



Inheritance Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER I

BUSINESS PROPERTY

Modifications etc. (not altering text)

C1 Pt. V Ch. I (ss. 103-114) modified (16.7.1992) by [Finance \(No.2\) Act 1992 \(c. 48\)](#), s. 73, [Sch. 14](#), para. 9(4).

103

- (1) In this Chapter references to a transfer of value include references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), and
 - (a) references to the value transferred by a transfer of value include references to the amount on which tax is then chargeable, and
 - (b) references to the transferor include references to the trustees of the settlement concerned.
- (2) For the purposes of this Chapter a company and all its subsidiaries are members of a group, and “holding company” and “subsidiary” have [^{F1}the meaning given by section 736 of] the [^{F2M1}Companies Act 1985]
- (3) In this Chapter “business” includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.

Status: Point in time view as at 03/05/1994.

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

Textual Amendments

- F1** Companies Act 1989 s. 144(4) and Sch. 18 para. 30(3) with effect from the appointed day—on and after 1 November 1990 (S.I. 1990 No. 1392). Originally “the same meanings as in”.
- F2** Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), Sch. 2, with effect from 1 July 1985.

Marginal Citations

- M1** 1985 c. 6

104 The relief.

- (1) Where the whole or part of the value transferred by a transfer of value is attributable to the value of any relevant business property, the whole or that part of the value transferred shall be treated as reduced—
- (a) in the case of property falling within section 105(1)(a) or [F3(b) or (bb)] below by [F4 100 per cent];
 - (b) in the case of other relevant business property, by [F5 50 per cent];
- but subject to the following provisions of this Chapter.
- (2) For the purposes of this section, the value transferred by a transfer of value shall be calculated as a value on which no tax is chargeable.

Textual Amendments

- F3** Finance Act 1987 Sch. 8, para. 4, with effect from 17 March 1987. Originally “or (b)”.
- F4** Words in s. 104(1)(a) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 1(a), 8, 9.
- F5** Words in s. 104(1)(b) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 1(b), 8, 9.

Modifications etc. (not altering text)

- C2** S. 104 excluded (1.11.2004 with effect as mentioned in reg. 1 of the amending S.I.) by The Inheritance Tax (Delivery of Accounts) (Excepted Estates) Regulations 2004 (S.I. 2004/2543), reg. 4(7)
- C3** Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), reg. 4(4)
 Ss. 104, 116 excluded (6.4.2008) by The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008 (S.I. 2008/605), reg. 5(5)

105 Relevant business property.

- (1) Subject to the following provisions of this section and to sections 106, 108, [F6 109A], 112(3) and 113 below, in this Chapter “relevant business property” means, in relation to any transfer of value,—
- (a) property consisting of a business or interest in a business;
 - (b) shares in or securities of a company which [F7 are unquoted and which] (either by themselves or together with other such shares or securities owned by the

