



# Capital Transfer Tax Act 1984

## 1984 CHAPTER 51

### PART VII

#### LIABILITY

##### *General rules*

#### **199 Dispositions by transferor**

- (1) The persons liable for the tax on the value transferred by a chargeable transfer made by a disposition (including any omission treated as a disposition under section 3(3) above) of the transferor are—
  - (a) the transferor;
  - (b) any person the value of whose estate is increased by the transfer;
  - (c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the transfer, or who at any such time is beneficially entitled to an interest in possession in the property ;
  - (d) where by the chargeable transfer any property becomes comprised in a settlement, any person for whose benefit any of the property or income from it is applied.
- (2) Where the chargeable transfer is made within three years of the transferor's death, subsection (1)(a) above shall not apply in relation to so much of the tax as exceeds what it would have been had the transferor died more than three years after the transfer.
- (3) A purchaser of property, and a person deriving title from or under such a purchaser, shall not by virtue of subsection (1)(c) above be liable for tax attributable to the value of the property unless the property is subject to an Inland Revenue charge.
- (4) For the purposes of this section—
  - (a) any person who takes possession of or intermeddles with, or otherwise acts in relation to, property so as to become liable as executor or trustee (or, in

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Scotland, any person who intromits with property or has become liable as a vitious intromitter), and

- (b) any person to whom the management of property is entrusted on behalf of a person not of full legal capacity,

shall be treated as a person in whom the property is vested.

- (5) References in this section to any property include references to any property directly or indirectly representing it.

## **200 Transfer on death**

- (1) The persons liable for the tax on the value transferred by a chargeable transfer made (under section 4 above) on the death of any person are—

- (a) so far as the tax is attributable to the value of property which either—
  - (i) was not immediately before the death comprised in a settiement, or
  - (ii) was so comprised and consists of land in the United Kingdom which devolves upon or vests in the deceased's personal representatives,

the deceased's personal representatives ;

- (b) so far as the tax is attributable to the value of property which, immediately before the death, was comprised in a settlement, the trustees of the settlement;
- (c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the death, or who at any such time is beneficially entitled to an interest in possession in the property;
- (d) so far as the tax is attributable to the value of any property which, immediately before the death, was comprised in a settlement, any person for whose benefit any of the property or income from it is applied after the death.

- (2) A purchaser of property, and a person deriving tide from or under such a purchaser, shall not by virtue of subsection (1)(c) above be liable for tax attributable to the value of the property unless the property is subject to an Inland Revenue charge.

- (3) For the purposes of subsection (1) above a person entitled to part only of the income of any property shall, notwithstanding anything in section 50 above, be deemed to be entitled to an interest in the whole of the property.

- (4) Subsections (4) and (5) of section 199 above shall have effect for the purposes of this section as they have effect for the purposes of that section.

## **201 Settled property**

- (1) The persons liable for the tax on the value transferred by a chargeable transfer made under Part III of this Act are—

- (a) the trustees of the settlement;
- (b) any person entitled (whether beneficially or not) to an interest in possession in the settled property;
- (c) any person for whose benefit any of the settled property or income from it is applied at or after the time of the transfer;
- (d) where the transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom, the settlor.

- (2) Where the chargeable transfer is made within three years of the transferor's death, subsection (1)(d) above shall not apply in relation to so much of the tax as exceeds what it would have been had the transferor died more than three years after the transfer.
- (3) Subsection (1)(d) above shall not apply in relation to a settlement made before 11th December 1974 if the trustees were resident in the United Kingdom when the settlement was made, but have not been resident there at any time during the period between 10th December 1974 and the time of the transfer.
- (4) Where more than one person is a settlor in relation to a settlement and the circumstances so require, subsection (1)(d) above shall have effect in relation to it as if the settled property were comprised in separate settlements.
- (5) For the purposes of this section trustees of a settlement shall be regarded as not resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are for the time being resident in the United Kingdom.
- (6) References in this section to any property include references to any property directly or indirectly representing it.

## **202 Close companies**

- (1) The persons liable for tax chargeable by virtue of section 94(1) or section 99(2) above are—
  - (a) the company making the transfer of value concerned, and
  - (b) so far as the tax remains unpaid after it ought to have been paid, the persons to whom any amounts have been apportioned under section 94 above and any individual (whether such a person or not) the value of whose estate is increased by the company's transfer.
- (2) A person to whom not more than 5 per cent of the value transferred by the company's transfer is apportioned shall not as such be liable for any of the tax; and each of the other persons to whom any part of that value has been apportioned shall be so liable only for such part of the tax as corresponds to that part of that value.
- (3) A person the value of whose estate is increased by the company's transfer shall not as such be liable for a greater amount than the amount of the increase.
- (4) No person other than those liable under this section shall be liable for any tax chargeable by virtue of section 94(1) or section 99(2) above.

