



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART III

#### SETTLED PROPERTY

#### CHAPTER III

#### SETTLEMENTS WITHOUT INTERESTS IN POSSESSION [F1, AND CERTAIN SETTLEMENTS IN WHICH INTERESTS IN POSSESSION SUBSIST]

##### Textual Amendments

- F1** Words in Pt. 3 Ch. 3 heading added (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 20\(5\)](#)

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

- C1** 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.*
- C2** 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))
- C3** 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))
- C4** 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, [<sup>F2</sup>71A, 71D,] 73, 74 or 86 below applies [<sup>F3</sup>(but see subsection (1A) below)] ;
  - (c) property held on trusts which comply with the requirements mentioned in paragraph 3(1) of Schedule 4 to this Act, and in respect of which a direction given under paragraph 1 of that Schedule has effect;
  - [<sup>F4</sup>(d) property which is held for the purposes of a registered pension scheme [<sup>F5</sup>, a qualifying non-UK pension scheme or a]section 615(3) scheme;]
  - (e) property comprised in a trade or professional compensation fund;
  - [<sup>F6</sup>(ea) property comprised in an asbestos compensation settlement, <sup>F7</sup>. . . ]
  - [<sup>F8</sup>(eb) property comprised in a decommissioning security settlement; and]
  - (f) excluded property.
- [<sup>F9</sup>(1A) Settled property to which section 86 below applies is “relevant property” for the purposes of this Chapter if—
- (a) an interest in possession subsists in that property, and
  - (b) that interest falls within subsection (1B) or (1C) below.
- (1B) An interest in possession falls within this subsection if—
- (a) an individual is beneficially entitled to the interest in possession,
  - (b) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
  - (c) the interest in possession is—
    - (i) not an immediate post-death interest,
    - (ii) not a disabled person's interest, and
    - (iii) not a transitional serial interest.
- (1C) An interest in possession falls within this subsection if—
- (a) a company is beneficially entitled to the interest in possession,
  - (b) the business of the company consists wholly or mainly in the acquisition of interests in settled property,
  - (c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it,
  - (d) the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, and
  - (e) immediately before the company acquired the interest in possession, the interest in possession was neither an immediate post-death interest nor a transitional serial interest.]

(2) The reference in subsection (1)(d) above to property which is <sup>F10</sup>. . . held for the purposes of a <sup>F10</sup>. . . scheme does not include a reference to a benefit which, having become payable under the <sup>F10</sup>. . . scheme, becomes comprised in a settlement.

[<sup>F11</sup>(2A) For the purposes of subsection (1)(d) above—

    - (a) property applied to pay lump sum death benefits within section 168(1) of the Finance Act 2004 in respect of a member of a registered pension scheme is to be taken to be held for the purposes of the scheme from the time of the member's death until the payment is made, and

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- (b) property applied to pay lump sum death benefits in respect of a member of [F12 a qualifying non-UK pension scheme or] a section 615(3) scheme is to be taken to be so held if the benefits are paid within the period of two years beginning with the earlier of the day on which the member's death was first known to the trustees or other persons having the control of the fund and the day on which they could first reasonably be expected to have known of it.]
- (3) In subsection (1)(e) above “trade or professional compensation fund” means a fund which is maintained or administered by a representative association of persons carrying on a trade or profession and the only or main objects of which are compensation for or relief of losses or hardship that, through the default or alleged default of persons carrying on the trade or profession or of their agents or servants, are incurred or likely to be incurred by others.
- [F13(4) In subsection (1)(ea) above “asbestos compensation settlement” means a settlement—
- (a) the sole or main purpose of which is making compensation payments to or in respect of individuals who have, or had before their death, an asbestos-related condition, and
- (b) which is made before 24 March 2010 in pursuance of an arrangement within subsection (5) below.
- (5) An arrangement is within this subsection if it is—
- (a) a voluntary arrangement that has taken effect under Part 1 of the Insolvency Act 1986 or Part 2 of the Insolvency (Northern Ireland) Order 1989,
- (b) a compromise or arrangement that has taken effect under section 425 of the Companies Act 1985, Article 418 of the Companies (Northern Ireland) Order 1986 or Part 26 of the Companies Act 2006, or
- (c) an arrangement or compromise of a kind corresponding to any of those mentioned in paragraph (a) or (b) above that has taken effect under, or as a result of, the law of a country or territory outside the United Kingdom.]
- [F14(6) For the purposes of subsection (1)(eb) above a settlement is a “decommissioning security settlement” if the sole or main purpose of the settlement is to provide security for the performance of obligations under an abandonment programme.
- (7) In subsection (6)—
- “abandonment programme” means an abandonment programme approved under Part 4 of the Petroleum Act 1998 (including such a programme as revised);
- “security” has the same meaning as in section 38A of that Act.]

#### Textual Amendments

- F2** Words in s. 58(1)(b) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **18**
- F3** Words in s. 58(1)(b) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **19(2)**
- F4** S. 58(1)(d) substituted (6.4.2006) by [Finance Act 2004 \(c. 12\)](#), **ss. 203(3)**, 284 (with Sch. 36)
- F5** Words in s. 58(1)(d) substituted (retrospective to 6.4.2006) by [Finance Act 2008 \(c. 9\)](#), s. 92, **Sch. 29 para. 18(3)(a)(8)**
- F6** S. 58(1)(ea) substituted (retrospective to 6.4.2006) for word at end of s. 58(1)(e) by [Finance \(No. 3\) Act 2010 \(c. 33\)](#), s. 31, **Sch. 14 para. 1(2)(4)**
- F7** Word in s. 58(1) omitted (retrospective to 20.3.1993) by virtue of [Finance Act 2013 \(c. 29\)](#), **s. 86(2)(4)** (with s. 86(5)(6))

