



# Capital Transfer Tax Act 1984

## 1984 CHAPTER 51

### PART IX

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### **262 Tax chargeable in certain cases of future payments, etc.**

- (1) Where a disposition made for a consideration in money or money's worth is a transfer of value and any payments made or assets transferred by the transferor in pursuance of the disposition are made or transferred more than one year after the disposition is made, tax (if any) shall be charged as if—
  - (a) any payment made or asset transferred in pursuance of the disposition were made or transferred in pursuance of a separate disposition made, without consideration, at the time the payment is made or the asset is transferred, and
  - (b) the amount of the payment made or the value of the asset transferred in pursuance of each of those separate dispositions were the chargeable portion of the payment or asset.
- (2) For the purposes of this section the chargeable portion of any payment made or any asset transferred at any time shall be such portion of its value at that time as is found by applying to it the fraction of which—
  - (a) the numerator is the value actually transferred by the disposition first mentioned in subsection (1) above (calculated as if no tax were payable on it), and
  - (b) the denominator is the value, at the time of that disposition, of the aggregate of the payments made or to be made and assets transferred or to be transferred by the transferor in pursuance of it.

#### **263 Annuity purchased in conjunction with life policy**

- (1) Where—

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- (a) a policy of life insurance is issued in respect of an insurance made after 26th March 1974 or is after that date varied or substituted for an earlier policy, and
- (b) at the time the insurance is made or at any earlier or later date an annuity on the life of the insured is purchased, and
- (c) the benefit of the policy is vested in a person other than the person who purchased the annuity,

then, unless it is shown that the purchase of the annuity and the making of the insurance (or, as the case may be, the substitution or variation) were not associated operations, the person who purchased the annuity shall be treated as having made a transfer of value by a disposition made at the time the benefit of the policy became so vested (to the exclusion of any transfer of value which, apart from this section, he might have made as a result of the vesting, or of the purchase and the vesting being associated operations).

- (2) The value transferred by that transfer of value shall be equal to whichever of the following is less, namely,—
  - (a) the aggregate of—
    - (i) the value of the consideration given for the annuity, and
    - (ii) any premium paid or other consideration given under the policy on or before the transfer; and
  - (b) the value of the greatest benefit capable of being conferred at any time by the policy, calculated as if that time were the date of the transfer.
- (3) The preceding provisions of this section shall apply, with the necessary modifications, where a contract for an annuity payable on a person's death is after 26th March 1974 made or varied or substituted for or replaced by such a contract or a policy of life insurance as they apply where a policy of life insurance is issued, varied or substituted as mentioned in subsection (1) above.

## **264 Transfers reported late**

- (1) This section has effect where a person has made a transfer of value (" the earlier transfer ") which—
  - (a) is not notified to the Board in an account under section 216 above or by information furnished under section 219 above before the expiration of the period specified in section 216 for the delivery of accounts, and
  - (b) is not discovered until after payment has been accepted by the Board in full satisfaction of the tax on the value transferred by another transfer of value (" the later transfer ") made by him on or after the day on which he made the earlier transfer.
- (2) Where the earlier transfer is made in the period of ten years ending with the date of the later transfer there shall be charged on the value transferred by the earlier transfer, in addition to any tax chargeable on it apart from this section, an amount of tax equal to the difference, if any, between—
  - (a) the tax which, having regard to the earlier transfer, was properly chargeable on the value transferred by the later transfer, and
  - (b) the payment accepted by the Board in full satisfaction of the tax chargeable on that value;

and any such difference shall not be chargeable on the value transferred by the later transfer.

- (3) Where in the period mentioned in subsection (2) above there have been two or more earlier transfers the reference in paragraph (a) of that subsection to the earlier transfer shall be construed as a reference to both or all of those transfers, but the amount of tax chargeable under that subsection in respect of each of them shall, subject to subsection (4) below, be reduced in the proportion which the value transferred by it bears to the aggregate of the values transferred by it and the other or others.
- (4) Where the earlier transfers mentioned in subsection (3) above include a settled transfer, that is to say, a transfer in the case of which an amount in full satisfaction of the tax chargeable in respect of it under subsection (2) above has been paid to and accepted by the Board before the discovery of one or more of the other earlier transfers,—
  - (a) no further tax shall be chargeable under subsection (2) above in respect of the settled transfer in consequence of regard being had under paragraph (a) of that subsection to the subsequently discovered transfer or transfers ;
  - (b) the amount so paid and accepted shall reduce the amount chargeable under subsection (2) above in respect of the subsequently discovered transfer or transfers ; and
  - (c) if there are two or more subsequently discovered transfers, the value transferred by the settled transfer shall be disregarded in calculating under subsection (3) above the reduction in the amount of tax chargeable in respect of each of them.
- (5) Where the later transfer referred to in subsection (2) above is itself an earlier transfer in relation to another later transfer the references in paragraphs (a) and (b) of that subsection to tax chargeable on the value transferred by it are references to tax so chargeable apart from this section.
- (6) Subsection (2) above shall not increase the amount in respect of which interest is payable under section 233 above in relation to the earlier transfer in respect of any period falling before the expiration of six months from the date on which it was discovered.
- (7) Where, apart from this subsection, the earlier transfer would be wholly or partly exempt by reason of some or all of the value transferred by it falling within a limit applicable to an exemption, then, if tax has been accepted as mentioned in subsection (1)(b) above on the basis that the later transfer is partly exempt by reason of part of the value thereby transferred falling within that limit—
  - (a) tax shall not be chargeable on that part of the value transferred by the later transfer, but
  - (b) a corresponding part of the value transferred by the earlier transfer shall be treated as falling outside that limit.
- (8) Subsection (1)(b) above shall apply to a transfer in respect of which no tax is chargeable because the rate of tax applicable under section 7 above is nil as if payment had been accepted when the transfer was notified in an account under section 216 above, and subsection (2)(b) above shall apply in relation to any such transfer as if the amount of the payment were nil.
- (9) For the purposes of this section a transfer is discovered—
  - (a) if it is notified under the provisions mentioned in subsection (1)(a) above after the expiration of the period there mentioned, on the date on which it is so notified ;