## **203 Liability of spouse**

- (1) Where—
  - (a) a transferor is liable for any tax on the value transferred by a chargeable transfer, and
  - (b) by another transfer of value made by him on or after 27th March 1974 ("the spouse transfer") any property became the property of a person ("the transferee") who at the time of both transfers was his spouse,

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the transferee is liable for so much of the tax as does not exceed the market value of the property at the time of the spouse transfer or, in a case where subsection (2) below applies the lower market value mentioned in paragraph (c) of that subsection.

- (2) This subsection applies where—
- (a) the chargeable transfer is made after the spouse transfer ; and
  - (b) the property (" the transferred property ") which became the property of the transferee either remains the transferee's property at the date of the chargeable transfer or has before that date been sold by the transferee by a qualifying sale ; and
  - (c) the market value of the transferred property on the relevant date (that is to say, the date of the chargeable transfer or, as the case may be, of the qualifying sale) is lower than its market value at the time of the spouse transfer; and
  - (d) the transferred property is not tangible movable property.
- (3) In this section " qualifying sale " has the same meaning as in section 131 above; and, subject to subsection (4) below, sections 133 to 140 above shall have effect for the purposes of this section as they have effect for the purposes of section 131.
- (4) In their application by virtue of subsection (3) above, sections 133 to 140 above shall have effect as if—
- (a) references to the chargeable transfer were references to the spouse transfer,
  - (b) references to the transferee's spouse were omitted, and
  - (c) references to section 131 above were references to this section.

## **204 Limitation of liability**

- (1) A person shall not be liable under section 200(1)(a) above for any tax as a personal representative of a deceased person, except to the extent of the following assets, namely—
- (a) so far as the tax is attributable to the value of any property other than such as is mentioned in paragraph (b) below, the assets (other than property so mentioned) which he has received as personal representative or might have so received but for his own neglect or default; and
  - (b) so far as the tax is attributable to property which, immediately before the death, was comprised in a settlement and consists of land in the United Kingdom, so much of that property as is at any time available in his hands for the payment of the tax, or might have been so available but for his own neglect or default.
- (2) A person shall not be liable for tax as trustee in relation to any property, except to the extent of—
- (a) so much of the property as he has actually received or disposed of or as he has become liable to account for to the persons beneficially entitled thereto, and
  - (b) so much of any other property as is for the time being available in his hands as trustee for the payment of the tax or might have been so available but for his own neglect or default.
- (3) A person not liable as mentioned in subsection (1) or (2) above but liable for tax as a person in whom property is vested or liable for tax as a person entitled to a beneficial interest in possession in any property shall not be liable for the tax except to the extent of that property.

- (4) Where the tax exceeds what it would have been had the transferor died more than three years after the transfer, a person shall not be liable for the excess as a person in whom property is vested otherwise than beneficially, except to the extent of so much of the property as is vested in him at the time of the death; and a person shall not be liable for the excess as a trustee in relation to any property, except to the extent of—
- (a) so much of the property as is vested in him at the time of the death, and
  - (b) so much of the property as, after the death, he has actually received or disposed of or as, after the death, he has become liable to account for to the persons beneficially entitled to it.
- (5) A person liable for tax as a person for whose benefit any settled property, or income from any settled property, is applied, shall not be liable for the tax except to the extent of the amount of the property or income (reduced in the case of income by the amount of any income tax borne by him in respect of it, and in the case of other property in respect of which he has borne income tax by virtue of section 478 of the Taxes Act or section 45 of the Finance Act 1981 by the amount of that tax).
- (6) Where a person is liable for any tax—
- (a) under section 199 above otherwise than as transferor, or
  - (b) under section 201 above otherwise than as trustee of the settlement,
- he shall be liable only if the tax remains unpaid after it ought to have been paid and, in a case where any part of the value transferred is attributable to the tax on it, shall be liable to no greater extent than he would have been had the value transferred been reduced by the tax remaining unpaid.
- (7) Subsection (6) above shall not apply in relation to such an excess as is mentioned in subsection (4) above.

## **205 More than one person liable**

Except as otherwise provided, where under this Act two or more persons are liable for the same tax, each of them shall be liable for the whole of it.

### *Special cases*

## **206 Gifts to political parties**

Where a transfer of value is made within one year of the death of the transferor and, by reason of an excess over the amount specified in section 24(1)(b) above, any tax is chargeable on a part of the value transferred which is attributable to property which becomes the property of a political party, no person other than the political party shall be liable for tax on that part.