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- F8** S. 58(1)(eb) and word inserted (retrospective to 20.3.1993) by [Finance Act 2013 \(c. 29\), s. 86\(2\)\(4\)](#) (with s. 86(5)(6))
- F9** S. 58(1A)-(1C) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 19\(3\)](#)
- F10** Words in s. 58(2) repealed (6.4.2006) by [Finance Act 2004 \(c. 12\), s. 326, Sch. 42 Pt. 3](#) (with Sch. 36)
- F11** S. 58(2A) inserted (with effect in relation to lump sum death benefits paid on or after 6.4.2006) by [Finance Act 2007 \(c. 11\), s. 70, Sch. 20 paras. 20, 24\(9\)](#)
- F12** Words in s. 58(2A)(b) inserted (retrospective to 6.4.2006) by [Finance Act 2008 \(c. 9\), s. 92, Sch. 29 para. 18\(3\)\(b\)\(8\)](#)
- F13** S. 58(4)(5) inserted (retrospective to 6.4.2006) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 31, Sch. 14 para. 1\(3\)\(4\)](#)
- F14** S. 58(5)(6) inserted (retrospective to 20.3.1993) by [Finance Act 2013 \(c. 29\), s. 86\(3\)\(4\)](#) (with s. 86(5)(6))

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

- C5** S. 58 applied (6.4.2006) by [The Pension Protection Fund \(Tax\) Regulations 2006 \(S.I. 2006/575\), reg. 33](#)

**59 Qualifying interest in possession.**

[<sup>F15</sup>(1) In this Chapter “qualifying interest in possession” means—

- (a) an interest in possession—
- (i) to which an individual is beneficially entitled, and
- (ii) which, if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, is an immediate post-death interest, a disabled person's interest or a transitional serial interest, or
- (b) an interest in possession to which, where subsection (2) below applies, a company is beneficially entitled.]

(2) This subsection applies where—

- (a) the business of the company consists wholly or mainly in the 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 [<sup>F16</sup>, and
- (c) if the individual became beneficially entitled to the interest in possession on or after 22nd March 2006, the interest is an immediate post-death interest, or a disabled person's interest within section 89B(1)(c) or (d) below or a transitional serial interest, immediately before the company acquires it.]

(3) Where the acquisition mentioned in paragraph (b) of subsection (2) above was before 14th March 1975—

- (a) the condition set out in paragraph (a) of that subsection shall be treated as satisfied if the business of the company was at the time of the acquisition such as is described in that paragraph, and
- (b) that condition need not be satisfied [<sup>F17</sup>if the company is an insurance company (within the meaning of [<sup>F18</sup> Part 2 of the Finance Act 2012] ) and [<sup>F19</sup>has permission—
- (i) under [<sup>F20</sup>Part 4A] of the Financial Services and Markets Act 2000, or
- (ii) under paragraph 15 of Schedule 3 to that Act (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule),
- to effect or carry out contracts of long-term insurance.]]

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[<sup>F21</sup>(4) In subsection (3)(b) above “contracts of long-term insurance” means contracts which fall within Part II of Schedule 1 to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.]

#### Textual Amendments

- F15** S. 59(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 para. 20\(2\)](#)
- F16** S. 59(2)(c) and preceding word inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 para. 20\(3\)](#)
- F17** Words in s. 59(3) substituted (1.5.1995 with effect as mentioned in s. 52(5) of the amending Act) by [1995 c. 4, s. 52\(4\)](#)
- F18** Words in s. 59(3)(b) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 69](#)
- F19** Words in s. 59(3) substituted (1.12.2001 with effect as mentioned in art. 5(4) of the amending S.I.) by [S.I. 2001/3629, art. 5\(1\)\(2\)\(4\)](#)
- F20** Words in s. 59(3)(b)(i) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 44](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F21** S. 59(4) added (1.12.2001 with effect as mentioned in art. 5(4) of the amending S.I.) by [S.I. 2001/3629, art. 5\(1\)\(3\)\(4\)](#)

#### 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.
- (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>M1</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

- M1** [1982 c. 39.](#)

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## 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.

[<sup>F22</sup>(1)] Where immediately before a ten-year anniversary all or any part of the property comprised in a settlement is relevant property, tax shall be charged at the rate applicable under sections 66 and 67 below on the value of the property or part at that time.

[<sup>F23</sup>(1A)] For the purposes of subsection (1) above, property held by the trustees of a settlement immediately before a ten-year anniversary is to be regarded as relevant property comprised in the settlement at that time if—

- (a) it is income of the settlement,
- (b) the income arose before the start of the five years ending immediately before the ten-year anniversary,
- (c) the income arose (directly or indirectly) from property comprised in the settlement that, when the income arose, was relevant property, and
- (d) when the income arose, no person was beneficially entitled to an interest in possession in the property from which the income arose.

(1B) Where the settlor of a settlement was not domiciled in the United Kingdom at the time the settlement was made, income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

- (a) is situated outside the United Kingdom, or
- (b) is represented by a holding in an authorised unit trust or a share in an open-ended investment company.

(1C) Income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

- (a) is represented by securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above, and
- (b) 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

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become beneficially entitled to an interest in possession in it, are persons of a description specified in the condition in question.]

[<sup>F24</sup>(2) For the purposes of subsection (1) above, a foreign-owned work of art which is situated in the United Kingdom for one or more of the purposes of public display, cleaning and restoration (and for no other purpose) is not to be regarded as relevant property.]

#### Textual Amendments

- F22** S. 64 renumbered (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) as s. 64(1) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(3)**
- F23** S. 64(1A)-(1C) inserted (with effect in accordance with Sch. 25 para. 4(3) of the amending Act) by Finance Act 2014 (c. 26), **Sch. 25 para. 4(1)**
- F24** S. 64(2) inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(3)**

## 65 Charge at other times.

- (1) There shall be a charge to tax under this section—
  - (a) where the property comprised in a settlement or any part of that property ceases to be relevant property (whether because it ceases to be comprised in the settlement or otherwise); and
  - (b) in a case in which paragraph (a) above does not apply, where the trustees of the settlement make a disposition as a result of which the value of relevant property comprised in the settlement is less than it would be but for the disposition.
- (2) The amount on which tax is charged under this section shall be—
  - (a) the amount by which the value of relevant property comprised in the settlement is less immediately after the event in question that it would be but for the event, or
  - (b) where the tax payable is paid out of relevant property comprised in the settlement immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (3) The rate at which tax is charged under this section shall be the rate applicable under section 68 or 69 below.
- (4) Subsection (1) above does not apply if the event in question occurs in a quarter beginning with the day on which the settlement commenced or with a ten-year anniversary.
- (5) Tax shall not be charged under this section in respect of—
  - (a) a payment of costs or expenses (so far as they are fairly attributable to relevant property), or
  - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,
 or in respect of a liability to make such a payment.
- (6) Tax shall not be charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property,

