

## SCHEDULE 4

Sections 27, 58, 77 etc.

### MAINTENANCE FUNDS FOR HISTORIC BUILDINGS, ETC

#### PART I

##### TREASURY DIRECTIONS

###### *Giving of directions*

- 1 (1) If the conditions mentioned in paragraph 2(1) below are fulfilled in respect of settled property, the Treasury shall, on a claim made for the purpose, give a direction under this paragraph in respect of the property.
- (2) The Treasury may give a direction under this paragraph in respect of property proposed to be comprised in a settlement or to be held on particular trusts in any case where, if the property were already so comprised or held, they would be obliged to give the direction.
- (3) Property comprised in a settlement by virtue of a transfer of value made before the coming into force of section 94 of the Finance Act 1982 and exempt under section 84 of the Finance Act 1976 shall be treated as property in respect of which a direction has been given under this paragraph.

###### *Conditions*

- 2 (1) The conditions referred to in paragraph 1 above are—
  - (a) that the Treasury are satisfied—
    - (i) that the trusts on which the property is held comply with the requirements mentioned in paragraph 3 below, and
    - (ii) that the property is of a character and amount appropriate for the purposes of those trusts; and
  - (b) that the trustees—
    - (i) are approved by the Treasury,
    - (ii) include a trust corporation, a solicitor, an accountant or a member of such other professional body as the Treasury may allow in the case of the property concerned, and
    - (iii) are, at the time the direction is given, resident in the United Kingdom.
- (2) For the purposes of this paragraph trustees shall be regarded as resident in the United Kingdom if—
  - (a) the general administration of the trusts is ordinarily carried on in the United Kingdom, and
  - (b) the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are resident in the United Kingdom ;and where a trustee is a trust corporation, the question whether the trustee is resident in the United Kingdom shall, for the purposes of paragraph (b) above, be determined as for the purposes of corporation tax.
- (3) In this paragraph—

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" accountant" means a member of an incorporated society of accountants ;  
 " trust corporation " means a person that is a trust corporation for the purposes of the Law of Property Act 1925 or for the purposes of Article 9 of the Administration of Estates (Northern Ireland) Order 1979.

- 3 (1) The requirements referred to in paragraph 2(1)(a)(i) above are (subject to paragraph 4 below)—
- (a) that none of the property held on the trusts can at any time in the period of six years beginning with the date on which it became so held be applied otherwise than—
    - (i) for the maintenance, repair or preservation of, or making provision for public access to, property which is for the time being qualifying property, for the maintenance, repair or preservation of property held on the trusts or for such improvement of property so held as is reasonable having regard to the purposes of the trusts, or for defraying the expenses of the trustees in relation to the property so held ;
    - (ii) as respects income not so applied and not accumulated, for the benefit of a body within Schedule 3 to this Act or of a qualifying charity ; and
  - (b) that none of the property can, on ceasing to be held on the trusts at any time in that period or, if the settlor dies in that period, at any time before his death, devolve otherwise than on any such body or charity ; and
  - (c) that income arising from property held on the trusts cannot at any time after the end of that period be applied except as mentioned in paragraph (a)(i) or (ii) above.
- (2) Property is qualifying property for the purposes of sub-paragraph (1) above if—
- (a) it has been designated under section 34(1) of the Finance Act 1975 or section 77(1)(b), (c), (d) or (e) of the Finance Act 1976 or section 31(1)(b), (c), (d) or (e) of this Act; and
  - (b) the requisite undertaking has been given with respect to it under section 34 of the Finance Act 1975 or under section 76, 78(5)(b) or 82(3) of the Finance Act 1976 or under section 30, 32(5)(b) or 79(3) of this Act or paragraph 5 of Schedule 5 to this Act; and
  - (c) tax has not (since the last occasion on which such an undertaking was given) become chargeable with respect to it under the said section 34 or under section 78 or 82(3) of the Finance Act 1976 or under section 32 or 79(3) of this Act or paragraph 3 of Schedule 5 to this Act.
- (3) If it appears to the Treasury that provision is, or is to be, made by a settlement for the maintenance, repair or preservation of any such property as is mentioned in subsection (1)(b), (c), (d) or (e) of section 31 of this Act they may, on a claim made for the purpose—
- (a) designate that property under this sub-paragraph, and
  - (b) accept with respect to it an undertaking such as is described in subsection (4) of that section ;

and, if they do so, sub-paragraph (2) above shall have effect as if the designation were under that section and the undertaking under section 30 of this Act and as if the reference to tax becoming chargeable were a reference to the occurrence of an event on which tax would become chargeable under section 32 of this Act if there

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had been a conditionally exempt transfer of the property when the claim was made and the undertaking had been given under section 30.

