



Finance Act 1986

1986 CHAPTER 41

PART V

INHERITANCE TAX

100 Capital transfer tax to be known as inheritance tax.

- (1) On and after the passing of this Act, the tax charged under the Capital Transfer Tax Act 1984 (in this Part of this Act referred to as “the 1984 Act”) shall be known as inheritance tax and, accordingly, on and after that passing,—
 - (a) the 1984 Act may be cited as the Inheritance Tax Act 1984 ; and
 - (b) subject to subsection (2) below, any reference to capital transfer tax in the 1984 Act, in any other enactment passed before or in the same Session as this Act or in any document executed, made, served or issued on or before the passing of this Act or at any time thereafter shall have effect as a reference to inheritance tax.
- (2) Subsection (1)(b) above does not apply where the reference to capital transfer tax relates to a liability arising before the passing of this Act.
- (3) In the following provisions of this Part of this Act, any reference to tax except where it is a reference to a named tax is a reference to inheritance tax and, in so far as it occurs in a provision which relates to a time before the passing of this Act, includes a reference to capital transfer tax.

101 Lifetime transfers potentially exempt etc.

- (1) The 1984 Act shall have effect subject to the amendments in Part I of Schedule 19 to this Act, being amendments—
 - (a) removing liability for tax on certain transfers of value where the transfer occurs at least seven years before the transferor’s death;
 - (b) providing for one Table of rates of tax;
 - (c) abolishing exemptions for mutual transfers;

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- (d) making provision with respect to the amounts of tax to be charged on transfers occurring before the death of the transferor;
 - (e) making provision with respect to the application of relief under Chapter I (business property) and Chapter II (agricultural property) of Part V of the 1984 Act to such transfers; and
 - (f) reducing the period during which the values transferred by chargeable transfers are aggregates from ten years to seven;
- and amendments making provisions consequential on or incidental to the matters referred to above and to sections 102 and 103 below.
- (2) F1
- (3) Part I of Schedule 19 to this Act has effect, subject to Part II of that Schedule, with respect to transfers of value made, and other events occurring, on or after 18th March 1986.
- (4) The transitional provisions in Part II of Schedule 19 to this Act shall have effect.

Textual Amendments

F1 S. 101(2) repealed by Finance Act 1989 (c. 26, SIF 63:2), s. 187(1), Sch. 17 Pt. VII

102 Gifts with reservation.

- (1) Subject to subsections (5) and (6) below, this section applies where, on or after 28th March 1986, an individual disposes of any property by way of gift and either—
- (a) possession and enjoyment of the property is not bona fide assumed by the donee at or before the beginning of the relevant period; or
 - (b) at any time in the relevant period the property is not enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of any benefit to him by contract or otherwise;
- and in this section “the relevant period” means a period ending on the date of the donor’s death and beginning seven years before that date or, if it is later, on the date of the gift.
- (2) If and so long as—
- (a) possession and enjoyment of any property is not bona fide assumed as mentioned in subsection (1)(a) above, or
 - (b) any property is not enjoyed as mentioned in subsection (1)(b) above,
- the property is referred to (in relation to the gift and the donor) as property subject to a reservation.
- (3) If, immediately before the death of the donor, there is any property which, in relation to him, is property subject to a reservation then, to the extent that the property would not, apart from this section, form part of the donor’s estate immediately before his death, that property shall be treated for the purposes of the 1984 Act as property to which he was beneficially entitled immediately before his death.
- (4) If, at a time before the end of the relevant period, any property ceases to be property subject to a reservation, the donor shall be treated for the purposes of the 1984 Act as having at that time made a disposition of the property by a disposition which is a potentially exempt transfer.

