



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART I

#### GENERAL

##### *Main charges and definitions*

#### **5 Meaning of estate.**

- (1) For the purposes of this Act a person's estate is the aggregate of all the property to which he is beneficially entitled, [<sup>F1</sup> except that—
- (a) the estate of a person—
    - (i) does not include an interest in possession in settled property to which section 71A or 71D below applies, and
    - (ii) does not include an interest in possession that falls within subsection (1A) below [<sup>F2</sup>unless it falls within subsection (1B) below], and
  - (b) the] estate of a person immediately before his death does not include excluded property [<sup>F3</sup>or a foreign-owned work of art which is situated in the United Kingdom for one or more of the purposes of public display, cleaning and restoration (and for no other purpose).]

[<sup>F4</sup>(1A) An interest in possession falls within this subsection if—

- (a) it is an interest in possession in settled property,
- (b) the settled property is not property to which section 71A or 71D below applies,
- (c) the person is beneficially entitled to the interest in possession,
- (d) the person became beneficially entitled to the interest in possession on or after 22nd March 2006, and
- (e) the interest in possession is—
  - (i) not an immediate post-death interest,
  - (ii) not a disabled person's interest, and
  - (iii) not a transitional serial interest.]

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*Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Section 5. (See end of Document for details)*

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- [<sup>F5</sup>(1B) An interest in possession falls within this subsection if the person—
- (a) was domiciled in the United Kingdom on becoming beneficially entitled to it, and
  - (b) became beneficially entitled to it by virtue of a disposition which was prevented from being a transfer of value by section 10 below.]
- (2) A person who has a general power which enables him, or would if he were sui juris enable him, to dispose of any property other than settled property, or to charge money on any property other than settled property, shall be treated as beneficially entitled to the property or money; and for this purpose “general power” means a power or authority enabling the person by whom it is exercisable to appoint or dispose of property as he thinks fit.
- (3) In determining the value of a person’s estate at any time his liabilities at that time shall be taken into account, except as otherwise provided by this Act.
- (4) The liabilities to be taken into account in determining the value of a transferor’s estate immediately after a transfer of value include his liability for [<sup>F6</sup>inheritance tax] on the value transferred but not his liability (if any) for any other tax or duty resulting from the transfer.
- (5) Except in the case of a liability imposed by law, a liability incurred by a transferor shall be taken into account only to the extent that it was incurred for a consideration in money or money’s worth.

#### **Textual Amendments**

- F1** Words in s. 5(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 para. 7, **10(2)**
- F2** Words in s. 5(a)(ii) inserted (with effect as mentioned in [s. 53\(10\)](#) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), **s. 53(3)(a)**
- F3** Words in s. 5(1)(b) inserted (6.4.2009 with effect as mentioned in art. 13(5) of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2009 (S.I. 2009/730), **art. 13(2)**
- F4** S. 5(1A) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **10(3)**
- F5** S. 5(1B) inserted (with effect as mentioned in [s. 53\(10\)](#) of the amending Act) by [Finance Act 2010 \(c. 13\)](#), **s. 53(3)(b)**
- F6** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.

**Changes to legislation:**

There are currently no known outstanding effects for the Inheritance Tax Act 1984, Section 5.