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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.
- [<sup>F25</sup>(7A) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3A)(a) (holding in an authorised unit trust or a share in an open-ended investment company is excluded property unless settlor domiciled in UK when settlement made).]
- (8) If the settlor of a settlement was not domiciled in the United Kingdom when the settlement was made, tax shall not be charged under this section by reason only that property comprised in the settlement is invested in securities issued by the Treasury subject to a condition of the kind mentioned in section 6(2) above and thereby becomes excluded property by virtue of section 48(4)(b) above.
- (9) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

#### Textual Amendments

**F25** S. 65(7A) inserted (retrospective to 16.10.2002) by [Finance Act 2013 \(c. 29\), s. 175](#)

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

**C6** S. 65 restricted (31.7.1998 with effect as mentioned in [s. 161\(1\)](#) of the amending Act) by [1998 c. 36, s. 161\(3\)](#)

**C7** 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.
- [<sup>F26</sup>(2A) Subsection (2) above does not apply to property which is regarded as relevant property as a result of section 64(1A) (and accordingly that property is charged to tax at the rate given by subsection (1) above).]
- (3) The chargeable transfer postulated in subsection (1) above is one—



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- (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>F27</sup>preceding seven years] made chargeable transfers having an aggregate value determined in accordance with subsection (5) below; and
  - [<sup>F28</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>F29</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.
- (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>M2</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>M3</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

- F26** S. 66(2A) inserted (with effect in accordance with Sch. 25 para. 4(3) of the amending Act) by [Finance Act 2014 \(c. 26\)](#), [Sch. 25 para. 4\(2\)](#)
- F27** Finance Act 1986 Sch. 19 para. 16(1), *with effect from 18 March 1986 originally* “preceding ten years”.
- F28** 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.”
- F29** Finance Act 1986 Sch. 19 para. 16(3), *with effect from 18 March 1986. Originally* “ten”.

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### Marginal Citations

- M2 1975 c.7.  
M3 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>F30</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;
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>F31</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.

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- (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

**F30** Finance Act 1986 Sch. 19 para. 17, with effect from 18 March 1986. Originally “ten”.

**F31** Finance Act 1986 Sch. 19 para. 17, with effect from 18 March 1986. Originally “ten”.

## 68 Rate before first ten-year anniversary.

- (1) The rate at which tax is charged under section 65 above on an occasion preceding the first ten-year anniversary after the settlement’s commencement shall be the appropriate fraction of the effective rate at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (4) below (but subject to subsection (6) below).
- (2) For the purposes of this section the appropriate fraction is three tenths multiplied by so many fortieths as there are complete successive quarters in the period beginning with the day on which the settlement commenced and ending with the day before the occasion of the charge, but subject to subsection (3) below.
- (3) Where the whole or part of the amount on which tax is charged is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period referred to in subsection (2) above, then in determining the appropriate fraction in relation to that amount or part—
  - (a) no quarter which expired before the day on which the property became, or last became, relevant property comprised in the settlement shall be counted, but
  - (b) if that day fell in the same quarter as that in which the period ends, that quarter shall be counted whether complete or not.
- (4) The chargeable transfer postulated in subsection (1) above is one—
  - (a) the value transferred by which is equal to an amount determined in accordance with subsection (5) below;
  - (b) which is made at the time of the charge to tax under section 65 by a transferor who has in the period of [<sup>F32</sup>seven] years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to

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- that of any chargeable transfers made by the settlor in the period of [<sup>F33</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>F34</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>F35</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>F36</sup>the period of ten years ending with that day]; and
    - (ii) the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the <sup>M4</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>M5</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>F37</sup>(c) on which tax is charged in accordance with section 7(2) of this Act.]

#### **Textual Amendments**

- F32** Finance Act 1986 Sch. 19 para. 18(1), with effect from 18 March 1986. Originally “ten”.
- F33** Finance Act 1986 Sch. 19 para. 18(1), with effect from 18 March 1986. Originally “ten”.
- F34** 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.”.
- F35** Finance Act 1986 Sch. 19 para. 18(3)(a), with effect from 18 March 1986. Originally “ten”.
- F36** Finance Act 1986 Sch. 19 para. 18(3)(b), with effect from 18 March 1986. Originally “that period of ten years”.
- F37** 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.”

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### Marginal Citations

**M4** 1975 c. 7.

**M5** 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,
 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

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- (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—
- (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

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- (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>M6</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

**M6** 1982 c.39.

## 71 Accumulation and maintenance trusts.

- (1) Subject to [<sup>F38</sup>subsections (1A) to](2) below, this section applies to settled property if—

- (a) one or more persons (in this section referred to as beneficiaries) will, on or before attaining a specified age not exceeding [<sup>F39</sup>eighteen] , become beneficially entitled to it <sup>F40</sup>. . . , 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.

[<sup>F41</sup>(1A) This section does not apply to settled property at any particular time on or after 22nd March 2006 unless this section—

- (a) applied to the settled property immediately before 22nd March 2006, and
- (b) has applied to the settled property at all subsequent times up to the particular time.

(1B) This section does not apply to settled property at any particular time on or after 22nd March 2006 if, at that time, section 71A below applies to the settled property.]

- (2) This section does not apply to settled property unless either—

- (a) not more than twenty-five years have elapsed since the commencement of the settlement or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) of subsection (1) above became satisfied with respect to the property, or
- (b) all the persons who are or have been beneficiaries are or were either—
- (i) grandchildren of a common grandparent, or
- (ii) children, widows or widowers [<sup>F42</sup>or surviving civil partners] of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in subsection (1)(a) above.

- (3) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—

- (a) where settled property ceases to be property to which this section applies, and

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- (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.

