



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART I

#### GENERAL

##### *Main charges and definitions*

#### **1 Charge on transfers.**

[<sup>F1</sup>Inheritance tax] shall be charged on the value transferred by a chargeable transfer.

##### **Textual Amendments**

**F1** 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.

#### **2 Chargeable transfers and exempt transfers.**

- (1) A chargeable transfer is a transfer of value which is made by an individual but is not (by virtue of Part II of this Act or any other enactment) an exempt transfer.
- (2) A transfer of value made by an individual and exempt only to a limited extent—
  - (a) is, if all the value transferred by it is within the limit, an exempt transfer, and
  - (b) is, if that value is partly within and partly outside the limit, a chargeable transfer of so much of that value as is outside the limit as well as an exempt transfer of so much of that value as is within the limit.
- (3) Except where the context otherwise requires, references in this Act to chargeable transfers, to their making or to the values transferred by them shall be construed as including references to occasions on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), to their occurrence or to the amounts on which tax is then chargeable.

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**3 Transfers of value.**

- (1) Subject to the following provisions of this Part of this Act, a transfer of value is a disposition made by a person (the transferor) as a result of which the value of his estate immediately after the disposition is less than it would be but for the disposition; and the amount by which it is less is the value transferred by the transfer.
- (2) For the purposes of subsection (1) above no account shall be taken of the value of excluded property which ceases to form part of a person’s estate as a result of a disposition.
- (3) [F2 Where the value of a person's estate is diminished, and the value—
  - (a) of another person's estate, or
  - (b) of any settled property, other than settled property treated by section 49(1) below as property to which a person is beneficially entitled,
 is increased] by the first-mentioned person’s omission to exercise a right, he shall be treated for the purposes of this section as having made a disposition at the time (or latest time) when he could have exercised the right, unless it is shown that the omission was not deliberate.
- (4) Except as otherwise provided, references in this Act to a transfer of value made, or made by any person, include references to events on the happening of which tax is chargeable as if a transfer of value had been made, or, as the case may be, had been made by that person; and “transferor” shall be construed accordingly.

**Textual Amendments**  
**F2** Words in s. 3(3) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 8

**[F3 3A Potentially exempt transfers.**

- (1) Any reference in this Act to a potentially exempt transfer is a reference to a transfer of value—
  - (a) which is made by an individual on or after 18th March 1986 [F4 but before 22nd March 2006] ; and
  - (b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer); and
  - (c) to the extent that it constitutes either a gift to another individual or a gift into an accumulation and maintenance trust or a disabled trust;

F5 .....

[ Any reference in this Act to a potentially exempt transfer is also a reference to a F6(1A) transfer of value—

- (a) which is made by an individual on or after 22nd March 2006,
- (b) which, apart from this section, would be a chargeable transfer (or to the extent to which, apart from this section, it would be such a transfer), and
- (c) to the extent that it constitutes—
  - (i) a gift to another individual,
  - (ii) a gift into a disabled trust, or
  - (iii) a gift into a bereaved minor's trust on the coming to an end of an immediate post-death interest.

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- (1B) Subsections (1) and (1A) above have effect subject to any provision of this Act which provides that a disposition (or transfer of value) of a particular description is not a potentially exempt transfer.]
- (2) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) [<sup>F7</sup> or (1A)(c)(i)] above, as a gift to another individual,—
- (a) to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes comprised in the estate of that other individual, . . . <sup>F8</sup>, or
  - (b) so far as that value is not attributable to property which becomes comprised in the estate of another person, to the extent that, by virtue of the transfer, the estate of that other individual is increased, . . . <sup>F9</sup>
- (3) Subject to subsection (6) below, a transfer of value falls within subsection (1)(c) above, as a gift into an accumulation and maintenance trust or a disabled trust, to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 71 or 89 of this Act applies.
- [ Subject to subsection (6) below, a transfer of value falls within subsection (1A)(c) <sup>F10</sup>(3A) (ii) above to the extent that the value transferred is attributable to property which, by virtue of the transfer, becomes settled property to which section 89 below applies.
- (3B) A transfer of value falls within subsection (1A)(c)(iii) above to the extent that the value transferred is attributable to settled property (whenever settled) that becomes property to which section 71A below applies in the following circumstances—
- (a) under the settlement, a person (“L”) is beneficially entitled to an interest in possession in the settled property,
  - (b) the interest in possession is an immediate post-death interest,
  - (c) on or after 22nd March 2006, but during L's life, the interest in possession comes to an end,
  - (d) L is beneficially entitled to the interest in possession immediately before it comes to an end, and
  - (e) on the interest in possession coming to an end, the property—
    - (i) continues to be held on the trusts of the settlement, and
    - (ii) becomes property to which section 71A below applies.]
- (4) A potentially exempt transfer which is made seven years or more before the death of the transferor is an exempt transfer and any other potentially exempt transfer is a chargeable transfer.
- (5) During the period beginning on the date of a potentially exempt transfer and ending immediately before—
- (a) the seventh anniversary of that date, or
  - (b) if it is earlier, the death of the transferor,
- it shall be assumed for the purposes of this Act that the transfer will prove to be an exempt transfer.
- (6) Where, under any provision of this Act [<sup>F11</sup>other than section 52] tax is in any circumstances to be charged as if a transfer of value had been made, that transfer shall be taken to be a transfer which is not a potentially exempt transfer.]
- [<sup>F12</sup>(7) In the application of this section to an event on the happening of which tax is chargeable under section 52 below, the reference in subsection (1)(a) [<sup>F13</sup>or (1A)(a)]

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above to the individual by whom the transfer of value is made is a reference to the person who, by virtue of section 3(4) above, is treated as the transferor.]