## **207 Conditional exemption, etc.**

- (1) Where tax is chargeable under section 32 above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (2) or subsection (3)(a) of that section, the person liable for the tax is the person who, if the property were sold—
- (a) in a case within subsection (2) of that section, at the time the tax becomes chargeable, and

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- (b) in a case within subsection (3)(a), immediately after the death, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (2) Where tax is chargeable under section 32 above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3)(b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.
- (3) The persons liable for tax charged under section 79(3) above are—
- (a) the trustees of the settlement concerned, and
  - (b) any person for whose benefit any of the property or income from it is applied at or after the time of the event occasioning the charge.
- (4) The person liable for tax chargeable under paragraph 1(1) or 3(1) of Schedule 5 to this Act is the person who, if the property were sold at the time the tax becomes chargeable, would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (5) The person liable for tax chargeable under paragraph 1(2) or 3(2) of Schedule 5 to this Act is the person by whom or for whose benefit the property is disposed of.

## **208 Woodlands**

The person liable for tax chargeable under section 126 above in relation to a disposal is the person who is entitled to the proceeds of sale or would be so entitled if the disposal were a sale.

## **209 Succession in Scotland**

- (1) A person shall not be liable under section 200(1)(a) above for tax attributable to the value of any heritable property in Scotland which is vested in him as executor in the circumstances and for the purposes mentioned in subsection (1) or (2) of section 18 of the Succession (Scotland) Act 1964.
- (2) The persons liable for tax chargeable under section 147(4) above are the person who claims legitim and any person mentioned in section 200(1)(c) above.
- (3) Section 200(1)(a) shall not apply in relation to tax chargeable under section 147(4) above, but section 204(1) shall apply in relation to the person who claims legitim as it applies in relation to the personal representatives of a deceased person.

## **210 Pension rights, etc.**

Where any tax chargeable on a transfer of value is attributable to the value of an interest satisfying the conditions of paragraphs (a) and (b) of section 151(2) above, the persons liable for the tax shall not include the trustees of the scheme or fund concerned but shall, if the transfer is made on the death of the person entitled to the interest, include his personal representatives.

*Burden of tax, etc.*

**211 Burden of tax on death**

- (1) Where personal representatives are liable for tax on the value transferred by a chargeable transfer made on death, the tax shall be treated as part of the general testamentary and administration expenses of the estate, but only so far as it is attributable to the value of property in the United Kingdom which—
  - (a) vests in the deceased's personal representatives, and
  - (b) was not immediately before the death comprised in a settlement.
- (2) Subsection (1) above shall have effect subject to any contrary intention shown by the deceased in his will.
- (3) Where any amount of tax paid by personal representatives on the value transferred by a chargeable transfer made on death does not fall to be borne as part of the general testamentary and administration expenses of the estate, that amount shall, where occasion requires, be repaid to them by the person in whom the property to the value of which the tax is attributable is vested.
- (4) References in this section to tax include references to interest on tax.

**212 Powers to raise tax**

- (1) Where a person is liable, otherwise than as transferor, and otherwise than under section 203 above, for tax attributable to the value of any property he shall, for the purpose of paying the tax or raising the amount of it when paid, have power, whether or not the property is vested in him, to raise the amount of the tax by sale or mortgage of, or a terminable charge on, that property or any part of it.
- (2) A person having a limited interest in any property who pays the tax attributable to the value of that property shall be entitled to the like charge as if the tax so attributable had been raised by means of a mortgage to him.
- (3) Any money held on the trusts of a settlement may be expended in paying the tax attributable to the value of any property comprised in the settlement and held on the same trusts.
- (4) References in this section to tax include references to interest on tax and to costs properly incurred in respect of tax.

**213 Refund by instalments**

Where a person has paid to the Board any tax which is or might at his option have been payable by instalments and he is entitled to recover the whole or part of it from another person, that other person shall, unless otherwise agreed between them, be entitled to refund the tax or that part by the same instalments (with the same interest thereon) as those by which it might have been paid to the Board.

**214 Certificates of tax paid**

- (1) On an application being made in such form as the Board may prescribe by a person who has paid or borne the tax attributable to the value of any property, being tax for

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which he is not ultimately liable, the Board shall grant a certificate specifying the tax paid and the debts and incumbrances allowed in valuing the property.

- (2) Except to the extent of any repayment which may be or become due from the Board, a certificate under subsection (1) above shall be conclusive as between any person by whom the tax specified in the certificate falls to be borne and the person seeking to recover the tax from him ; and any repayment of the tax falling to be made by the Board shall be duly made if made to the person producing the certificate.
- (3) References in this section to tax include references to interest on tax.