



Inheritance Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER II

AGRICULTURAL PROPERTY

116 The relief.

(1) Where the whole or part of the value transferred by a transfer of value is attributable to the agricultural value of agricultural property, the whole or that part of the value transferred shall be treated as reduced by the appropriate percentage, but subject to the following provisions of this Chapter.

(2) The appropriate percentage is [^{F1}100 per cent]. if ^{F2}. . .—

(a) the interest of the transferor in the property immediately before the transfer carries the right to vacant possession or the right to obtain it within the next twelve months, or

(b) the transferor has been beneficially entitled to that interest since before 10th March 1981 and the conditions set out in subsection (3) below are satisfied; [^{F3}or

^{F3}(c) the interest of the transferor in the property immediately before the transfer does not carry either of the rights mentioned in paragraph (a) above because the property is let on a tenancy beginning on or after 1st September 1995;]

and, subject to subsection (4) below, it is [^{F4}50 per cent]. in any other case.

^{F5}(2A)

(3) The conditions referred to in subsection (2)(b) above are—

(a) that if the transferor had disposed of his interest by a transfer of value immediately before 10th March 1981 and duly made a claim under paragraph

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1 of Schedule 8 to the ^{M1}Finance Act 1975, the value transferred would have been computed in accordance with paragraph 2 of that Schedule and relief would not have been limited by paragraph 5 of that Schedule (restriction to £250,000 or one thousand acres); and

- (b) that the transferor's interest did not at any time during the period beginning with 10th March 1981 and ending with the date of the transfer carry a right mentioned in subsection (2)(a) above, and did not fail to do so by reason of any act or deliberate omission of the transferor during that period.

- (4) Where the appropriate percentage would be [^{F1}100 per cent]. but for a limitation on relief that would have been imposed (as mentioned in subsection (3)(a) above) by paragraph 5 of Schedule 8 to the Finance Act 1975, the appropriate percentage shall be [^{F1}100 per cent]. in relation to a part of the value transferred equal to the amount which would have attracted relief under that Schedule and [^{F4}50 per cent]. in relation to the remainder.

- (5) In determining for the purposes of subsections (3)(a) and (4) above whether or to what extent relief under Schedule 8 to the Finance Act 1975 would have been limited by paragraph 5 of that Schedule, that paragraph shall be construed as if references to relief given under that Schedule in respect of previous chargeable transfers included references to—

- (a) relief given under this Chapter by virtue of subsection (2)(b) or (4) above, and
- (b) relief given under Schedule 14 to the ^{M2}Finance Act 1981 by virtue of paragraph 2(2)(b) or (4) of that Schedule,

in respect of previous chargeable transfers made on or after 10th March 1981.

- [^{F6}(5A) Where, in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, the tenancy—

- (a) becomes vested in a person, as a result of his being a person beneficially entitled under the deceased tenant's will or other testamentary writing or on his intestacy, and
- (b) is or becomes binding on the landlord and that person as landlord and tenant respectively,

subsection (2)(c) above shall have effect as if the tenancy so vested had been a tenancy beginning on the date of the death.

- (5B) Where in consequence of the death on or after 1st September 1995 of the tenant or, as the case may be, the last surviving tenant of any property, a tenancy of the property or of any property comprising the whole or part of it—

- (a) is obtained by a person under or by virtue of an enactment, or
- (b) is granted to a person in circumstances such that he is already entitled under or by virtue of an enactment to obtain such a tenancy, but one which takes effect on a later date, or
- (c) is granted to a person who is or has become the only or only remaining applicant, or the only or only remaining person eligible to apply, under a particular enactment for such a tenancy in the particular case,

subsection (2)(c) above shall have effect as if the tenancy so obtained or granted had been a tenancy beginning on the date of the death.

- (5C) Subsection (5B) above does not apply in relation to property situate in Scotland.

- (5D) If, in a case where the transferor dies on or after 1st September 1995,—

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- (a) the tenant of any property has, before the death, given notice of intention to retire in favour of a new tenant, and
- (b) the tenant's retirement in favour of the new tenant takes place after the death but not more than thirty months after the giving of the notice,

subsection (2)(c) above shall have effect as if the tenancy granted or assigned to the new tenant had been a tenancy beginning immediately before the transfer of value which the transferor is treated by section 4(1) above as making immediately before his death.

(5E) In subsection (5D) above and this subsection—

“the new tenant” means—

- (a) the person or persons identified in a notice of intention to retire in favour of a new tenant as the person or persons who it is desired should become the tenant of the property to which that notice relates; or
- (b) the survivor or survivors of the persons so identified, whether alone or with any other person or persons;

“notice of intention to retire in favour of a new tenant” means, in the case of any property, a notice or other written intimation given to the landlord by the tenant, or (in the case of a joint tenancy or tenancy in common) all of the tenants, of the property indicating, in whatever terms, his or their wish that one or more persons identified in the notice or intimation should become the tenant of the property;

“the retiring tenant's tenancy” means the tenancy of the person or persons giving the notice of intention to retire in favour of a new tenant;

“the tenant's retirement in favour of the new tenant” means—

- (a) the assignment, or (in Scotland) assignation, of the retiring tenant's tenancy to the new tenant in circumstances such that the tenancy is or becomes binding on the landlord and the new tenant as landlord and tenant respectively; or
- (b) the grant of a tenancy of the property which is the subject of the retiring tenant's tenancy, or of any property comprising the whole or part of that property, to the new tenant and the acceptance of that tenancy by him;

and, except in Scotland, “grant” and “acceptance” in paragraph (b) above respectively include the deemed grant, and the deemed acceptance, of a tenancy under or by virtue of any enactment.]

- (6) For the purposes of this Chapter the interest of one of two or more joint tenants or tenants in common (or, in Scotland, joint owners or owners in common) shall be taken to carry a right referred to in subsection (2)(a) above if the interests of all of them together carry that right.
- (7) 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.
- [^{F7}(8) In its application to property outside the United Kingdom, the Channel Islands and the Isle of Man, this section has effect as if any reference to a right or obligation under the law of any part of the United Kingdom were a reference to an equivalent right or obligation under the law governing dispositions of that property.]

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Textual Amendments

- F1** Words in s. 116(2)(4) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 73, Sch. 14 paras. 4(a), 8, 9.
- F2** Word in s. 116(2) repealed (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by [1995 c. 4, ss. 155\(1\)\(3\), 162](#), **Sch. 29 Pt. XI**
- F3** [S. 116\(2\)\(c\)](#) and preceding “or” inserted (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by [1995 c. 4, s. 155\(1\)\(3\)](#)
- F4** Words in s. 116(2)(4) substituted (16.7.1992) by [Finance \(No. 2\) Act 1992 \(c. 48\)](#), s. 73, Sch. 14 paras. 4(b), 8, 9.
- F5** [S. 116\(2A\)](#) repealed (29.4.1996 with effect as mentioned in [s. 185\(6\)](#) of the amending Act) by [1996 c. 8, ss. 185\(3\), 205](#), **Sch. 41 Pt. VI** note 2
- F6** [S. 116\(5A\)-\(5E\)](#) inserted (29.4.1996 with effect as mentioned in [s. 185\(5\)](#) of the amending Act) by [1996 c. 8, s. 185\(2\)](#)
- F7** [S. 116\(8\)](#) inserted (with effect as mentioned in [s. 122\(7\)\(8\)](#) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **s. 122(4)**

Modifications etc. (not altering text)

- C1** [S. 116](#) 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)**
- C2** [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)**

Marginal Citations

- M1** [1975 c.7.](#)
- M2** [1981 c.35.](#)

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