- (4) A charity is a qualifying charity for the purposes of sub-paragraph (1) above if it exists wholly or mainly for maintaining, repairing or preserving for the public benefit buildings of historic or architectural interest, land of scenic, historic or scientific interest or objects of national, scientific, historic or artistic interest; and in this sub-paragraph " national interest" includes interest within any part of the United Kingdom.
- (5) Designations, undertakings and acceptances made under section 84(6) of the Finance Act 1976 or section 94(3) of the Finance Act 1982 shall be treated as made under sub-paragraph (3) above.
- 4 (1) Paragraphs (a) and (b) of paragraph 3(1) above do not apply to property which—
- (a) was previously comprised in another settlement, and
  - (b) ceased to be comprised in that settlement and became comprised in the current settlement in circumstances such that by virtue of paragraph 9(1) below there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it;
- and in relation to any such property paragraph 3(1)(c) above shall apply with the omission of the words " at any time after the end of that period ".
- (2) Sub-paragraph (1) above shall not have effect if the time when the property comprised in the previous settlement devolved otherwise than on any such body or charity as is mentioned in paragraph 3(1)(a) above fell before the expiration of the period of six years there mentioned ; but in such a case paragraph 3(1) above shall apply to the current settlement as if for the references to that period of six years there were substituted references to the period beginning with the date on which the property became comprised in the current settlement and ending six years after the date on which it became held on the relevant trusts of the previous settlement (or, where this sub-paragraph has already had effect in relation to the property, the date on which it became held on the relevant trusts of the first settlement in the series).

#### *Withdrawal*

- 5 If in the Treasury's opinion the facts concerning any property or its administration cease to warrant the continuance of the effect of a direction given under paragraph 1 above in respect of the property, they may at any time by notice in writing to the trustees withdraw the direction on such grounds, and from such date, as may be specified in the notice ; and the direction shall cease to have effect accordingly.

#### *Information*

- 6 Where a direction under paragraph 1 above has effect in respect of property, the trustees shall from time to time furnish the Treasury with such accounts and other information relating to the property as the Treasury may reasonably require.

#### *Enforcement of trusts*

- 7 Where a direction under paragraph 1 above has effect in respect of property, the trusts on which the property is held shall be enforceable at the suit of the Treasury and the Treasury shall, as respects the appointment, removal and retirement of trustees, have the rights and powers of a beneficiary.

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## PART II

### PROPERTY LEAVING MAINTENANCE FUNDS

#### *Charge to tax*

- 8 (1) This paragraph applies to settled property which is held on trusts which comply with the requirements mentioned in paragraph 3(1) above, and in respect of which a direction given under paragraph 1 above has effect.
- (2) Subject to paragraphs 9 and 10 below, there shall be a charge to tax under this paragraph—
- (a) where settled property ceases to be property to which this paragraph applies, otherwise than by virtue of an application of the kind mentioned in paragraph 3(1)(a)(i) or (ii) above or by devolving on any such body or charity as is mentioned in paragraph 3(1)(a)(ii);
  - (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by such an application) as a result of which the value of settled property to which this paragraph applies is less than it would be but for the disposition.
- (3) Subsections (4), (5) and (10) of section 70 of this Act shall apply for the purposes of this paragraph as they apply for the purposes of that section (with the substitution of a reference to sub-paragraph (2)(b) above for the reference in section 70(4) to section 70(2)(b)).
- (4) The rate at which tax is charged under this paragraph shall be determined in accordance with paragraphs 11 to 15 below.
- (5) The devolution of property on a body or charity shall not be free from charge by virtue of sub-paragraph (2)(a) above if, at or before the time of devolution, an interest under the settlement in which the property was comprised immediately before the devolution is or has been acquired for a consideration in money or money's worth by that or another such body or charity; but for the purposes of this sub-paragraph any acquisition from another such body or charity shall be disregarded.
- (6) For the purposes of sub-paragraph (5) above a body or charity shall be treated as acquiring an interest for a consideration in money or money's worth if it becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to that body or charity or to another person) of that interest or of other property.