#### **Textual Amendments**

- F38** Words in s. 71(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(2\)\(6\)](#)
- F39** Word in s. 71(1)(a) substituted (6.4.2008 in accordance with [Sch. 20 para. 3\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(1\)\(a\)](#)
- F40** Words in s. 71(1)(a) repealed (6.4.2008 in accordance with [Sch. 20 para. 3\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(1\)\(b\)](#), [Sch. 26 Pt. 6](#)
- F41** S. 71(1A)(1B) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(3\)\(6\)](#)
- F42** Words in s. 71(2)(b)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [16](#)

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

- C8** S. 71 excluded (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(3\)](#)
- C9** S. 71 modified (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(5\)\(6\)](#)



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### [<sup>F43</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,<sup>[F44]</sup> or
  - (c) established under the Victims of Overseas Terrorism Compensation Scheme,]
- which secure that the conditions in subsection (3) below are met.

(3) Those conditions are—

- (a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—
  - (i) the settled property,
  - (ii) any income arising from it, and
  - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
- (b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and
- (c) that, for so long as the bereaved minor is living and under the age of 18, either—
  - (i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
  - <sup>[F45]</sup>(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor.]

(4) Trusts such as are mentioned in paragraph (a) [<sup>F46</sup>, (b) or (c)] of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—

[<sup>F47</sup>(za) the trustees' having powers that enable them to apply otherwise than for the benefit of the bereaved minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,]

- (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

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- (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

[ For the purposes of this section and section 71B, the “annual limit” is whichever is <sup>F48</sup>(4A) the lower of the following amounts—

- (a) £3,000, and  
 (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(4B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(4C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (4)(za) is, or is not, to apply in relation to a trust, and  
 (b) amend the definition of “the annual limit” in subsection (4A).

(4D) An order under subsection (4C) may—

- (a) make different provision for different cases, and  
 (b) contain transitional and saving provision.

(4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

(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**

- F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)  
**F44** S. 71A(2)(c) and preceding word inserted (8.4.2010) by [Crime and Security Act 2010](#), ss. 48(4), 59(2)(b), {[Sch. 2 para. 2\(2\)\(a\)](#)}  
**F45** S. 71A(3)(c)(ii) substituted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(2\)](#)  
**F46** Words in s. 71A(4) substituted (8.4.2010) by [Crime and Security Act 2010](#), ss. 48(4), 59(2)(b), {[Sch. 2 para. 2\(2\)\(b\)](#)}  
**F47** S. 71A(4)(za) inserted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(3\)](#)  
**F48** Ss. 71A(4A)-(4E) inserted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(4\)](#)

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## **71B Charge to tax on property to which section 71A applies**

(1) Subject to subsections (2) [<sup>F49</sup>, (2B)] 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.

[ Subsection (2B) applies in a case in which—

- <sup>F50</sup>(2A) (a) an amount is paid or applied otherwise than for the benefit of the bereaved minor, and
- (b) the exemptions provided by subsection (2) of this section and subsections (3) and (4) of section 70 do not apply.

(2B) In such a case, tax is not charged under this section in respect of whichever is the lower of the following amounts—

- (a) the amount paid or applied, and
- (b) the annual limit.]

(3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—

- (a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,
- (b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,
- (c) as if, for the purposes of section 70(8) above as applied by this subsection, property—

- (i) which is property to which section 71A above applies,
- (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and
- (iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied,

had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and

- (d) as if, for the purposes of section 70(8) above as applied by this subsection, property—
  - (i) which is property to which section 71A above applies,
  - (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and

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(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

- F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F49** Word in s. 71B(1) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 3\(2\)](#)
- F50** S. 71B(2A)(2B) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 3\(3\)](#)

### 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

- F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

### 71D Age 18-to-25 trusts

(1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—

- (a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,
- (b) at least one of the person's parents has died, and
- (c) subsection (2) below applies to the trusts.

(2) This subsection applies to trusts—

- (a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or
- (b) established under the Criminal Injuries Compensation Scheme,<sup>[F51]</sup> or
- (c) established under the Victims of Overseas Terrorism Compensation Scheme,]

which secure that the conditions in subsection (6) below are met.

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- (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—
- (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
    - [<sup>F52</sup>(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B.]

<sup>F53</sup> [ Where the income arising from the settled property is held on trusts of the kind (6A) described in section 33 of the Trustee Act 1925 (protective trusts), paragraphs (b) and (c) of subsection (6) have effect as if for “living and under the age of 25,” there were

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substituted “under the age of 25 and the income arising from the settled property is held on trust for B,]

(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—

- <sup>F54</sup> [ the trustees' having powers that enable them to apply otherwise than for the benefit of B amounts (whether consisting of income or capital, or both) not exceeding the annual limit,]
- (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.

<sup>F55</sup> [ For the purposes of this section and section 71E, the “annual limit” is whichever is the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(7B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(7C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (7)(za) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (7A).

(7D) An order under subsection (7C) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(7E) A statutory instrument containing an order under subsection (7C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

(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

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- (b) as if, in subsections (3)(b)(ii) and (4)(b) above, before “trusts” there were inserted purposes of the.

#### Textual Amendments

- F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F51** S. 71D(2)(c) and preceding word inserted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2) (b), {Sch. 2 para. 2(3)}
- F52** S. 71D(6)(c)(ii) substituted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(2\)](#)
- F53** S. 71D(6A) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(3\)](#)
- F54** S. 71D(7)(za) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(4\)](#)
- F55** Ss. 71D(7A)-(7E) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(5\)](#)

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

- (1) Subject to subsections (2) to [F56(4A)] below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which section 71D above applies, or
  - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
- (a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
  - (b) the death, under the age of 18, of B,
  - (c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
  - (d) being paid or applied for the advancement or benefit of B—
    - (i) at a time when B is living and under the age of 18, or
    - (ii) on B's attaining the age of 18.
- (3) Tax is not charged under this section in respect of—
- (a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
  - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,
- or in respect of a liability to make such a payment.
- (4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

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- [ If an amount is paid or applied otherwise than for the benefit of B and the exemptions<sup>F57</sup>(4A) provided by subsections (2) to (4) do not apply, tax is not charged under this section in respect of whichever is the lower of the following amounts—
- (a) the amount paid or applied, and
  - (b) the annual limit.]
- (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

- F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F56** Word in s. 71E(1) substituted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 5\(2\)](#)
- F57** S. 71E(4A) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 5\(3\)](#)

#### 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—

**Chargeable amount × Relevant fraction × 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



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- (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 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).

