



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART VI

VALUATION

CHAPTER I

GENERAL

160 Market value

Except as otherwise provided by this Act, the value at any time of any property shall for the purposes of this Act be the price which the property might reasonably be expected to fetch if sold in the open market at that time ; but that price shall not be assumed to be reduced on the ground that the whole property is to be placed on the market at one and the same time.

161 Related property

- (1) Where the value of any property comprised in a person's estate would be less than the appropriate portion of the value of the aggregate of that and any related property, it shall be the appropriate portion of the value of that aggregate.
- (2) For the purposes of this section, property is related to the property comprised in a person's estate if—
 - (a) it is comprised in the estate of his spouse ; or
 - (b) it is or has within the preceding five years been—
 - (i) the property of a charity, or held on trust for charitable purposes only, or
 - (ii) the property of a body mentioned in section 24, 25 or 26 above,

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and became so on a transfer of value which was made by him or his spouse after 15th April 1976 and was exempt to the extent that the value transferred was attributable to the property.

- (3) The appropriate portion of the value of the aggregate mentioned in subsection (1) above is such portion thereof as would be attributable to the value of the first-mentioned property if the value of that aggregate were equal to the sums of the values of that and any related property, the value of each property being determined as if it did not form part of that aggregate.
- (4) For the purposes of subsection (3) above the proportion which the value of a smaller number of shares of any class bears to the value of a greater number shall be taken to be that which the smaller number bears to the greater; and similarly with stock, debentures and units of any other description of property.
- (5) Shares shall not be treated for the purposes of subsection (4) above as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

162 Liabilities

- (1) A liability in respect of which there is a right to reimbursement shall be taken into account only to the extent (if any) that reimbursement cannot reasonably be expected to be obtained.
- (2) Subject to subsection (3) below, where a liability falls to be discharged after the time at which it is to be taken into account it shall be valued as at the time at which it is to be taken into account.
- (3) In determining the value of a transferor's estate immediately after a transfer of value, his liability for capital transfer tax shall be computed—
 - (a) without making any allowance for the fact that the tax will not be due immediately, and
 - (b) as if any tax recovered otherwise than from the transferor (or a person liable for it under section 203(1) below) were paid in discharge of a liability in respect of which the transferor had a right to reimbursement.
- (4) A liability which is an incumbrance on any property shall, so far as possible, be taken to reduce the value of that property.
- (5) Where a liability taken into account is a liability to a person resident outside the United Kingdom which neither—
 - (a) falls to be discharged in the United Kingdom, nor
 - (b) is an incumbrance on property in the United Kingdom,
 it shall, so far as possible, be taken to reduce the value of property outside the United Kingdom.

163 Restriction on freedom to dispose

- (1) Where, by a contract made at any time, the right to dispose of any property has been excluded or restricted, then, in determining the value of the property for the purpose of the first relevant event happening after that time,—

- (a) the exclusion or restriction shall be taken into account only to the extent (if any) that consideration in money or money's worth was given for it, but
 - (b) if the contract was a chargeable transfer or was part of associated operations which together were a chargeable transfer, an allowance shall be made for the value transferred thereby (calculated as if no tax had been chargeable on it) or for so much of the value transferred as is attributable to the exclusion or restriction.
- (2) Where the contract was made before 27th March 1974 subsection (1) above applies only if the first relevant event is a transfer made on death.
- (3) In this section "relevant event", in relation to any property, means—
- (a) a chargeable transfer in the case of which the whole or part of the value transferred is attributable to the value of the property ; and
 - (b) anything which would be such a chargeable transfer but for this section.

164 Transferor's expenses

In determining the value transferred by a transfer of value, expenses incurred by the transferor in making the transfer (but not his liability for capital transfer tax)—

- (a) shall, if borne by him, be left out of account;
- (b) shall, if borne by a person benefiting from the transfer, be treated as reducing the value transferred.