#### *Exceptions from charge*

- 9 (1) Tax shall not be charged under paragraph 8 above in respect of property which, within the permitted period after the occasion on which tax would be chargeable under that paragraph, becomes comprised in another settlement as a result of a transfer of value which is exempt under section 27 of this Act
- (2) In sub-paragraph (1) above " the permitted period" means the period of thirty days except in a case where the occasion referred to is the death of the settlor, and in such a case means the period of two years.
- (3) Sub-paragraph (1) above shall not apply to any property if the person who makes the transfer of value has acquired it for a consideration in money or money's worth;

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and for the purposes of this sub-paragraph a person shall be treated as acquiring any property for such consideration if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that or other property.

- (4) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes comprised in the other settlement (less the amount of any consideration for its transfer received by the person who makes the transfer of value), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.
- (5) The reference in sub-paragraph (4) above to the amount on which tax would be charged is a reference to the amount on which it would be charged apart from—
- (a) section 70(5)(6) of this Act (as applied by paragraph 8(3) above), and
  - (b) Chapters I and II of Part V of this Act;
- and the reference in that sub-paragraph to the amount on which tax is charged is a reference to the amount on which it would be charged apart from section 70(5)(b) and those Chapters.
- 10 (1) Tax shall not be charged under paragraph 8 above in respect of property which ceases to be property to which that paragraph applies on becoming—
- (a) property to which the settlor or his spouse is beneficially entitled, or
  - (b) property to which the settlor's widow or widower is beneficially entitled if the settlor has died in the two years preceding the time when it becomes such property.
- (2) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes property of a description specified in paragraph (a) or (b) of that sub-paragraph (less the amount of any consideration for its transfer received by the trustees), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.
- (3) The reference in sub-paragraph (2) above to the amount on which tax would be charged is a reference to the amount on which it would be charged apart from—
- (a) section 70(5)(b) of this Act (as applied by paragraph 8(3) above), and
  - (b) Chapters I and II of Part V of this Act;
- and the reference in sub-paragraph (2) above to the amount on which tax is charged is a reference to the amount on which it would be charged apart from section 70(5)(b) and those Chapters.
- (4) Sub-paragraph (1) above shall not apply in relation to any property if, at or before the time when it becomes property of a description specified in paragraph (a) or (b) of that sub-paragraph, an interest under the settlement in which the property was comprised immediately before it ceased to be property to which paragraph 8 above applies is or has been acquired for a consideration in money or money's worth by the person who becomes beneficially entitled.
- (5) For the purposes of sub-paragraph (4) above a person shall be treated as acquiring an interest for a consideration in money or money's worth if he becomes entitled to the interest as a result of transactions which include a disposition for such consideration (whether to him or to another person) of that interest or of other property.

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- (6) Sub-paragraph (1) above shall not apply in respect of property if it was relevant property before it became (or last became) property to which paragraph 8 above applies and, by virtue of paragraph 16(1) or 17(1) below, tax was not chargeable (or, but for paragraph 16(2) or 17(4), would not have been chargeable) under section 65 of this Act in respect of its ceasing to be relevant property before becoming (or last becoming) property to which paragraph 8 above applies.
- (7) Sub-paragraph (1) above shall not apply in respect of property if—
- (a) before it last became property to which paragraph 8 above applies it was comprised in another settlement in which it was property to which that paragraph applies, and
  - (b) it ceased to be comprised in the other settlement and last became property to which that paragraph applies in circumstances such that by virtue of paragraph 9(1) above there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it.
- (8) Sub-paragraph (1) above shall not apply unless the person who becomes beneficially entitled to the property is domiciled in the United Kingdom at the time when he becomes so entitled.