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- (b) in any other case, on the date on which the Board give notice of a determination in respect of the transfer under section 221 above.

## **265 Chargeable transfers affecting more than one property**

Where the value transferred by a chargeable transfer is determined by reference to the values of more than one property the tax chargeable on the value transferred shall be attributed to the respective values in the proportions which they bear to their aggregate, but subject to any provision reducing the amount of tax attributable to the value of any particular property.

## **266 More than one chargeable transfer on one day**

- (1) Where the value transferred by more than one chargeable transfer made by the same person on the same day depends on the order in which the transfers are made, they shall be treated as made in the order which results in the lowest value chargeable.
- (2) Subject to subsection (1) above, the rate at which the tax is charged on the values transferred by two or more chargeable transfers made by the same person on the same day shall be the effective rate at which tax would have been charged if those transfers had been a single chargeable transfer of the same total value.
- (3) The chargeable transfers referred to in subsections (1) and (2) above do not include a transfer made on the death of the transferor.
- (4) Chargeable transfers under Chapter III of Part III of this Act shall if they relate to the same settlement be treated for the purposes of subsections (1) and (2) above as made by the same person.

## **267 Persons treated as domiciled in United Kingdom**

- (1) A person not domiciled in the United Kingdom at any time (in this section referred to as " the relevant time ") shall be treated for the purposes of this Act as domiciled in the United Kingdom (and not elsewhere) at the relevant time if—
  - (a) he was domiciled in the United Kingdom within the three years immediately preceding the relevant time, or
  - (b) he was resident in the United Kingdom in not less than seventeen of the twenty years of assessment ending with the year of assessment in which the relevant time falls.
- (2) Subsection (1) above shall not apply for the purposes of section 6(2) or (3) or 48(4) above and shall not affect the interpretation of any such provision as is mentioned in section 158(6) above.
- (3) Paragraph (a) of subsection (1) above shall not apply in relation to a person who (apart from this section) has not been domiciled in the United Kingdom at any time since 9th December 1974, and paragraph (b) of that subsection shall not apply in relation to a person who has not been resident there at any time since that date; and that subsection shall be disregarded—
  - (a) in determining whether settled property which became comprised in the settlement on or before that date is excluded property,

- (b) in determining the settlor's domicile for the purposes of section 65(8) above in relation to settled property which became comprised in the settlement on or before that date, and
  - (c) in determining for the purposes of section 65(8) above whether the condition in section 82(3) above is satisfied in relation to such settled property.
- (4) For the purposes of this section the question whether a person was resident in the United Kingdom in any year of assessment shall be determined as for the purposes of income tax, but without regard to any dwelling-house available in the United Kingdom for his use.

### *Interpretation*

#### **268 Associated operations**

- (1) In this Act " associated operations " means, subject to subsection (2) below, any two or more operations of any kind, being—
- (a) operations which affect the same property, or one of which affects some property and the other or others of which affect property which represents, whether directly or indirectly, that property, or income arising from that property, or any property representing accumulations of any such income, or
  - (b) any two operations of which one is effected with reference to the other, or with a view to enabling the other to be effected or facilitating its being effected, and any further operation having a like relation to any of those two, and so on, whether those operations are effected by the same person or different persons, and whether or not they are simultaneous ; and " operation " includes an omission.
- (2) The granting of a lease for full consideration in money or money's worth shall not be taken to be associated with any operation effected more than three years after the grant, and no operation effected on or after 27th March 1974 shall be taken to be associated with an operation effected before that date.
- (3) Where a transfer of value is made by associated operations carried out at different times it shall be treated as made at the time of the last of them; but where any one or more of the earlier operations also constitute a transfer of value made by the same transferor, the value transferred by the earlier operations shall be treated as reducing the value transferred by all the operations taken together, except to the extent that the transfer constituted by the earlier operations but not that made by all the operations taken together is exempt under section 18 above.