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**Textual Amendments**

**F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

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

- (1) Where—
- (a) tax is charged under section 71E above, and
  - (b) the tax does not fall to be calculated in accordance with section 71F above,
- the tax is calculated in accordance with this section.
- (2) The amount on which the tax is charged is—
- (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
  - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the

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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
    - (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

**F43** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

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

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

#### Textual Amendments

**F43** 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 <sup>F58</sup>if—

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- (a) no interest in possession subsists in it to which an individual is beneficially entitled, and
- (b) no company-purchased interest in possession subsists in it].

[<sup>F59</sup>(1A) For the purposes of subsection (1)(b) above, an interest in possession is “company-purchased” if—

- (a) a company is beneficially entitled to the interest in possession,
- (b) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and
- (c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it.

(1B) Section 59(3) and (4) above apply for the purposes of subsection (1A)(c) above as for those of section 59(2)(b) above, but as if the references to the condition set out in section 59(2)(a) above were to the condition set out in subsection (1A)(b) above.]

(2) Subject to subsections [<sup>F60</sup>(3A),] (4) [<sup>F61</sup>, (4A)] and (5) below, there shall be a charge to tax under this section—

- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property, and
- (b) where a payment is made out of settled property to which this section applies for the benefit of a person within subsection (3) below, or a person connected with such a person, and
- (c) in a case which paragraphs (a) and (b) above do not apply, where the trustees make a disposition (otherwise than by way of a payment out of the settled property) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3) A person is within this subsection if—

- (a) he has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year; or
- (b) in a case where the employment in question is employment by a close company, he is a participator in relation to that company and either—
  - (i) is beneficially entitled to, or to rights entitling him to acquire, not less than 5 per cent. of, or of any class of the shares comprised in, its issued share capital, or
  - (ii) would, on a winding-up of the company, be entitled to not less than 5 per cent. of its assets; or
- (c) he has acquired an interest in the settled property for a consideration in money or money's worth.

[<sup>F62</sup>(3A) Where settled property ceases to be property to which this section applies because paragraph (d) of section 86(3) no longer applies, tax is not chargeable under this section by virtue of subsection (2)(a) if the only reason that paragraph no longer applies is that one or both of the trading requirement and the controlling interest requirement mentioned in that paragraph are no longer met with respect to the company so mentioned.]

(4) If the trusts are those of a profit sharing scheme approved in accordance with Schedule 9 to the [<sup>F63</sup>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.

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[<sup>F64</sup>(4A) If the trusts are those of [<sup>F65</sup>a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003], tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares to, or acquisition of shares on behalf of, an individual under the plan.]

(5) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (2)(c) above for the reference in section 70(4) to section 70(2)(b)).

(6) In this section—

- (a) “close company” and “participator” have the same meanings as in Part IV of this Act; and
- (b) “year” means the period beginning with 26th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April;

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

**F58** Words in s. 72(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **21(2)**

**F59** S. 71(1A)(1B) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **21(3)**

**F60** Word in s. 72(2) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 37 para. 13(2)(4)**

**F61** Word in s. 72(2) inserted (28.7.2000) by [2000 c. 17](#), s. **138(3)(a)**

**F62** S. 72(3A) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 37 para. 13(3)(4)**

**F63** *Substituted by* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29**, para. 32. *Originally* “Finance Act 1978”.

**F64** S. 72(4A) inserted (28.7.2000) by [2000 c. 17](#), s. **138(3)(b)**

**F65** Words in s. 72(4A) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), ss. 722, 723(1), **Sch. 6 para. 151(1)(b)(2)**

### 73 Pre-1978 protective trusts.

(1) This section applies to settled property which is held on trusts to the like effect as those specified in section 33(1)(ii) of the <sup>M7</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 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.

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- (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

M7 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—
- 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
  - 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—
- is by reason of mental disorder (within the meaning of the <sup>M8</sup>Mental Health Act 1983) incapable of administering his property or managing his affairs, or
  - is in receipt of an attendance allowance under section <sup>F66</sup>64 of the Social Security Contributions and Benefits Act 1992 or <sup>F67</sup>section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992].
- <sup>F68</sup>, or
- is in receipt of a disability living allowance under section <sup>F66</sup>71 of the Social Security Contributions and Benefits Act 1992 <sup>F69</sup>or <sup>F67</sup>section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992]] by virtue of entitlement to the care component at the highest or middle rate.]

#### Textual Amendments

- F66** Words in s. 74(4)(b)(c) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), ss. 4, 7\(2\), Sch. 2 para. 66\(1\)\(2\)](#).
- F67** Words in s. 74(4)(b)(c) substituted (1.7.1992) by virtue of [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\), ss. 4, 7\(2\), Sch. 2 para. 29 \(1\)\(2\)](#).
- F68** 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\(c\)\(f\)](#).
- F69** Words in s. 74(4)(c) inserted (6.4.1992) by [S.I. 1991/2874, art. 4\(2\); S.R. 1992/94, art. 2](#).

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### Marginal Citations

M8 1983 c.20.

## [<sup>F70</sup>74A Arrangements involving acquisition of interest in settled property etc

- (1) This section applies where—
  - (a) one or more persons enter into arrangements,
  - (b) in the course of the arrangements—
    - (i) an individual (“the individual”) domiciled in the United Kingdom acquires or becomes able to acquire (directly or indirectly) an interest in property comprised in a settlement (“the relevant settled property”), and
    - (ii) consideration in money or money's worth is given by one or more of the persons mentioned in paragraph (a) (whether or not in connection with the acquisition of that interest or the individual becoming able to acquire it),
  - (c) there is a relevant reduction in the value of the individual's estate, and
  - (d) condition A or condition B is met.
- (2) Condition A is that—
  - (a) the settlor was not domiciled in the United Kingdom at the time the settlement was made, and
  - (b) the relevant settled property is situated outside the United Kingdom at any time during the course of the arrangements.
- (3) Condition B is that—
  - (a) the settlor was not an individual or a close company at the time the settlement was made, and
  - (b) condition A is not met.
- (4) Subsection (6) applies if all or a part of a relevant reduction (“amount A”) is attributable to the value of the individual's section 49(1) property being less than it would have been in the absence of the arrangements.
- (5) “The individual's section 49(1) property” means settled property to which the individual is treated as beneficially entitled under section 49(1) by reason of the individual being beneficially entitled to an interest in possession in the property.
- (6) Where this subsection applies—
  - (a) a part of that interest in possession is deemed, for the purposes of section 52, to come to an end at the relevant time, and
  - (b) that section applies in relation to the coming to an end of that part as if the reference in subsection (4)(a) of that section to a corresponding part of the whole value of the property in which the interest in possession subsists were a reference to amount A.
- (7) Subsection (8) applies to so much (if any) of a relevant reduction as is not amount A (“amount B”).
- (8) Tax is to be charged as if the individual had made a transfer of value at the relevant time and the value transferred by it had been equal to amount B.