#### *Rates of charge*

- 11 (1) This paragraph applies where tax is chargeable under paragraph 8 above and—
- (a) the property in respect of which the tax is chargeable was relevant property before it became (or last became) property to which that paragraph applies, and
  - (b) by virtue of paragraph 16(1) or 17(1) below tax was not chargeable (or, but for paragraph 16(2) or 17(4), would not have been chargeable) under section 65 of this Act in respect of its ceasing to be relevant property on or before becoming (or last becoming) property to which paragraph 8 above applies.
- (2) Where this paragraph applies, the rate at which the tax is charged shall be the aggregate of the following percentages—
- (a) 0.25 per cent for each of the first forty complete successive quarters in the relevant period,
  - (b) 0.20 per cent for each of the next forty,
  - (c) 0.15 per cent for each of the next forty,
  - (d) 0.10 per cent for each of the next forty, and
  - (e) 0.05 per cent for each of the next forty.
- (3) In sub-paragraph (2) above " the relevant period " means the period beginning with the latest of—
- (a) the date of the last ten-year anniversary of the settlement in which the property was comprised before it ceased (or last ceased) to be relevant property,
  - (b) the day on which the property became (or last became) relevant property before it ceased (or last ceased) to be such property, and
  - (c) 13th March 1975,
- and ending with the day before the event giving rise to the charge.

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- (4) Where the property in respect of which the tax is chargeable has at any time ceased to be and again become property to which paragraph 8 above applies in circumstances such that by virtue of paragraph 9(1) above there was no charge to tax in respect of it (or, but for paragraph 9(4), there would have been no charge), it shall for the purposes of this paragraph be treated as having been property to which paragraph 8 above applies throughout the period mentioned in paragraph 9(1).
- 12 (1) This paragraph applies where tax is chargeable under paragraph 8 above and paragraph 11 above does not apply.
- (2) Where this paragraph applies, the rate at which the tax is charged shall be the higher of—
- (a) the first rate (as determined in accordance with paragraph 13. below), and
  - (b) the second rate (as determined in accordance with paragraph 14 below).
- 13 (1) The first rate is the aggregate of the following percentages—
- (a) 0.25 per cent for each of the first forty complete successive quarters in the relevant period,
  - (b) 0.20 per cent for each of the next forty,
  - (c) 0.15 per cent for each of the next forty.
  - (d) 0.10 per cent for each of the next forty, and
  - (e) 0.05 per cent for each of the next forty.
- (2) In sub-paragraph (1) above " the relevant period " means the period beginning with the day on which the property in respect of which the tax is chargeable became (or first became) property to which paragraph 8 above applies, and ending with the day before the event giving rise to the charge.
- (3) For the purposes of sub-paragraph (2) above, any occasion on which property became property to which paragraph 8 above applies, and which occurred before an occasion of charge to tax under that paragraph in respect of the property, shall be disregarded.
- (4) The reference in sub-paragraph (3) above to an occasion of charge to tax under paragraph 8 does not include a reference to—
- (a) the occasion by reference to which the rate is being determined in accordance with this Schedule, or
  - (b) an occasion which would not be an occasion of charge but for paragraph 9(4) above.
- 14 (1) If the settlor is alive, the second rate is the effective rate at which tax would be charged, on the amount on which it is chargeable, under the appropriate Table if the amount were the value transferred by a chargeable transfer made by him on the occasion on which the tax becomes chargeable.
- (2) If the settlor is dead, the second rate is (subject to sub-paragraph (3) below) the effective rate at which tax would have been charged, on the amount on which it is chargeable, under the appropriate Table if the amount had been added to the value transferred on his death and had formed the highest part of it.
- (3) If the settlor died before 13th March 1975, the second rate is the effective rate at which tax would have been charged, on the amount on which it is chargeable (" the chargeable amount"), under the appropriate Table if the settlor had died when the event occasioning the charge under paragraph 8 above occurred, the value transferred on his death had been equal to the amount on which estate duty was chargeable when

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he in fact died, and the chargeable amount had been added to that value and had formed the highest part of it.

(4) Where, in the case of a settlement (" the current settlement"), tax is chargeable under paragraph 8 above in respect of property which—

- (a) was previously comprised in another settlement, and
- (b) ceased to be comprised in that settlement and became comprised in the current settlement in circumstances such that by virtue of paragraph 9(1) above there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it,

then, subject to sub-paragraph (5) below, references in sub-paragraphs (1) to (3) above to the settlor shall be construed as references to the person who was the settlor in relation to the settlement mentioned in paragraph (a) above (or, if the Board so determine, the person who was the settlor in relation to the current settlement).

(5) Where, in the case of a settlement (" the current settlement"), tax is chargeable under paragraph 8 above in respect of property which—

- (a) was previously comprised at different times in other settlements (" the previous settlements "), and
- (b) ceased to be comprised in each of them, and became comprised in another of them or in the current settlement, in circumstances such that by virtue of paragraph 9(1) above there was no charge (or, but for paragraph 9(4), there would have been no charge) to tax in respect of it,

references in sub-paragraphs (1) to (3) above to the settlor shall be construed as references to the person who was the settlor in relation to the previous settlement in which the property was first comprised (or, if the Board so determine, any person selected by them who was the settlor in relation to any of the other previous settlements or the current settlement).

