



# 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.

**[<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 [<sup>F3</sup>or civil partner] is or has been beneficially entitled, or
  - (c) it is the interest expectant on the determination of a lease treated as a settlement by virtue of section 43(3) above.
- (2) In relation to a reversionary interest under a settlement made before 16th April 1976, subsection (1) above shall have effect with the omission of paragraph (b); and, if the person entitled to a reversionary interest under a settlement made on or after 16th April 1976 acquired the interest before 10th March 1981, that subsection shall have effect with the omission of the words “or has been” in paragraph (b).
- (3) Where property comprised in a settlement is situated outside the United Kingdom—
  - (a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and
  - (b) section 6(1) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property

[<sup>F4</sup>; but this subsection is subject to subsection (3B) below.]

[<sup>F5</sup>(3A) Where property comprised in a settlement is a holding in an authorised unit trust or a share in an open-ended investment company—

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- (a) the property (but not a reversionary interest in the property) is excluded property unless the settlor was domiciled in the United Kingdom at the time the settlement was made, and
- (b) section 6(1A) above applies to a reversionary interest in the property but does not otherwise apply in relation to the property

[<sup>F6</sup>; but this subsection is subject to subsection (3B) below.]]

[<sup>F7</sup>(3B) Property is not excluded property by virtue of subsection (3) or (3A) above if—

- (a) a person is, or has been, beneficially entitled to an interest in possession in the property at any time,
- (b) the person is, or was, at that time an individual domiciled in the United Kingdom, and
- (c) the entitlement arose directly or indirectly as a result of a disposition made on or after 5th December 2005 for a consideration in money or money's worth.

(3C) For the purposes of subsection (3B) above—

- (a) it is immaterial whether the consideration was given by the person or by anyone else, and
- (b) the cases in which an entitlement arose indirectly as a result of a disposition include any case where the entitlement arose under a will or the law relating to intestacy.]

(4) Where securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above are comprised in a settlement, that subsection shall not apply to them; but the securities are excluded property if—

- (a) a person [<sup>F8</sup>of a description specified in the condition in question] is entitled to a qualifying interest in possession in them, or
- (b) no qualifying interest in possession subsists in them but it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied, or who are or might become beneficially entitled to an interest in possession in it, are persons [<sup>F8</sup>of a description specified in the condition in question].

(5) Where—

- (a) property ceased to be comprised in one settlement before 10th December 1981 and after 19th April 1978 and, by the same disposition, became comprised in another settlement, or
- (b) property ceased to be comprised in one settlement after 9th December 1981 and became comprised in another without any person having in the meantime become beneficially entitled to the property (and not merely to an interest in possession in the property),

subsection (4)(b) above shall, in its application to the second settlement, be construed as requiring the matters there stated to be shown both in relation to the property comprised in that settlement and in relation to the property that was comprised in the first settlement.

(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.

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- (7) In this section “qualifying interest in possession” has the same meaning as in Chapter III of this Part of this Act.

#### Textual Amendments

- F3** Words in s. 48(1)(b) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), [regs. 1\(1\), 12](#)
- F4** Words in s. 48(3) inserted (5.12.2005) by [Finance Act 2006 \(c. 25\)](#), [s. 157\(2\)\(6\)](#) (with s. 157(5))
- F5** S. 48(3A) inserted (with effect as mentioned in [s. 186\(8\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [s. 186\(3\)](#)
- F6** Words in s. 48(3A) inserted (5.12.2005) by [Finance Act 2006 \(c. 25\)](#), [s. 157\(3\)\(6\)](#) (with s. 157(5))
- F7** S. 48(3B)(3C) inserted (5.12.2005) by [Finance Act 2006 \(c. 25\)](#), [s. 157\(4\)\(6\)](#) (with s. 157(5))
- F8** Words in s. 48(4)(a)(b) substituted (29.4.1996 with effect as mentioned in [s. 154\(9\)\(a\)\(b\)](#) of the amending Act) by [1996 c. 8](#), [s. 154\(7\)](#), [Sch. 28 para. 8](#) (with s. 154(5))



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