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- transferor) gave the transferor control of the company immediately before the transfer;
- [^{F8}(bb) unquoted shares in a company which do not fall within paragraph (b) above and which immediately before the transfer satisfied the condition specified in subsection (1A) below;
- (c) unquoted shares in a company which do not fall within paragraph (b) or paragraph (bb) above;]
- [^{F9}(cc) shares in or securities of a company which are quoted and which (either by themselves or together with other such shares or securities owned by the transferor) gave the transferor control of the company immediately before the transfer;]
- (d) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by a company of which the transferor then had control or by a partnership of which he then was a partner; and
- (e) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by the transferor and was settled property in which he was then beneficially entitled to an interest in possession.
- [^{F10}(1A) The condition referred to in subsection (1)(bb) above is that the shares (either by themselves or together with other shares or securities owned by the transferor) gave the transferor control of powers of voting on all questions affecting the company as a whole which if exercised would have yielded more than 25 per cent of the votes capable of being exercised on them; and shares shall be taken to satisfy this condition if, together with any shares which are related property within the meaning of section 161 below, they would have been sufficient to give the transferor such control.
- (1B) Subsections (3) and (4) of section 269 below have effect in relation to subsection (1A) above as they have effect in relation to subsection (1) of that section.]
- [^{F11}(1ZA) In subsection (1) above “quoted”, in relation to any shares or securities, means quoted on a recognised stock exchange and “unquoted”, in relation to any shares or securities, means not so quoted.]
- (2) Shares in or securities of a company do not fall within subsection (1)(b) [^{F12}or (cc)] above if—
- (a) they would not have been sufficient, without other property, to give the transferor control of the company immediately before the transfer, and
- (b) their value is taken by virtue of section 176 below to be less than the value previously determined.
- [^{F13}(2A) Shares of a company do not fall within subsection 1(bb) above if—
- (a) they would not have been sufficient, without other property, to satisfy the condition specified in subsection (1A) above immediately before the transfer; and
- (b) their value is taken by virtue of section 176 below to be less than the value previously determined.]
- (3) A business or interest in a business, or shares in or securities of a company, are not relevant business property if the business or, as the case may be, the business carried on by the company consists wholly or mainly of one or more of the following, that is

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to say, dealing in securities, stocks or shares, land or buildings or making or holding investments.

(4) Subsection (3) above—

[^{F14}(a) does not apply to any property if the business concerned is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom, and]

(b) does not apply to shares in or securities of a company if the business of the company consists wholly or mainly in being a holding company of one or more companies whose business does not fall within that subsection.

(5) Shares in or securities of a company are not relevant business property in relation to a transfer of value if at the time of the transfer a winding-up order has been made in respect of the company or the company has passed a resolution for voluntary winding-up or is otherwise in process of liquidation, unless the business of the company is to continue to be carried on after a reconstruction or amalgamation and the reconstruction or amalgamation either is the purpose of the winding-up or liquidation or takes place not later than one year after the transfer of value.

(6) Land, a building, machinery or plant owned by the transferor and used wholly or mainly for the purposes of a business carried on as mentioned in subsection (1) (d) or (e) above is not relevant business property in relation to a transfer of value, unless the business or the transferor's interest in it is, or shares or securities of the company carrying on the business immediately before the transfer are, relevant business property in relation to the transfer.

[^{F15}(7) In this section “market maker” means a person who—

(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and

(b) is recognised as doing so by the Council of The Stock Exchange.]

Textual Amendments

F6 Finance Act 1987 Sch. 8, para. 5(2), *with effect from 17 March 1987.*

F7 Words in s. 105(1)(b) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(2), 8, 9.

F8 Finance Act 1987 Sch. 8, para. 5(2), *with effect from 17 March 1987. Originally* “shares in a company which do not fall within paragraph (b) above and are not quoted on a recognised stock exchange”.

F9 S. 105(1)(cc) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(3), 8, 9.

F10 Finance Act 1987 Sch. 8, para. 5(3), *with effect from 17 March 1987.*

F11 S. 105(1ZA) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(4), 8, 9.

F12 Words in s. 105(2) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 2(5), 8, 9.

F13 Finance Act 1987 Sch. 8, para. 5(4), *with effect from 17 March 1987.*

F14 Finance Act 1986 s. 106(1), 25 *in relation to events on or after 27 October 1986 “the day of the Stock Exchange reforms”*—(as defined in s.106(8)). *Originally*

“(a) does not apply to any property if the business concerned is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom, and”.

F15 Finance Act 1986 s. 106(2), *in relation to events on or after 27 October 1986*—“the day of The Stock Exchange reforms”—(as defined in s.106(8)).

Status: Point in time view as at 03/05/1994.

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

Modifications etc. (not altering text)

C4 S. 105(7) amended (6.1.1993) by S.I. 1992/3181, reg.4.

106 Minimum period of ownership.

Property is not relevant business property in relation to a transfer of value unless it was owned by the transferor throughout the two years immediately preceding the transfer.