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- (5) This section does not apply if or, as the case may be, to the extent that the disposal of the property by way of gift is an exempt transfer by virtue of any of the following provisions of Part II of the 1984 Act,—
- (a) section 18 (transfers between spouses);
 - (b) section 20 (small gifts);
 - (c) section 22 (gifts in consideration of marriage);
 - (d) section 23 (gifts to charities);
 - (e) section 24 (gifts to political parties);
 - [^{F2}(ee) section 24A (gifts to housing associations);]
 - (f) section 25 (gifts for national purposes, etc);
 - ^{F3}(g)
 - (h) section 27 (maintenance funds for historic buildings); and
 - (i) section 28 (employee trusts).
- (6) This section does not apply if the disposal of property by way of gift is made under the terms of a policy issued in respect of an insurance made before 18th March 1986 unless the policy is varied on or after that date so as to increase the benefits secured or to extend the term of the insurance; and, for this purpose, any change in the terms of the policy which is made in pursuance of an option or other power conferred by the policy shall be deemed to be a variation of the policy.
- (7) If a policy issued as mentioned in subsection (6) above confers an option or other power under which benefits and premiums may be increased to take account of increases in the retail price index (as defined in section 8(3) of the 1984 Act) or any similar index specified in the policy, then, to the extent that the right to exercise on or before 1st August 1986, the exercise of that option or power before that date shall be disregarded for the purposes of subsection (6) above.
- (8) Schedule 20 to this Act has effect for supplementing this section.

Textual Amendments

- F2** Finance Act 1989 (c. 26, SIF 63:1, 2), s. 171(5), with effect from 14 March 1989
- F3** S. 102(5)(g) repealed (31.7.1998 with effect as mentioned in Sch. 27 Note 2 of the amending Act)
1998 c. 36, s. 165, Sch. 27 Pt. IV

[^{F4}102A Gifts with reservation: interest in land.

- (1) This section applies where an individual disposes of an interest in land by way of gift on or after 9th March 1999.
- (2) At any time in the relevant period when the donor or his spouse enjoys a significant right or interest, or is party to a significant arrangement, in relation to the land—
- (a) the interest disposed of is referred to (in relation to the gift and the donor) as property subject to a reservation; and
 - (b) section 102(3) and (4) above shall apply.
- (3) Subject to subsections (4) and (5) below, a right, interest or arrangement in relation to land is significant for the purposes of subsection (2) above if (and only if) it entitles or enables the donor to occupy all or part of the land, or to enjoy some right in relation to all or part of the land, otherwise than for full consideration in money or money's worth.

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- (4) A right, interest or arrangement is not significant for the purposes of subsection (2) above if—
- (a) it does not and cannot prevent the enjoyment of the land to the entire exclusion, or virtually to the entire exclusion, of the donor; or
 - (b) it does not entitle or enable the donor to occupy all or part of the land immediately after the disposal, but would do so were it not for the interest disposed of.
- (5) A right or interest is not significant for the purposes of subsection (2) above if it was granted or acquired before the period of seven years ending with the date of the gift.
- (6) Where an individual disposes of more than one interest in land by way of gift, whether or not at the same time or to the same donee, this section shall apply separately in relation to each interest.]

Textual Amendments

F4 Ss. 102A, 102B, 102C inserted (27.7.1999) by 1999 c. 16, s. 104

^{F5}102B Gifts with reservation: share of interest in land.

- (1) This section applies where an individual disposes, by way of gift on or after 9th March 1999, of an undivided share of an interest in land.
- (2) At any time in the relevant period, except when subsection (3) or (4) below applies—
- (a) the share disposed of is referred to (in relation to the gift and the donor) as property subject to a reservation; and
 - (b) section 102(3) and (4) above shall apply.
- (3) This subsection applies when the donor—
- (a) does not occupy the land; or
 - (b) occupies the land to the exclusion of the donee for full consideration in money or money's worth.
- (4) This subsection applies when—
- (a) the donor and the donee occupy the land; and
 - (b) the donor does not receive any benefit, other than a negligible one, which is provided by or at the expense of the donee for some reason connected with the gift.