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### Textual Amendments

**F70** Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 210\(3\)](#)

## 74B Section 74A: supplementary provision

- (1) A transfer of value arising by virtue of section 74A is to be taken to be a transfer which is not a potentially exempt transfer.
- (2) For the purposes of section 74A—
  - (a) when determining the value transferred by a transfer of value arising by virtue of that section, no account is to be taken of section 3(2),
  - (b) nothing in section 10(1) applies to prevent such a transfer, and
  - (c) nothing in sections 102 to 102C of the Finance Act 1986 applies in relation to such a transfer.
- (3) Where, ignoring this subsection, a transfer of value would arise by virtue of section 74A (“the current transfer”), the value transferred by a relevant related transfer is to be treated as reducing the value transferred by the current transfer.

But this subsection does not apply if and to the extent that the relevant related transfer has already been applied to reduce another transfer of value arising by virtue of that section.

- (4) “Relevant related transfer” means—
  - (a) where the arrangements consist of a series of operations, any transfer of value constituted by one or more of those operations which occur before or at the same time as the current transfer, other than a transfer of value arising by virtue of section 74A, and
  - (b) where the arrangements consist of a single operation, any transfer of value which arises from that operation, other than a transfer of value arising by virtue of section 74A.
- (5) Section 268(3) does not apply to a transfer of value arising by virtue of section 74A.
- (6) Where—
  - (a) a transfer of value has arisen by virtue of section 74A,
  - (b) in the course of the arrangements the individual acquires an interest in possession in settled property, and
  - (c) section 5(1B) applies to the interest in possession so that it forms part of the individual's estate,
 this Act has effect as if that transfer of value had never arisen.

### Textual Amendments

**F70** Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 210\(3\)](#)

*Status: Point in time view as at 17/07/2014.*

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#### **74C Interpretation of sections 74A and 74B**

- (1) Subsections (2) to (4) have effect for the purposes of sections 74A and 74B.
- (2) An individual has an interest in property comprised in a settlement if—
  - (a) the property, or any derived property, is or will or may become payable to, or applicable for the benefit of—
    - (i) the individual,
    - (ii) the individual's spouse or civil partner, or
    - (iii) a close company in relation to which the individual or the individual's spouse or civil partner is a participator or a company which is a 51% subsidiary of such a close company,
 in any circumstances whatsoever, or
  - (b) a person within sub-paragraph (i), (ii) or (iii) of paragraph (a) enjoys a benefit deriving (directly or indirectly) from the property or any derived property.
- (3) A “relevant reduction” in the value of the individual's estate occurs—
  - (a) if and when the value of the individual's estate first becomes less than it would have been in the absence of the arrangements, and
  - (b) on each subsequent occasion when the value of that estate becomes less than it would have been in the absence of the arrangements and that difference in value is greater than the sum of any previous relevant reductions.
- (4) The amount of a relevant reduction is—
  - (a) in the case of a reduction within subsection (3)(a), the difference between the value of the estate and its value in the absence of the arrangements, and
  - (b) in the case of a reduction within subsection (3)(b), the amount by which the difference in value mentioned in that provision exceeds the sum of any previous relevant reductions.
- (5) In sections 74A and 74B and this section—
 

“arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations;

“close company” has the meaning given in section 102;

“derived property”, in relation to any property, means—

  - (a) income from that property,
  - (b) property directly or indirectly representing—
    - (i) proceeds of that property, or
    - (ii) proceeds of income from that property, or
  - (c) income from property which is derived property by virtue of paragraph (b);

“operation” includes an omission;

“participator” has the meaning given in section 102;

“the relevant time” means—

  - (a) the time the relevant reduction occurs, or
  - (b) if later, the time section 74A first applied;

“51% subsidiary” has the same meaning as in the Corporation Tax Acts (see Chapter 3 of Part 24 of the Corporation Tax Act 2010).]



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*Status: Point in time view as at 17/07/2014.*

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### Textual Amendments

**F70** Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by Finance Act 2012 (c. 14), s. 210(3)

### *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.

#### **[<sup>F71</sup>75A Property becoming subject to employee-ownership trust**

- (1) Tax is not charged under section 65 in respect of shares in or securities of a company (“C”) which cease to be relevant property on becoming held on trusts of the description specified in section 86(1) if the conditions in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1) are—
  - (a) that C meets the trading requirement,
  - (b) that the trusts are of a settlement which meets the all-employee benefit requirement, and
  - (c) that the settlement does not meet the controlling interest requirement immediately before the beginning of the tax year in which the shares or securities cease to be relevant property but does meet it at the end of that year.
- (3) Sections 236I, 236J, 236K, 236M and 236T (but not 236L) of the 1992 Act apply to determine whether—

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- (a) C meets the trading requirement;
  - (b) the settlement meets the all-employee benefit requirement;
  - (c) the settlement meets the controlling interest requirement;
- with references in those sections to “C” being read accordingly.
- (4) In this section “tax year” means a year beginning on 6 April and ending on the following 5 April.]