107 Replacements.

- (1) Property shall be treated as satisfying the condition in section 106 above if—
 - (a) it replaced other property and it, that other property and any property directly or indirectly replaced by that other property were owned by the transferor for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value, and
 - (b) any other property concerned was such that, had the transfer of value been made immediately before it was replaced, it would (apart from section 106) have been relevant business property in relation to the transfer.
- (2) In a case falling within subsection (1) above relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.
- (3) For the purposes of subsection (2) above changes resulting from the formation, alteration or dissolution of a partnership, or from the acquisition of a business by a company controlled by the former owner of the business, shall be disregarded.
- (4) Subsection (1) above does not apply to shares falling within section [F16 105(1)(bb) or (c)] above; but where such shares owned by the transferor immediately before the transfer would under any of the provisions of sections [F17 126 to 136 of the 1992 Act] be identified with other shares previously owned by him his period of ownership of the first-mentioned shares shall be treated for the purposes of section 106 above [F18 and section 109A below] as including his period of ownership of the other shares.

Textual Amendments

F16 Finance Act 1987 Sch. 8, para. 6(a), with effect from 17 March 1987. Originally “105(1)(c)”.

F17 Words in s. 107(4) 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(5) (with ss. 60, 101(1), 201(3)).

F18 Finance Act 1987 Sch. 8, para. 6(b), with effect from 17 March 1987.

108 Successions.

For the purposes of sections 106 and 107 above, where the transferor became entitled to any property on the death of another person—

- (a) he shall be deemed to have owned it from the date of the death, and
- (b) if that other person was his spouse he shall also be deemed to have owned it for any period during which the spouse owned it.

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109 Successive transfers.

(1) Where—

- (a) the whole or part of the value transferred by a transfer of value (in this section referred to as the earlier transfer) was eligible for relief under this Chapter (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time), and
- (b) the whole or part of the property which, in relation to the earlier transfer, was relevant business property became, through the earlier transfer, the property of the person or of the spouse of the person who is the transferor in relation to a subsequent transfer of value, and
- (c) that property or part, or any property directly or indirectly replacing it, would (apart from section 106 above) have been relevant business property in relation to the subsequent transfer of value, and
- (d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor,

the property which would have been relevant business property but for section 106 above shall be relevant business property notwithstanding that section.

- (2) Where the property which, by virtue of subsection (1) above, is relevant business property replaced the property or part referred to in paragraph (c) of that subsection, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but section 107(3) above shall apply with the necessary modifications for the purposes of this subsection.
- (3) Where, under the earlier transfer, the amount of the value transferred which was attributable to the property or part referred to in subsection (1)(c) above was part only of its value, a like part only of the value which (apart from this subsection) would fall to be reduced under this Chapter by virtue of this section shall be so reduced.

[^{F19}109A Additional requirement in case of minority shareholdings.

—Shares in a company do not fall within subsection (1)(bb) of section 105 above unless the condition specified in subsection (1A) of that section was satisfied—

- (a) throughout the two years immediately preceding the transfer, or
- (b) where section 108 or section 109 above applies and the transferor owned the shares for a period of less than two years immediately preceding the transfer, throughout that lesser period.]

Textual Amendments

F19 Finance Act 1987 Sch. 8, para. 7, with effect from 17 March 1987.

110 Value of business.

For the purposes of this Chapter—

- (a) the value of a business or of an interest in a business shall be taken to be its net value;
- (b) the net value of a business is the value of the assets used in the business (including goodwill) reduced by the aggregate amount of any liabilities incurred for the purposes of the business;

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- (c) in ascertaining the net value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the entire business would fall to be ascertained.

111 Value of certain shares and securities.

Where a company is a member of a group and the business of any other company which is a member of the group falls within section 105(3) above, then, unless either—

- (a) that business also falls within section 105(4), or
- (b) that business consists wholly or mainly in the holding of land or buildings wholly or mainly occupied by members of the group whose business either does not fall within section 105(3) or falls within both section 105(3) and section 105(4),

the value of shares in or securities of the company shall be taken for the purposes of this Chapter to be what it would be if that other company were not a member of the group.