Textual Amendments

F5 Ss. 102A, 102B, 102C inserted (27.7.1999) by 1999 c. 16, s. 104

^{F6}102C Sections 102A and 102B: supplemental.

- (1) In sections 102A and 102B above “the relevant period” has the same meaning as in section 102 above.
- (2) An interest or share disposed of is not property subject to a reservation under section 102A(2) or 102B(2) above if or, as the case may be, to the extent that the

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disposal is an exempt transfer by virtue of any of the provisions listed in section 102(5) above.

- (3) In applying sections 102A and 102B above no account shall be taken of—
 - (a) occupation of land by a donor, or
 - (b) an arrangement which enables land to be occupied by a donor,in circumstances where the occupation, or occupation pursuant to the arrangement, would be disregarded in accordance with paragraph 6(1)(b) of Schedule 20 to this Act.
- (4) The provisions of Schedule 20 to this Act, apart from paragraph 6, shall have effect for the purposes of sections 102A and 102B above as they have effect for the purposes of section 102 above; and any question which falls to be answered under section 102A or 102B above in relation to an interest in land shall be determined by reference to the interest which is at that time treated as property comprised in the gift.
- (5) Where property other than an interest in land is treated by virtue of paragraph 2 of that Schedule as property comprised in a gift, the provisions of section 102 above shall apply to determine whether or not that property is property subject to a reservation.
- (6) Sections 102 and 102A above shall not apply to a case to which section 102B above applies.
- (7) Section 102A above shall not apply to a case to which section 102 above applies.

Textual Amendments

F6 Ss. 102A, 102B, 102C inserted (27.7.1999) by 1999 c. 16, s. 104

103 Treatment of certain debts and incumbrances.

- (1) Subject to subsection (2) below, if, in determining the value of a person's estate immediately before his death, account would be taken, apart from this subsection, of a liability consisting of a debt incurred by him or an incumbrance created by a disposition made by him, that liability shall be subject to abatement to an extent proportionate to the value of any of the consideration given for the debt or incumbrance which consisted of—
 - (a) property derived from the deceased; or
 - (b) consideration (not being property derived from the deceased) given by any person who was at the time entitled to, or amongst whose resources there were at any time included, any property derived from the deceased.
- (2) If, in the case where the whole or part of the consideration given for a debt or incumbrance consisted of such consideration as is mentioned in subsection (1)(b) above, it is shown that the value of the consideration given, or of that part thereof, as the case may be, exceeded that which could have been rendered available by application of all the property derived from the deceased, other than such (if any) of that property—
 - (a) as is included in the consideration given, or
 - (b) as to which it is shown that the disposition of which it, or the property which it represented, was the subject matter was not made with reference to, or with a view to enabling or facilitating, the giving of the consideration or the recoupment in any manner of the cost thereof, no abatement shall be made under subsection (1) above in respect of the excess.

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- (3) In subsections (1) and (2) above “property derived from” means, subject to subsection (4) below, any property which was the subject matter of a disposition made by the deceased, either by himself alone or in concert or by arrangement with any other person or which represented any of the subject matter of such a disposition, whether directly or indirectly, and whether by virtue of one or more intermediate dispositions.
- (4) If the disposition first-mentioned in subsection (3) above was not a transfer of value and it is shown that the disposition was not part of associated operations which included—
- (a) a disposition by the deceased, either alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money’s worth paid to the deceased for his own use or benefit; or
 - (b) a disposition by any other person operating to reduce the value of the property of the deceased,
- that first-mentioned disposition shall be left out of account for the purposes of subsections (1) to (3) above.
- (5) If, before a person’s death but on or after 18th March 1986, money or money’s worth is paid or applied by him—
- (a) in or towards the satisfaction or discharge of a debt or incumbrance in the case of which subsection (1) above would have effect on his death if the debt or incumbrance had not been satisfied or discharged, or
 - (b) in reduction of debt or incumbrance in the case of which that subsection has effect on his death,
- the 1984 Act shall have effect as if, at the time of the payment or application, the person concerned had made a transfer of value equal to the money or money’s worth and that transfer were a potentially exempt transfer.
- (6) Any reference in this section to a debt is a reference to a debt incurred on or after 18th March 1986 and any reference to an incumbrance created by a disposition is a reference to an incumbrance created by an disposition made on or after that date; and in this section “subject matter” includes, in relation to any disposition, any annual or periodical payment made or payable under or by virtue of the disposition
- (7) In determining the value of a person’s estate immediately before his death, no account shall be taken (by virtue of section 5 of the 1984 Act) of any liability arising under or in connection with a policy of life insurance issued in respect of an insurance made on or after 1st July 1986 unless the whole of the sums assured under that policy form part of that person’s estate immediately before his death.

