



Finance Act 1999

1999 CHAPTER 16

PART V

INHERITANCE TAX

104 Gifts.

The following shall be inserted after section 102 of the ^{M1}Finance Act 1986 (inheritance tax: gifts with reservation)—

“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.
- (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

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- (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.

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.

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 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

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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.”

Marginal Citations

M1 1986 c.41.

105 Delivery of accounts.

- (1) For subsection (3) of section 216 of the ^{M2}Inheritance Tax Act 1984 (delivery of accounts) there shall be substituted the following subsections—

“(3) Subject to subsections (3A) and (3B) below, where an account is to be delivered by personal representatives (but not where it is to be delivered by a person who is an executor of the deceased only in respect of settled land in England and Wales), the appropriate property is—

- (a) all property which formed part of the deceased’s estate immediately before his death, other than property which would not, apart from section 102(3) of the ^{M3}Finance Act 1986, form part of his estate; and
- (b) all property to which was attributable the value transferred by any chargeable transfers made by the deceased within seven years of his death.

(3A) If the personal representatives, after making the fullest enquiries that are reasonably practicable in the circumstances, are unable to ascertain the exact value of any particular property, their account shall in the first instance be sufficient as regards that property if it contains—

- (a) a statement to that effect;
- (b) a provisional estimate of the value of the property; and
- (c) an undertaking to deliver a further account of it as soon as its value is ascertained.

(3B) The Board may from time to time give such general or special directions as they think fit for restricting the property to be specified in pursuance of subsection (3) above by any class of personal representatives.”

- (2) This section has effect in relation to deaths occurring on or after 9th March 1999.

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Marginal Citations

- M2** 1984 c.51.
M3 1986 c.41.

^{F1}106 Power to call for documents etc.

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Textual Amendments

- F1** S. 106 omitted (1.4.2010) by virtue of The Finance Act 2009, Section 96 and Schedule 48 (Appointed Day, Savings and Consequential Amendments) Order 2009 (S.I. 2009/3054), art. 1, **Sch. para. 16(d)**

107 Inland revenue charge.

- (1) In subsection (3) of section 237 of the ^{M4}Inheritance Tax Act 1984 (imposition of Inland Revenue charge), for “ “personal property” includes leaseholds” there shall be substituted “personal property” does not include leaseholds ”.
- (2) After subsection (3A) of that section there shall be inserted the following subsections—
 - “(3B) Subsection (3C) below applies to any tax charged—
 - (a) under section 32, 32A or 79(3) above in respect of any property,
 - (b) under paragraph 8 of Schedule 4 to this Act in respect of any property, or
 - (c) under paragraph 1 or 3 of Schedule 5 to this Act with respect to any object or property.
 - (3C) Where any tax to which this subsection applies, or any interest on it, is for the time being unpaid, a charge for the amount unpaid is also by virtue of this section imposed in favour of the Board—
 - (a) except where the event giving rise to the charge was a disposal to a purchaser of the property or object in question, on that property or object; and
 - (b) in the excepted case, on any property for the time being representing that property or object.”
- (3) Subsection (1) above has effect in relation to deaths occurring on or after 9th March 1999; and subsection (2) above has effect in relation to tax charged on or after that day.

Marginal Citations

- M4** 1984 c.51.

108 Penalties.

- (1) For section 245 of the ^{M5}Inheritance Tax Act 1984 (failure to provide information) there shall be substituted the following sections—

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“245 Failure to deliver accounts.

- (1) This section applies where a person (“the taxpayer”) fails to deliver an account under section 216 or 217 above.
- (2) The taxpayer shall be liable—
 - (a) to a penalty not exceeding £100; and
 - (b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the Special Commissioners and before the day on which the account is delivered.
- (3) If—
 - (a) proceedings in which the failure could be declared are not commenced before the end of the relevant period, and
 - (b) the taxpayer has not delivered the account by the end of that period, he shall be liable to a further penalty not exceeding £100.
- (4) In subsection (3) above “the relevant period” means the period of six months beginning immediately after the end of the period given by section 216(6) or (7) or section 217 above (whichever is applicable).
- (5) If the taxpayer proves that his liability to tax does not exceed a particular amount, the penalty under subsection (2)(a) above, together with any penalty under subsection (3) above, shall not exceed that amount.
- (6) A person shall not be liable to a penalty under subsection (2)(b) above if he delivers the account required by section 216 or 217 before proceedings in which the failure could be declared are commenced.
- (7) A person who has a reasonable excuse for failing to deliver an account shall not be liable by reason of that failure to a penalty under this section, unless he fails to deliver the account without unreasonable delay after the excuse has ceased.

245A Failure to provide information etc.

- (1) A person who fails to make a return under section 218 above shall be liable—
 - (a) to a penalty not exceeding £300; and
 - (b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the Special Commissioners and before the day on which the return is made.
- (2) A person who fails to comply with a notice under section 219 above shall be liable—
 - (a) to a penalty not exceeding £300; and
 - (b) to a further penalty not exceeding £60 for every day after the day on which the failure has been declared by a court or the Special Commissioners and before the day on which the notice is complied with.
- (3) A person who fails to comply with a notice under section 219A(1) or (4) above shall be liable—

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- (a) to a penalty not exceeding £50; and
 - (b) to a further penalty not exceeding £30 for every day after the day on which the failure has been declared by a court or the Special Commissioners and before the day on which the notice is complied with.
- (4) A person shall not be liable to a penalty under subsection (1)(b), (2)(b) or (3)(b) above if—
- (a) he makes the return required by section 218 above,
 - (b) he complies with the notice under section 219 above, or
 - (c) he complies with the notice under section 219A(1) or (4) above,
- before proceedings in which the failure could be declared are commenced.
- (5) A person who has a reasonable excuse for failing to make a return or to comply with a notice shall not be liable by reason of that failure to a penalty under this section, unless he fails to make the return or to comply with the notice without unreasonable delay after the excuse has ceased.”
- (2) In section 247 of that Act (provision of incorrect information)—
- ^{F2}(a)
 - (b) in subsection (3), for “£500” and “£250” there shall be substituted “ £3,000 ” and “ £1,500 ” respectively; and
 - (c) in subsection (4), for “£500” there shall be substituted “ £3,000 ”.
- (3) Subsection (1) above does not have effect in relation to a failure by any person—
- (a) to deliver an account under section 216 or 217 of the ^{M6}Inheritance Tax Act 1984,
 - (b) to make a return under section 218 of that Act, or
 - (c) to comply with a notice under section 219 of that Act,
- where the period within which the person is required to perform the obligation in question expires before the day on which this Act is passed.
- (4) Subsection (2) above has effect in relation to incorrect accounts, information or documents delivered, furnished or produced on or after the day on which this Act is passed.

Textual Amendments

F2 S. 108(2)(a) omitted (1.4.2009) by virtue of [Finance Act 2008 \(c. 9\)](#), s. 122(2), [Sch. 40 para. 21\(g\)](#); [S.I. 2009/571](#), art. 2

Marginal Citations

M5 1984 c.51.

M6 1984 c.51.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 17 para. 6 - 8 Sch. 19 Pt. 1-III repealed (prosp.) by [1999 c. 16 s. 123\(3\)s. 123\(4\)139Sch. 20 Pt. 5\(6\)](#) Note