112 Exclusion of value of excepted assets.

- (1) In determining for the purposes of this Chapter what part of the value transferred by a transfer of value is attributable to the value of any relevant business property so much of the last-mentioned value as is attributable to any excepted assets within the meaning of subsection (2) below shall be left out of account.
- (2) An asset is an excepted asset in relation to any relevant business property if it was neither—
 - (a) used wholly or mainly for the purposes of the business concerned throughout the whole or the last two years of the relevant period defined in subsection (5) below, nor
 - (b) required at the time of the transfer for future use for those purposes;but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately before the transfer was also a member of that group shall be treated as use for the purposes of the business concerned, unless that other company's membership of the group falls to be disregarded under section 111 above.
- (3) Subsection (2) above does not apply in relation to an asset which is relevant business property by virtue only of section 105(1)(d) above, and an asset is not relevant business property by virtue only of that provision unless either—
 - (a) it was used as mentioned in that provision throughout the two years immediately preceding the transfer of value, or
 - (b) it replaced another asset so used and it and the other asset and any asset directly or indirectly replaced by that other asset were so used for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value;

but in a case where section 109 above applies this condition shall be treated as satisfied if the asset (or it and the asset or assets replaced by it) was or were so used throughout the period between the earlier and the subsequent transfer mentioned in that section (or throughout the part of that period during which it or they were owned by the transferor or the transferor's spouse).

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- (4) Where part but not the whole of any land or building is used exclusively for the purposes of any business and the land or building would, but for this subsection, be an expected asset, or, as the case may be, prevented by subsection (3) above from being relevant business property, the part so used and the remainder shall for the purposes of this section be treated as separate assets, and the value of the part so used shall (if it would otherwise be less) be taken to be such proportion of the value of the whole as may be just.
- (5) For the purposes of this section the relevant period, in relation to any asset, is the period immediately preceding the transfer of value during which the asset (or, if the relevant business property is an interest in a business, a corresponding interest in the asset) was owned by the transferor or, if the business concerned is that of a company, was owned by that company or any other company which immediately before the transfer of value was a member of the same group.
- (6) For the purposes of this section an asset shall be deemed not to have been used wholly or mainly for the purposes of the business concerned at any time when it was used wholly or mainly for the personal benefit of the transferor or of a person connected with him.

113 Contracts for sale.

Where any property would be relevant business property in relation to a transfer of value but a binding contract for its sale has been entered into at the time of the transfer, it is not relevant business property in relation to the transfer unless—

- (a) the property is a business or interest in a business and the sale is to a company which is to carry on the business and is made in consideration wholly or mainly of shares in or securities of that company, or
- (b) the property is shares in or securities of a company and the sale is made for the purpose of reconstruction or amalgamation.

[^{F20}113A Transfers within seven years before death of transferor.

- (1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.
- (2) Where—
 - (a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and
 - (b) the transfer is made within seven years of the death of the transferor,
 then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.
- (3) The conditions referred to in subsections (1) and (2) above are—
 - (a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor; and

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- (b) [^{F21}except to the extent that the original property consists of shares or securities to which subsection (3A) below applies] that, in relation to a notional transfer of value made by the transferee immediately before the death, the original property would (apart from section 106 above) be relevant business property.

[This subsection applies to shares or securities—

- ^{F21}(3A) (a) which were quoted at the time of the chargeable transfer referred to in subsection (1) or subsection (2) above; or
- (b) which fell within paragraph (b) of section 105(1) above in relation to that transfer and were unquoted throughout the period referred to in subsection (3) (a) above.]

[In subsection (3A) above “quoted”, in relation to any shares or securities, means ^{F22}(3B) quoted on a recognised stock exchange and “unquoted”, in relation to any shares or securities, means not so quoted.]