(6) Sub-paragraph (7) below shall apply if—

- (a) in the period of ten years preceding a charge under paragraph 8 above (the " current charge"), there has been another charge under that paragraph where tax was charged at the second rate, and
- (b) the person who is the settlor for the purposes of the current charge is the settlor for the purposes of the other charge (whether or not the settlements are the same and, if the settlor is dead, whether or not he has died since the other charge);

and in sub-paragraph (7) below the other charge is referred to as the " previous charge ".

(7) Where this sub-paragraph applies, the amount on which tax was charged on the previous charge (or, if there have been more than one, the aggregate of the amounts on which tax was charged on each)—

- (a) shall, for the purposes of calculating the rate of the current charge under sub-paragraph (1) above, be taken to be the value transferred by a chargeable transfer made by the settlor immediately before the occasion of the current charge, and
- (b) shall, for the purposes of calculating the rate of the current charge under sub-paragraph (2) or (3) above, be taken to increase the value there mentioned by an amount equal to that amount (or aggregate).



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- (8) References in sub-paragraphs (1) to (3) above to the effective rate are to the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged.
- (9) For the purposes of sub-paragraph (1) above the appropriate Table is the second Table in Schedule 1 to this Act, and for the purposes of sub-paragraphs (2) and (3) above it is (if the settlement was made on death) the first Table in that Schedule and (if not) the second.
- 15 Where property is, by virtue of paragraph 1(3) above, treated as property in respect of which a direction has been given under paragraph 1, it shall for the purposes of paragraphs 11 to 14 above be treated as having become property to which paragraph 8 above applies when the transfer of value mentioned in paragraph 1(3) was made.

### PART III

#### PROPERTY BECOMING COMPRISED IN MAINTENANCE FUNDS

- 16 (1) Tax shall not be charged under section 65 of this Act in respect of property which ceases to be relevant property on becoming property in respect of which a direction under paragraph 1 above then has effect.
- (2) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after it becomes property in respect of which the direction has effect (less the amount of any consideration for its transfer received by the trustees of the settlement in which it was comprised immediately before it ceased to be relevant property), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.
- (3) Sub-paragraph (1) above shall not apply in relation to any property if, at or before the time when it becomes property in respect of which the direction has effect, an interest under the settlement in which it was comprised immediately before it ceased to be relevant property is or has been acquired for a consideration in money or money's worth by the trustees of the settlement in which it becomes comprised on ceasing to be relevant property.
- (4) For the purposes of sub-paragraph (3) above trustees shall be treated as acquiring an interest for a consideration in money or money's worth if they become entitled to the interest as a result of transactions which include a disposition for such consideration (whether to them or to another person) of that interest or of other property.
- 17 (1) Tax shall not be charged under section 65 of this Act in respect of property which ceases to be relevant property if within the permitted period an individual makes a transfer of value—
- (a) which is exempt under section 27 of this Act, and
- (b) the value transferred by which is attributable to that property.
- (2) In sub-paragraph (1) above "the permitted period" means the period of thirty days beginning with the day on which the property ceases to be relevant property except in a case where it does so on the death of any person, and in such a case means the period of two years beginning with that day.
- (3) Sub-paragraph (1) above shall not apply if the individual has acquired the property concerned for a consideration in money or money's worth; and for the purposes of

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this sub-paragraph an individual shall be treated as acquiring any property for such consideration if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that or other property.

- (4) If the amount on which tax would be charged apart from sub-paragraph (1) above in respect of any property exceeds the value of the property immediately after the transfer there referred to (less the amount of any consideration for its transfer received by the individual), that sub-paragraph shall not apply but the amount on which tax is charged shall be equal to the excess.
- 18 In paragraphs 16(2) and 17(4) above the references to the amount on which tax would be charged are references to the amount on which it would be charged apart from—
- (a) paragraph (b) of section 65(2) of this Act, and
  - (b) Chapters I and LT of Part V of this Act;
- and the references to the amount on which tax is charged are references to the amount on which it would be charged apart from that paragraph and those Chapters.