165 Tax on capital gains

- (1) Where a chargeable transfer is or includes a disposal of an asset and on the disposal a gain accrues to the transferor for the purposes of the Capital Gains Tax Act 1979, then if—
- (a) the whole or part of the gain is a chargeable gain or a development gain, and
 - (b) the whole or part of any capital gains tax or income tax chargeable on the gain is borne by the donee (within the meaning of section 59 of that Act),
- the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.
- (2) Subsection (1) above shall not apply where the chargeable transfer is made under Part III of this Act and the gain accrues to the trustees of the settlement; but if in such a case any capital gains tax chargeable on the gain is borne by a person who becomes absolutely entitled to the settled property concerned, the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.
- (3) In any case where—
- (a) payment of an amount of capital gains tax is postponed by virtue of Schedule 14 to the Finance Act 1984, and
 - (b) any of that capital gains tax becomes payable in accordance with paragraph 11 of that Schedule by reason of the receipt of a capital payment by a close relative of the beneficiary, as mentioned in sub-paragraph (3) of that paragraph, and
 - (c) all or part of the capital gains tax becoming so payable is paid by the close relative,

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the payment by the close relative shall be treated for the purposes of this Act as made in satisfaction of a liability of his.

166 Creditors' rights

In determining the value of a right to receive a sum due under any obligation it shall be assumed that the obligation will be duly discharged, except if or to the extent that recovery of the sum is impossible or not reasonably practicable and has not become so by any act or omission of the person to whom the sum is due.

167 Life policies, etc.

- (1) In determining in connection with a transfer of value the value of a policy of insurance on a person's life or of a contract for an annuity payable on a person's death, that value shall be taken to be not less than—
 - (a) the total of the premiums or other consideration which, at any time before the transfer of value, has been paid under the policy or contract or any policy or contract for which it was directly or indirectly substituted, less
 - (b) any sum which, at any time before the transfer of value, has been paid under, or in consideration for the surrender of any right conferred by, the policy or contract or a policy or contract for which it was directly or indirectly substituted.
- (2) Subsection (1) above shall not apply in the case of—
 - (a) the transfer of value which a person makes on his death, or
 - (b) any other transfer of value which does not result in the policy or contract ceasing to be part of the transferor's estate,
 and shall not apply in determining the amounts mentioned in sections 148(2)(c) and 149(5)(a)(ii) above.
- (3) Subsection (1) above shall not apply where the policy is one—
 - (a) under which the sum assured becomes payable only if the person whose life is insured dies before the expiry of a specified term or both before the expiry of a specified term and during the life of a specified person, and
 - (b) which, if that specified term ends, or can, under the policy, be extended so as to end, more than three years after the making of the insurance, satisfies the condition that, if neither the person whose life is insured nor the specified person dies before the expiry of the specified term—
 - (i) the premiums are payable during at least two-thirds of that term and at yearly or shorter intervals, and
 - (ii) the premiums payable in any one period of twelve months are not more than twice the premiums payable in any other such period.
- (4) Where the policy is one under which—
 - (a) the benefit secured is expressed in units the value of which is published and subject to fluctuation, and
 - (b) the payment of each premium secures the allocation to the policy of a specified number of such units,

then, if the value, at the time of the transfer of value, of the units allocated to the policy on the payment of premiums is less than the aggregate of what the respective values

of those units were at the time of allocation, the value to be taken under subsection (1) above as a minimum shall be reduced by the amount of the difference.

- (5) References in subsections (1) and (4) above to a transfer of value shall be construed as including references to an event on which there is a charge to tax under Chapter III of Part III of this Act (apart from section 79), other than an event on which tax is chargeable in respect of the policy or contract by reason only that its value (apart from this section) is reduced.

168 Unquoted shares and securities

- (1) In determining the price which unquoted shares or securities might reasonably be expected to fetch if sold in the open market it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.
- (2) In this section " unquoted shares or securities" means shares or securities which are not quoted on a recognised stock exchange.

169 Farm cottages

- (1) In determining the value of agricultural property which includes cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottages are suitable for the residential purposes of persons not so employed.
- (2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

170 Leases for life, etc.

Where under section 43(3) above a lease of property is to be treated as a settlement, the value of the lessor's interest in the property shall be taken to be such part of the value of the property as bears to it the same proportion as the value of the consideration, at the time the lease was granted, bore to what would then have been the value of a full consideration in money or money's worth.