104 Regulations for avoiding double charges etc.

- (1) For the purposes of the 1984 Act the Board may by regulations make such provision as is mentioned in subsection (2) below with respect to transfers of value made, and other events occurring, on or after 18th March 1986 where—
- (a) a potentially exempt transfer proves to be a chargeable transfer and, immediately before the death of the transferor, his estate includes property acquired by him from the transferee otherwise than for full consideration in money or money’s worth;
 - (b) an individual disposes of property by a transfer of value which is or proves to be a chargeable transfer and the circumstances are such that subsection (3) or

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- subsection (4) of section 102 above applies to the property as being or having been property subject to a reservation;
- (c) in determining the value of a person's estate immediately before his death, a liability of his to any person is abated as mentioned in section 103 above and, before his death, the deceased made a transfer of value by virtue of which the estate of that other person was increased or by virtue of which property becomes comprised in a settlement of which that other person is a trustee; or
 - (d) the circumstances are such as may be specified in the regulations for the purposes of this subsection, being circumstances appearing to the Board to be similar to those referred to in paragraphs (a) to (c) above.
- (2) The provision which may be made by regulations under this section is provision for either or both of the following,—
- (a) treating the value transferred by a transfer of value as reduced by reference to the value transferred by another transfer of value ; and
 - (b) treating the whole or any part of the tax paid or payable on the value transferred by a transfer of value as a credit against the tax payable on the value transferred by another transfer of value.
- (3) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.

105 Application of business and agricultural relief where transfer partly exempt.

With respect to transfers of value made on or after 18th March 1986, after section 39 of the 1984 Act there shall be inserted the following section—

“39A Operation of sections 38 and 39 in cases of business or agricultural relief.

- (1) Where any part of the value transferred by a transfer of value is attributable to—
- (a) the value of the relevant business property, or
 - (b) the agricultural value of agricultural property,
- then, for the purpose of attributing the value transferred (as reduced in accordance with section 104 or 116 below), to specific gifts and gifts of residue, sections 38 and 39 above shall have effect subject to the following provisions of this section.
- (2) The value of any specific gifts of relevant business property or agricultural property shall be taken to be their value as reduced in accordance with section 104 or 116 below.
- (3) The value of any specific gifts not falling within subsection (2) above shall be taken to be the appropriate fraction of their value.
- (4) In subsection (3) above “the appropriate fraction” means a fraction of which—
- (a) the numerator is the difference between the value transferred and the value, reduced as mentioned in subsection (2) above, of any gifts falling within that subsection, and
 - (b) the denominator is the difference between the unreduced value transferred and the value, before the reduction mentioned in subsection (2) above, of any gifts falling within that subsection;

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and in paragraph (b) above “the unreduced value transferred” means the amount which would be the value transferred by the transfer but for the reduction required by sections 104 and 116 below.