#### **269 Control of company**

- (1) For the purposes of this Act a person has control of a company at any time if he then has the control of powers of voting on all questions affecting the company as a whole which if exercised would yield a majority of the votes capable of being exercised on them.
- (2) For the purposes of this Act shares or securities shall be deemed to give a person control of a company if, together with any shares or securities which are related property within the meaning of section 161 above, they would be sufficient to give him control of the company (as denned in subsection (1) above).

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- (3) Where shares or securities are comprised in a settlement, any powers of voting which they give to the trustees of the settlement shall for the purposes of subsection (1) above be deemed to be given to the person beneficially entitled in possession to the shares or securities (except in a case where no individual is so entitled).
- (4) Where a company has shares or securities of any class giving powers of voting limited to either or both of—
- (a) the question of winding up the company, and
  - (b) any question primarily affecting shares or securities of that class,
- the reference in subsection (1) above to all questions affecting the company as a whole shall have effect as a reference to all such questions except any in relation to which those powers are capable of being exercised.

## **270 Connected persons**

For the purposes of this Act any question whether a person is connected with another shall be determined as, for the purposes of the Capital Gains Tax Act 1979, it falls to be determined under section 63 of that Act, but as if in that section "relative" included uncle, aunt, nephew and niece and "settlement", "settlor" and "trustee" had the same meanings as in this Act.

## **271 Property of corporations sole**

References in this Act (except section 59) to property to which a person is beneficially entitled do not include references to property to which a person is entitled as a corporation sole.

## **272 General interpretation**

In this Act, except where the context otherwise requires,—

- "amount" includes value ;
- "barrister" includes a member of the Faculty of Advocates ;
- "the Board" means the Commissioners of Inland Revenue ;
- "charity" and "charitable" have the same meanings as in the Income Tax Acts ;
- "conditionally exempt transfer" shall be construed in accordance with section 30(2) above ;
- "disposition" includes a disposition effected by associated operations;
- "estate" shall be construed in accordance with sections 5, 55 and 151(4) above ;
- "estate duty" includes estate duty under the law of Northern Ireland ;
- "excluded property" shall be construed in accordance with sections 6 and 48 above ;
- "Government department" includes a Northern Ireland department;
- "heritable security" means any security capable of being constituted over any interest in land by disposition or assignation of that interest in security of any debt and of being recorded in the General Register of Sasines;
- "incumbrance" includes any heritable security, or other debt or payment secured upon heritage ;

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" Inland Revenue charge" means a charge imposed by virtue of section 237 above ;

" land " does not include any estate interest or right by way of mortgage or other security;

" local authority " has the meaning given by section 52 of the Finance Act 1974 ;

" mortgage" includes a heritable security and a security constituted over any interest in movable property;

" personal representatives " includes any person by whom or on whose behalf an application for a grant of administration or for the resealing of a grant made outside the United Kingdom is made, and any such person as mentioned in section 199(4)(a) above ;

" property" includes rights and interests of any description ;

" purchaser " means a purchaser in good faith for consideration in money or money's worth other than a nominal consideration and includes a lessee, mortgagee or other person who for such consideration acquires an interest in the property in question ;

" reversionary interest" has the meaning given by section 47 above ;

" settlement " and " settled property " shall be construed in accordance with section 43 above ;

" settlor " shall be construed in accordance with section 44 above:

" Special Commissioners" has the same meaning as in the Taxes Management Act 1970 ;

" tax " means capital transfer tax ;

" the Taxes Act " means the Income and Corporation Taxes Act 1970;

" trustee" shall be construed in accordance with section 45 above.

### *Supplementary*

#### **273 Transition from estate duty**

Schedule 6 to this Act shall have effect.

#### **274 Commencement**

- (1) This Act shall come into force on 1st January 1985, but shall not apply to transfers of value made before that date or to other events before that date on which capital transfer tax is chargeable or would be chargeable but for an exemption, exception or relief.
- (2) Subsection (1) above shall have effect subject to section 275 below, to Schedule 7 to this Act and to any other provision to the contrary.

#### **275 Continuity, and construction of references to old and new law**

- (1) The continuity of the operation of the law relating to capital transfer tax shall not be affected by the substitution of this Act for the repealed enactments.
- (2) Any reference, whether express or implied, in any enactment, instrument or document (including this Act and any enactment amended by Schedule 8 to this Act) to, or to things done or falling to be done under or for the purposes of, any provision of this Act

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shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision in the repealed enactments has or had effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.

- (3) Any reference, whether express or implied, in any enactment, instrument or document (including the repealed enactments and enactments, instruments and documents passed or made after the passing of this Act) to, or to things done or falling to be done under or for the purposes of, any of the repealed enactments shall, if and so far as the nature of the reference permits, be construed as including, in relation to the times, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or as the case may be, to things done or falling to be done under or for the purposes of, that corresponding provision.
- (4) Subsection (2) above shall have effect without prejudice to section 17(2) of the Interpretation Act 1978.
- (5) In this section " the repealed enactments" means the enactments repealed by this Act.

**276 Consequential amendments**

Schedule 8 to this Act shall have effect.

**277 Repeals**

The enactments mentioned in Schedule 9 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**278 Short title**

This Act may be cited as the Capital Transfer Tax Act 1984.