#### Textual Amendments

**F71** S. 75A inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), [Sch. 37 para. 14\(1\)\(2\)](#)

## 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, [<sup>F72</sup>71A, 71D,] 72, 73 or 74 above or paragraph 8 of Schedule 4 to this Act applies, on becoming—
- (a) property held for charitable purposes only without limit of time (defined by a date or otherwise);
  - (b) the property of a political party qualifying for exemption under section 24 above; [<sup>F73</sup>or]
  - (c) the property of a body within Schedule 3 to this Act; . . .
  - <sup>F74</sup>(d) . . . . .
- <sup>F75</sup>(2) . . . . .
- (3) If the amount on which tax would be charged apart from this section in respect of any property exceeds the value of the property immediately after it becomes property of a description specified in paragraphs (a) [<sup>F76</sup>to (c)] of subsection (1) above (less the amount of any consideration for its transfer received by the trustees), that subsection shall not apply but the amount on which tax is charged shall be equal to the excess.
- (4) The reference in subsection (3) above to the amount on which tax would be charged is a reference to the amount on which it would be charged—
- (a) assuming (if it is not in fact so) that the tax is not paid out of settled property, and
  - (b) apart from Chapters I and II of Part V of this Act;
- and the reference in that subsection to the amount on which tax is charged is a reference to the amount on which it would be charged on that assumption and apart from those Chapters.
- (5) Subsection (1) above shall not apply in relation to any property if the disposition by which it becomes property of the relevant description is defeasible; but for this purpose a disposition which has not been defeated at a time twelve months after the property concerned becomes property of the relevant description and is not defeasible after that time shall be treated as not being defeasible, whether or not it was capable of being defeated before that time.
- (6) Subsection (1) above shall not apply in relation to any property if it or any part of it may become applicable for purposes other than charitable purposes or purposes of a body mentioned in subsection (1)(b), [<sup>F77</sup>or (c)] above.

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- (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), [<sup>F77</sup>or (c)] above; and for the purposes of subsection (7) above a body shall be treated as acquiring an interest for a consideration in money or money's worth if it becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to that body or to another person) of that interest or of other property.

#### Textual Amendments

- F72** Words in s. 76(1) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\), s. 156, Sch. 20 paras. 7, 22](#)
- F73** Word in s. 76(1)(b) inserted (31.7.1998 with effect as mentioned in [s. 143\(5\)](#) of the amending Act) by [1998 c. 36, s. 143\(4\)\(a\)](#)
- F74** S. 76(1)(d) and word “or” immediately preceding repealed (31.7.1998 with effect as mentioned in [s. 143\(5\)](#) of the amending Act) by [1998 c. 36, ss. 143\(4\)\(a\), 165, Sch. 27 Pt. IV](#) note 1
- F75** S. 76(2) repealed (31.7.1998 with effect as mentioned in [s. 143\(5\)](#) of the amending Act) by [1998 c. 36, ss. 143\(4\)\(a\), 165, Sch. 27 Pt. IV](#) note 1
- F76** Words in s. 76(3) substituted (31.7.1998 with effect as mentioned in [s. 143\(5\)](#) of the amending Act) by [1998 c. 36, s. 143\(4\)\(b\)](#)
- F77** Words in s. 76(6)(8) substituted (31.7.1998 with effect as mentioned in [s. 143\(5\)](#) of the amending Act) by [1998 c. 36, s. 143\(4\)\(c\)](#)

*Works of art, historic buildings, etc.*

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

Schedule 4 to this Act shall have effect.

#### 78 Conditionally exempt occasions.

- (1) A transfer of property or other event shall not constitute an occasion on which tax is chargeable under any provision of this Chapter other than section 64 if the property in respect of which the charge would have been made has been comprised in the settlement throughout the six years ending with the transfer or event, and—
- the property is, on a claim made for the purpose, designated by the Treasury under section 31 above, and
  - 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 [<sup>F78</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.]

[<sup>F79</sup>(1A) A claim under subsection (1) above must be made no more than two years after the date of the transfer or other event in question or within such longer period as the Board may allow.]

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- (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>M9</sup>Finance Act 1976, did not constitute an occasion on which tax was chargeable under Chapter II of Part IV of the <sup>M10</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, [<sup>F80</sup>32A], 33(1), [<sup>F81</sup>33(2ZA)] to (7) and 35(2) above shall have effect (and tax shall accordingly be chargeable under section 32 [<sup>F80</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;

[<sup>F82</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>F83</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.”

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- (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

- F78** Finance Act 1985 Sch. 26 para. 8(a), *in relation to events occurring after 18 March 1985.*
- F79** S. 78(1A) inserted (31.7.1998 with effect in relation to transfers of property made, and other events occurring, on or after 17.3.1998) by 1998 c. 36, s. 142, **Sch. 25 para. 3(1)(2)**
- F80** Finance Act 1985 Sch. 26 para. 8(b), *in relation to events occurring after 18 March 1985.*
- F81** Word in s. 78(3) substituted (with effect in accordance with Sch. 33 para. 10(1) of the amending Act) by **Finance Act 2012 (c. 14), Sch. 33 para. 5**
- F82** 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.”
- F83** Finance Act 1986 Sch. 19 para. 19(2), *with effect from 18 March 1986. Originally* “under the appropriate Table”.

#### 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”).*

#### Marginal Citations

- M9** 1976 c. 40.
- M10** 1982 c. 39.

## 79 Exemption from ten-yearly charge.

- (1) Where property is comprised in a settlement and there has been a conditionally exempt transfer of the property on or before the occasion on which it became comprised in the settlement, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence after the transfer of a chargeable event with respect to the property.
- (2) Where property is comprised in a settlement and there has been, on or before the occasion on which it became comprised in the settlement, a disposal of the property in relation to which subsection (4) of section [F84258 of the 1992 Act] (capital gains tax relief for works of art etc.) had effect, section 64 above shall not have effect in relation to the property on any ten-year anniversary falling before the first occurrence after the disposal of an event on the happening of which the property is treated as sold under subsection (5) of the said section [F84258].
- (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—
- the property has, on a claim made for the purpose, been designated by the Treasury under section 31 above,
  - the requisite undertaking described in that section has been given [F85with respect to the property] by such person as the Treasury think appropriate in the circumstances of the case, [F85or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that

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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.

[<sup>F86</sup>(5A) Where the event giving rise to a charge to tax under subsection (3) above is a disposal on sale, and the sale—

- (a) was not intended to confer any gratuitous benefit on any person, and
- (b) was either a transaction at arm's length between persons not connected with each other or a transaction such as might be expected to be made at arm's length between persons not connected with each other,

the value of the property at the time of that event shall be taken for the purposes of subsection (5) above to be equal to the proceeds of the sale.]