- (5) If or to the extent that specific gifts fall within paragraphs (a) and (b) of subsection (1) of section 38 above, the amount corresponding to the value of the gifts shall be arrived at in accordance with subsections (3) to (5) of that section by reference to their value reduced as mentioned in subsection (2) or, as the case may be, subsection (3) of this section.
- (6) For the purposes of this section the value of a specific gift of relevant business property or agricultural property does not include the value of any other gift out of that property; and that other gift shall not itself be treated as a specific gift of relevant business property or agricultural property.
- (7) In this section—
“agricultural property” and “the agricultural value of agricultural property” have the same meaning as in Chapter II of Part V of this Act; and
“relevant business property” has the same meaning as in Chapter I of that Part.”

106 Changes in financial institutions business property.

- (1) In section 105 of the 1984 Act (relevant business property) the following shall be substituted for subsection (4)(a)—
“(a) does not apply to any property if the business concerned is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom, and”.
- (2) At the end of that section there shall be inserted—
“(7) In this section “market maker” means a person whom—
(a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks and shares at a price specified by him, and
(b) is recognised as doing so by the Council of The Stock Exchange.”
- (3) Subsections (1) and (2) above apply in relation to transfers of value made, and other events occurring, on or after the day of the Stock Exchange reforms.
- (4) The Board may by regulations provided that section 105(7) of the 1984 Act (as inserted by subsection (2) above) shall have effect—
(a) as if the reference to The Stock Exchange in paragraph (a) were to any recognised investment exchange (within the meaning of the Financial Services Act 1986) or to any of those exchanges specified in the regulations, and
(b) as if the reference to the Council of Stock Exchange in paragraph (b) were to the investment exchange concerned.
- (5) The Board may by regulations amend section 105 of the 1984 Act so as to secure that section 105(3) does not apply to any property if the business concerned is of such description as is set out in the regulations; and the regulations may include such incidental and consequential provisions as the Board think fit.

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- (6) Regulations under subsection (4) or (5) above shall apply in relation to transfers of value made, and other events occurring, on or after such day, after the Stock Exchange reforms, as is specified in the regulations.
- (7) The power to make regulations under subsection (4) and (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (8) In this section “the day of the Stock Exchange reforms” means the day on which the rule of The Stock Exchange that prohibits a person from carrying on business as both a broker and a jobber is abolished^{F7}.

Textual Amendments

F7 The “day of The Stock Exchange reforms” was 27 October 1986.

107 Changes in financial institutions: interest.

- (1) In section 234 of the 1984 Act (interest in instalments) the following shall be substituted for subsection (3)(c)—
 - “(c) any company whose business is wholly that of a market maker or is that of a discount house and (in either case) is carried on in the United Kingdom.”
- (2) At the end of that section there shall be inserted—
 - “(4) In this section “market maker” means a person who—
 - (a) holds himself out at all normal times in compliance with the rules of The Stock Exchange as willing to buy and sell securities, stocks or shares at a price specified by him, and
 - (b) is recognised as doing so by the Council of The Stock Exchange.”
- (3) Subsections (1) and (2) above apply in relation to chargeable transfers made, and other events occurring, on or after the day of The Stock Exchange reforms.
- (4) The Board may by regulations provide that section 234(4) of the 1984 Act (as inserted by subsection (2) above) shall have effect—
 - (a) as if the reference to The Stock Exchange in paragraph (a) were to any recognised investment exchange (within the meaning of the Financial Service Act 1986) or to any of those exchanges specified in the regulations, and
 - (b) as if the reference to the Council of The Stock Exchange in paragraph (b) were to the investment exchange concerned.
- (5) The Board may by regulations amend section 234 of the 1984 Act so as to secure that companies of a description set out in the regulations fall within section 234(3)(c); and the regulations may include such incidental and consequential provisions as the Board think fit.
- (6) Regulations under subsection (4) or (5) above shall apply in relation to chargeable transfers made, and by other events occurring, on or after such day, after the day of The Stock Exchange reforms, as is specified in the regulations.

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- (7) The power to make regulations under subsection (4) or (5) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Commons House of Parliament.
- (8) In this section “the day of The Stock Exchange reforms” has the same meaning as in section 106 above.

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