



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER V

MISCELLANEOUS

Mutual and voidable transfers

148 Mutual transfers: exemption for donee's gift

- (1) This section and section 149 below have effect where—
 - (a) a person (" the donor") makes a chargeable transfer (" the donor's transfer") which increases the estate of another person ("the donee "), and
 - (b) the donee, within the period of ten years beginning with the date of the donor's transfer, makes a transfer of value (" the donee's transfer ") which either—
 - (i) is made in the donor's life-time and increases the value of the estate of the donor or his spouse, or
 - (ii) is made within two years after the donor's death and increases the value of the estate of the donor's widow or widower.
- (2) The donee's transfer shall be an exempt transfer to the extent to which the value thereby transferred does not exceed—
 - (a) the amount by which his estate was increased by the donor's transfer, or
 - (b) if there has been a previous donee's transfer, so much of that amount as has not been taken into account under this subsection for exempting that transfer.
- (3) In subsection (1) above references to a transfer are references to a transfer that is a disposition between individuals, including any disposition treated as made by virtue of

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section 3(3) above but not anything else that is treated as a disposition for the purposes of this Act.

- (4) Subsection (1)(b) above has effect in relation to a person as the donor's spouse, widow or widower only if at the relevant time both the donor and that person were, or neither of them was, domiciled in the United Kingdom; and for that purpose the relevant time is, in the case of a spouse, the time of the donee's transfer and, in the case of a widow or widower, the time of the donor's death.
- (5) The extent to which the donee's transfer is an exempt transfer by virtue of subsection (2) above shall be determined without regard to Chapters I and II of this Part of this Act, and those Chapters shall not apply to that transfer to the extent to which it is an exempt transfer by virtue of that subsection.

149 Mutual transfers: relief for donor's gift

- (1) The donor may, within six years after the donee's transfer, claim that for the purposes of this section the value transferred by the donor's transfer shall be treated as cancelled by the donee's transfer to the extent specified in subsection (3) below ; and thereupon—
 - (a) tax on the cancelled value paid or payable (whether or not by the claimant) shall be repaid to him by the Board or, as the case may be, shall not be payable ; and
 - (b) the rate or rates of tax applicable to any chargeable transfer made by the donor after the claim, and within the period of ten years beginning with the date of the donor's transfer, shall be determined as if the values previously transferred by chargeable transfers made by the donor were reduced by the cancelled value.
- (2) Where the donor has died, then—
 - (a) if the case falls within section 148(1)(b)(i) above, a claim may be made under subsection (1) above by the donor's personal representatives and paragraph (b) of that subsection shall apply as if for the reference to any chargeable transfer made by the donor after the claim there were substituted a reference to the chargeable transfer made by him on his death ;
 - (b) if the case falls within section 148(1)(b)(ii) above, a claim may be made under subsection (1) above by the donor's widow or widower.
- (3) The amount of the value transferred to be treated as cancelled by a donee's transfer shall be such amount as, after deduction of the tax charged on it, is equal—
 - (a) if paragraph (b) below does not apply, to the value restored by the transfer ;
 - (b) if more than twelve months have elapsed between the donor's transfer and the donee's, to the value so restored reduced by 4 per cent. for every twelve months that have so elapsed ;

and where the cancelled amount is less than the whole of the value transferred it shall be treated as the highest part of that value.

- (4) As between two or more donor's transfers made by the same donor to the same donee value transferred by a later transfer shall be treated as cancelled rather than value transferred by an earlier one; and where there has been a claim in respect of a previous donee's transfer references in the foregoing provisions of this section to the value transferred shall be construed as references to the part of that value not treated as cancelled by that transfer.

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- (5) For the purposes of subsection (3) above the value restored by the donee's transfer is so much of the value thereby transferred as does not exceed—
- (a) whichever is the smaller of—
 - (i) the amount by which the donee's estate was increased by the donor's transfer, or
 - (ii) the amount by which the donor's estate was increased by the donee's transfer, or
 - (b) if there has been a previous donee's transfer, so much of the amount applying under paragraph (a) above as was not taken into account as the value restored by that transfer.
- (6) Where the value transferred by the donor's transfer fell to be calculated in accordance with the provisions of Schedule 8 to the Finance Act 1975, Schedule 10 to the Finance Act 1976, Schedule 14 to the Finance Act 1981 or Chapter I or II of this Part of this Act, the value restored by the donee's transfer as determined under subsection (5) above shall be treated as reduced to such part of it as bears to the whole the same proportion as the value transferred by the donor's transfer after applying those provisions bears to the value transferred by it before applying those provisions.
- (7) In subsection (1)(a) above the reference to tax includes a reference to interest on tax.
- (8) For the purposes of liability to additional tax by reason of the donor's death within three years after the donor's transfer, the value thereby transferred which is treated as cancelled by a donee's transfer made before the death shall include any value that would be so treated if subsection (3)(b) above had not applied.
- (9) Where the donee's transfer has increased the estate of the spouse, widow or widower of another person any value thereby transferred which can (or if a claim were made could) be taken into account as value restored in relation to a transfer made by the spouse, widow or widower shall not be so taken into account in relation to a transfer made by that other person.

150 Voidable transfers

- (1) Where on a claim made for the purpose it is shown that the whole or any part of a chargeable transfer (" the relevant transfer ") has by virtue of any enactment or rule of law been set aside as voidable or otherwise defeasible—
- (a) tax paid or payable by the claimant (in respect of the relevant transfer or any other chargeable transfer made before the claim) that would not have been payable if the relevant transfer had been void ab initio shall be repaid to him by the Board, or as the case may be shall not be payable, and
 - (b) the rate or rates of tax applicable to any chargeable transfer made after the claim by the person who made the relevant transfer shall be determined as if that transfer or that part of it had been void as aforesaid.
- (2) In subsection (1)(a).above the reference to tax includes a reference to interest on tax.