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

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

[<sup>F87</sup>(7) In subsection (6) above “the relevant period” means the period given by subsection (7A) below or, if shorter, the period given by subsection (7B) below.

(7A) The period given by this subsection is the period beginning with the latest of—

- (a) the day on which the settlement commenced,
- (b) the date of the last ten-year anniversary of the settlement to fall before the day on which the property became comprised in the settlement,
- (c) the date of the last ten-year anniversary of the settlement to fall before the day on which the property was designated under section 31 above on a claim under this section, and
- (d) 13th March 1975,

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

(7B) The period given by this subsection is the period equal in length to the number of relevant-property days in the period—

- (a) beginning with the day that is the latest of those referred to in paragraphs (a) to (d) of subsection (7A) above, and
- (b) ending with the day before the event giving rise to the charge.

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(7C) For the purposes of subsection (7B) above, a day is a “relevant-property day” if at any time on that day the property was relevant property.]

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

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

[<sup>F88</sup>(9A) Subsection (9B) below applies where the same event gives rise—

- (a) to a charge under subsection (3) above in relation to any property, and
- (b) to a charge under section 32 or 32A above in relation to that property.

(9B) If the amount of each of the charges is the same, each charge shall have effect as a charge for one half of the amount that would be charged apart from this subsection; otherwise, whichever of the charges is lower in amount shall have effect as if it were a charge the amount of which is nil.]

(9) In calculating the rate at which tax is charged under section 64 above, the value of the consideration given for the property on its becoming comprised in the settlement shall be treated for the purposes of section 66(5)(b) above as if it were an amount on which a charge to tax was imposed in respect of the settlement under section 65 above at the time of the property becoming so comprised.

(10) In subsection (1) above, the reference to a conditionally exempt transfer of any property includes a reference to a transfer of value in relation to which the value of any property has been left out of account under the provisions of sections 31 to 34 of the <sup>M11</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

- F84** 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)).
- F85** Finance Act 1985 Sch. 26 para. 9, *in relation to events occurring after 18 March 1985*.
- F86** S. 79(5A) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, **Sch. 20 para. 34(2)**
- F87** S. 79(7)-(7C) substituted for s. 79(7) (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, **Sch. 20 para. 34(3)**
- F88** S. 79(9A)(9B) inserted (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, **Sch. 20 para. 34(4)**

#### 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

- M11** 1975 c. 7.

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**[<sup>F89</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 [<sup>F90</sup>the tribunal] is satisfied that—
  - (a) the Board have made a proposal for the variation of such an undertaking to the person bound by the undertaking,
  - (b) that person has failed to agree to the proposed variation within six months after the date on which the proposal was made, and
  - (c) it is just and reasonable, in all the circumstances, to require the proposed variation to be made,

[<sup>F91</sup>the tribunal may direct that the undertaking is to have effect from a specified date] as if the proposed variation had been agreed to by the person bound by the undertaking.
- (3) The date specified by the [<sup>F92</sup>tribunal] must not be less than sixty days after the date of [<sup>F93</sup>the tribunal's direction].
- (4) A direction under this section shall not take effect if, before the date specified by the [<sup>F94</sup>tribunal], a variation different from that to which the direction relates is agreed between the Board and the person bound by the undertaking.]

**Textual Amendments**

- F89** 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\(2\)](#)
- F90** Words in s. 79A(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3(1), [Sch. 1 para. 111\(2\)\(a\)](#)
- F91** Words in s. 79A(2) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3(1), [Sch. 1 para. 111\(2\)\(b\)](#)
- F92** Word in s. 79A(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3(1), [Sch. 1 para. 111\(3\)\(a\)](#)
- F93** Words in s. 79A(3) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3(1), [Sch. 1 para. 111\(3\)\(b\)](#)
- F94** Word in s. 79A(4) substituted (1.4.2009) by [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\)](#), art. 3(1), [Sch. 1 para. 111\(4\)](#)

*Miscellaneous*

**80 Initial interest of settlor or spouse [<sup>F95</sup> or civil partner].**

- (1) Where a settlor or his spouse [<sup>F96</sup> or civil partner] 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 [<sup>F97</sup> or civil partner] of a settlor include references to the widow or widower [<sup>F98</sup> or surviving civil partner] of a settlor.



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- (3) This section shall not apply if the occasion first referred to in subsection (1) above occurred before 27th March 1974.
- [<sup>F99</sup>(4) Where the occasion first referred to in subsection (1) above occurs on or after 22nd March 2006, this section applies—
- (a) as though for “an interest in possession” in each place where that appears in subsection (1) above there were substituted a postponing interest, and
  - (b) as though, for the purposes of that subsection, each of the following were a “postponing interest”—
    - (i) an immediate post-death interest;
    - (ii) a disabled person's interest.]

#### Textual Amendments

- F95** Words in s. 80 sidenote inserted (5.12.2005) by virtue of [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 17(4)
- F96** Words in s. 80(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 17(2)
- F97** Words in s. 80(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 17(3)(a)
- F98** Words in s. 80(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 17(3)(b)
- F99** S. 80(4) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, 23

## 81 Property moving between settlements.

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

### [<sup>F100</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.

*Status: Point in time view as at 17/07/2014.*

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

- (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**

**F100** S. 81A inserted (with effect as mentioned in s. 52(2) of the amending Act) by [Finance Act 2010 \(c. 13\), s. 52\(1\)](#)

**82 Excluded property.**

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

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

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

**84 Income applied for charitable purposes.**

For the purposes of this Chapter (except sections 78 and 79) where the trusts on which settled property is held require part of the income of the property to be applied for 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>M12</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>M13</sup>Finance Act 1982 or under this section shall be allowed as a

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*Status: Point in time view as at 17/07/2014.*

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

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credit against tax chargeable under this Chapter (apart from section 79) in respect of  
the settled property or part concerned.

**Marginal Citations**

**M12** 1975 c. 7.

**M13** 1982 c. 39.

**Status:**

Point in time view as at 17/07/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance Tax Act 1984, CHAPTER III.