) into settlement on or after 22nd March 2006 if—
- (a) A was beneficially entitled to the property immediately before transferring it into settlement,
  - (b) A satisfies the Commissioners for Her Majesty's Revenue and Customs that, when the property was transferred into settlement, A had a condition that it was at that time reasonable to expect would have such effects on A as to lead to A becoming—
    - (i) a person falling within section 89(4)(a) above,
    - (ii) in receipt of an attendance allowance mentioned in section 89(4)(b) above, or
    - (iii) in receipt of a disability living allowance mentioned in section 89(4)(c) above by virtue of entitlement to the care component at the highest or middle rate, and
  - (c) the property is held on trusts—
    - (i) under which, during the life of A, no interest in possession in the settled property subsists, and
    - (ii) which secure that Conditions 1 and 2 are met.
- (2) Condition 1 is that if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.
- (3) Condition 2 is that any power to bring the trusts mentioned in subsection (1)(c) above to an end during A's life is such that, in the event of the power being exercised during A's life, either—
- (a) A or another person will, on the trusts being brought to an end, be absolutely entitled to the settled property, or
  - (b) on the trusts being brought to an end, a disabled person's interest within section 89B(1)(a) or (c) below will subsist in the settled property.
- (4) If this section applies to settled property transferred into settlement by a person, the person shall be treated as beneficially entitled to an interest in possession in the settled property.

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- (5) For the purposes of subsection (1)(b)(ii) above, assume—
- (a) that A will meet the conditions as to residence under section 64(1) of whichever of the 1992 Acts is applicable, and
  - (b) that there will be no provision made by regulations under section 67(1) and (2) of that Act.
- (6) For the purposes of subsection (1)(b)(iii) above, assume—
- (a) that A will meet the prescribed conditions as to residence under section 71(6) of whichever of the 1992 Acts is applicable, and
  - (b) that there will be no provision made by regulations under section 72(8) of that Act.
- (7) For the purposes of subsection (3) above, ignore—
- (a) power to give directions as to the settled property that is exercisable jointly by the persons who between them are entitled to the entire beneficial interest in the property, and
  - (b) anything that could occur as a result of exercise of any such power.
- (8) In this section “the 1992 Acts” means—
- the Social Security Contributions and Benefits Act 1992, and
  - the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

#### Textual Amendments

**F35** Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 paras. 6\(1\)\(3\)](#)

VALID FROM 22/03/2006

#### **89B** Meaning of “disabled person's interest”

- (1) In this Act “disabled person's interest” means—
- (a) an interest in possession to which a person is under section 89(2) above treated as beneficially entitled,
  - (b) an interest in possession to which a person is under section 89A(4) above treated as beneficially entitled,
  - (c) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a disabled person becomes beneficially entitled on or after 22nd March 2006, or
  - (d) an interest in possession in settled property (other than an interest within paragraph (a) or (b) above) to which a person (“A”) is beneficially entitled if—
    - (i) A is the settlor,
    - (ii) A was beneficially entitled to the property immediately before transferring it into settlement,
    - (iii) A satisfies Her Majesty's Commissioners for Revenue and Customs as mentioned in section 89A(1)(b) above,
    - (iv) the settled property was transferred into settlement on or after 22nd March 2006, and

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(v) the trusts on which the settled property is held secure that, if any of the settled property is applied during A's life for the benefit of a beneficiary, it is applied for the benefit of A.

(2) Subsections (4) to (6) of section 89 above (meaning of “disabled person” in subsection (1) of that section) have effect for the purposes of subsection (1)(c) above as they have effect for the purposes of subsection (1) of that section.

(3) Section 71D above does not apply to property in which there subsists a disabled person's interest within subsection (1)(c) above (but see also section 71D(5) above.)]

#### **Textual Amendments**

**F35** Ss. 89A, 89B inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 paras. 6\(1\)\(3\)](#)

### **90 Trustees' annuities, etc.**

Where under the terms of a settlement a person is entitled by way of remuneration for his services as trustee to an interest in possession in property comprised in the settlement, then, except to the extent that the interest represents more than a reasonable amount of remuneration,—

- (a) the interest shall be left out of account in determining for the purposes of this Act the value of his estate immediately before his death, and
- (b) tax shall not be charged under section 52 above when the interest comes to an end.

### **91 Administration period.**

(1) Where a person would have been entitled to an interest in possession in the whole or part of the residue of the estate of a deceased person had the administration of that estate been completed, the same consequences shall follow under this Act as if he had become entitled to an interest in possession in the unadministered estate and in the property (if any) representing ascertained residue, or in a corresponding part of it, on the date as from which the whole or part of the income of the residue would have been attributable to his interest had the residue been ascertained immediately after the death of the deceased person.

(2) In this section—

- (a) “unadministered estate” means all the property for the time being held by personal representatives as such, excluding property devolving on them otherwise than as assets for the payment of debts and excluding property that is the subject of a specific disposition, and making due allowance for outstanding charges on residue and for any adjustments between capital and income remaining to be made in due course of administration;
- (b) “ascertained residue” means property which, having ceased to be held by the personal representatives as such, is held as part of the residue;
- (c) “charges on residue”, and “specific disposition” have the same meanings as in <sup>F36</sup>Part XVI of The Taxes Act 1988] and the reference to the completion of the administration of an estate shall be construed as if contained in that Part.



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### Textual Amendments

**F36** Substituted by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29](#), para. 32. Originally “Part XV of The Taxes Act”.

## 92 Survivorship clauses.

- (1) Where under the terms of a will or otherwise property is held for any person on condition that he survives another for a specified period of not more than six months, this Act shall apply as if the dispositions taking effect at the end of the period or, if he does not survive until then, on his death (including any such disposition which has effect by operation of law or is a separate disposition of the income from the property) had had effect from the beginning of the period.
- (2) Subsection (1) above does not affect the application of this Act in relation to any distribution or application of property occurring before the dispositions there mentioned take effect.

## 93 Disclaimers.

Where a person becomes entitled to an interest in settled property but disclaims the interest, then, if the disclaimer is not made for a consideration in money or money's worth, this Act shall apply as if he had not become entitled to the interest.

**Status:**

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**Changes to legislation:**

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