- (4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.
- (5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—
- (a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and
- (b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.
- (6) Where any shares owned by the transferee immediately before the death in question—
- (a) would under any of the provisions of sections [^{F23}126 to 136 of the 1992 Act] be identified with the original property (or part of it), or
- (b) were issued to him in consideration of the transfer of a business or interest in a business consisting of the original property (or part of it),
- they shall be treated for the purposes of this section as if they were the original property (or that part of it).
- (7) This section has effect subject to section 113B below.
- (8) In this section—

“the original property” means the property which was relevant business property in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above; and

“the transferee” means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.]

Textual Amendments

F20 Finance Act 1986 Sch. 19, para. 21, *with respect to transfers of value made, and other events occurring, on or after 18 March 1986.*

F21 Finance Act 1987 Sch. 8, para. 8, *in relation to transfers of value made on or after 17 March 1987.*

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

- F22** S. 113A(3B) inserted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras.3, 8, 9.
- F23** Words in s. 113A(6) 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(5)** (with ss. 60, 101(1), 201(3)).

Modifications etc. (not altering text)

- C5** S. 113A amended (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, **Sch. 14 para. 9(2)(4)** (with Sch. 14 para. 8).

[^{F24}113B Application of section 113A to replacement property.

- (1) Subject to subsection (2) below, this section applies where—
 - (a) the transferee has disposed of all or part of the original property before the death of the transferor; and
 - (b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as “the replacement property”).
- (2) This section does not apply unless—
 - (a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within [^{F25}the allowed period] after the disposal of the original property (or, as the case may be, the part concerned); and
 - (b) the disposal and acquisition are both made in transactions at arm’s length or on terms such as might be expected to be included in a transaction at arm’s length.
- (3) Where this section applies, the conditions in section 113A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—
 - (a) the replacement property is owned by the transferee immediately before the death of the transferor; and
 - (b) throughout the period beginning with the date of the chargeable transfer and ending with the death (disregarding any period between the disposal and acquisition) either the original property or the replacement property was owned by transferee; and
 - (c) in relation to a notional transfer of value made by the transferee immediately before the death, the replacement property would (apart from section 106 above) be relevant business property.
- (4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.
- (5) In any case where—
 - (a) all or part of the original property has been disposed of before the death of the transferor or is excluded by section 113 above from being relevant business property in relation to the notional transfer of value referred to in section 113A(3)(b) above, and
 - (b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within [^{F25}the allowed period] after the disposal of the original property or part, and
 - (c) the transferor dies before the transferee,

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- subsection (3) above shall have effect with the omission of paragraph (a), and as if any reference to a time immediately before the death of the transferor or to the death were a reference to the time when the replacement property is acquired.
- (6) Section 113A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.
- (7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.
- (8) In this section “the original property” and “the transferee” have the same meaning as in section 113A above [^{F26}and “allowed period” means the period of three years or such longer period as the Board may allow].]

Textual Amendments

- F24** Finance Act 1986 Sch. 19, para. 21, *with respect to transfers of value made, and other events occurring, on or after 18 March 1986.*
- F25** Words in s. 113B(2)(a)(5)(b) substituted (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, s. 247(1)(a)(3)
- F26** Words in s. 113B(8) added (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, s. 247(1)(b)(3)

Modifications etc. (not altering text)

- C6** S. 113B amended (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 para. 9(2)(4) (with Sch. 14 para. 8).

114 Avoidance of double relief.

- (1) Where any part of the value transferred by a transfer of value is reduced under Chapter II of this Part of this Act by reference to the agricultural value of any property, or would be so reduced but for section 121(3), such part of the value transferred as is or would be so reduced under that Chapter shall not be reduced under this Chapter.
- (2) Where the value transferred by a transfer of value is reduced under section 129 below by reference to the tax chargeable on the disposal of any trees or underwood, the value to be reduced under section 104 above shall be the value as reduced under section 129 (but subject to section 104(2) above).

Status:

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Changes to legislation:

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