#### Textual Amendments

- F3** Finance Act 1986 Sch. 19 para. 1, *in relation to transfers of value made on or after 18 March 1986.*
- F4** Words in s. 3A(1)(a) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(2)**
- F5** Words in s. 3A(1) repealed (22.3.2006) by Finance Act 2006 (c. 25), s. 178, {Sch. 26 Pt. 6 Note 1}
- F6** S. 3A(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(3)**
- F7** Words in s. 3A(2) inserted (22.3.2006) by Finance Act 2006, s. 156, Sch. 20 paras. 7, {9(4)}
- F8** Repealed by Finance Act 1987 (No. 2) s. 96(2)(a) and Sch. 9 Part III, *with effect from 17 March 1987.*
- F9** Repealed by Finance Act 1987 (No. 2) s. 96(2)(b) and Sch. 9 Part III *with effect from 17 March 1987.*
- F10** S. 3A(3A)(3B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(5)**
- F11** Finance Act 1987 (No. 2) s. 96(2)(c), *in relation to transfers of value made on or after 17 March 1987.*
- F12** Finance Act 1987 (No. 2) s. 96(1), (3), *in relation to transfers of value made on or after 17 March 1987.*
- F13** Words in s. 3A(7) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **9(6)**

#### 4 Transfers on death.

- (1) On the death of any person tax shall be charged as if, immediately before his death, he had made a transfer of value and the value transferred by it had been equal to the value of his estate immediately before his death.
- (2) For the purposes of this section, where it cannot be known which of two or more persons who have died survived the other or others they shall be assumed to have died at the same instant.

#### 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>F14</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, and
  - (b) the] estate of a person immediately before his death does not include excluded property.

[<sup>F15</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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- (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>F16</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

**F14** Words in s. 5(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 para. 7, **10(2)**

**F15** S. 5(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **10(3)**

**F16** 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.

## 6 Excluded property.

- (1) Property situated outside the United Kingdom is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.  
  
[<sup>F17</sup>(1A) A holding in an authorised unit trust and a share in an open-ended investment company is excluded property if the person beneficially entitled to it is an individual domiciled outside the United Kingdom.]
- (2) Where securities have been issued by the Treasury subject to a condition authorised by section 22 of the <sup>M1</sup>Finance (No. 2) Act 1931 (or section 47 of the <sup>M2</sup>Finance (No. 2) Act 1915) for exemption from taxation so long as the securities are in the beneficial ownership of persons [<sup>F18</sup>of a description specified in the condition], the securities are excluded property if they are in the beneficial ownership of such a person.
- (3) Where the person beneficially entitled to the rights conferred by any of the following, namely—
  - (a) war savings certificates;
  - (b) national savings certificates (including Ulster savings certificates);
  - (c) premium savings bonds;
  - (d) deposits with the National Savings Bank or with a trustee savings bank;
  - (e) a [<sup>F19</sup>certified SAYE savings arrangement] within the meaning of [<sup>F20</sup>section 703(1) of the Income Tax (Trading and Other Income) Act 2005];is domiciled in the Channel Islands or the Isle of Man, the rights are excluded property.

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- (4) Property to which this subsection applies by virtue of section 155(1) below is excluded property.

#### Textual Amendments

- F17** S. 6(1A) inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), s. 186(2)
- F18** Words in s. 6(2) substituted (29.4.1996 with effect as mentioned in s. 154(9) of the amending Act) by 1996 c. 8, s. 154(7), Sch. 28 para. 7 (with s. 154(5))
- F19** Words in s. 6(3)(e) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, Sch. 1 para. 394(a) (with Sch. 2)
- F20** Words in s. 6(3)(e) substituted (6.4.2005 with effect in accordance with s. 883(1) of the amending Act) by Income Tax (Trading and Other Income) Act 2005 (c. 5), ss. 882, 883, Sch. 1 para. 394(b) (with Sch. 2)

#### Marginal Citations

- M1** 1931 c. 49.  
**M2** 1915 c. 89.

### Rates

#### 7 Rates.

- (1) <sup>F21</sup>Subject to subsections (2), (4) and (5) below] the tax charged on the value transferred by a chargeable transfer made by any transferor shall be charged at the following rate or rates, that is to say—
- (a) if the transfer is the first chargeable transfer made by that transferor in the period of <sup>F22</sup>seven years] ending with the date of the transfer, at the rate or rates applicable to that value under the . . . <sup>F23</sup>Table in Schedule 1 to this Act;
  - (b) in any other case, at the rate or rates applicable under that Table to such part of the aggregate of—
    - (i) that value, and
    - (ii) the values transferred by previous chargeable transfers made by him in that period,
 as is the highest part of that aggregate and is equal to that value.
- <sup>F24</sup>(2) Except as provided by subsection (4) below, the tax charged on the value transferred by a chargeable transfer made before the death of the transferor shall be charged at one-half of the rate or rates referred to in subsection (1) above.]
- (3) In <sup>F25</sup>the Table] in Schedule 1 to this Act any rate shown in the third column is that applicable to such portion of the value concerned as exceeds the lower limit shown in the first column but does not exceed the upper limit (if any) shown in the second column.
- <sup>F26</sup>(4) Subject to subsection (5) below, subsection (2) above does not apply in the case of a chargeable transfer made at any time within the period of seven years ending with the death of the transferor but, in the case of a chargeable transfer made within that period but more than three years before the death, the tax charged on the value

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transferred shall be charged at the following percentage of the rate or rates referred to in subsection (1) above—

- (a) where the transfer is made more than three but not more than four years before the death, 80 per cent;
  - (b) where the transfer is made more than four but not more than five years before the death, 60 per cent;
  - (c) where the transfer is made more than five but not more than six years before the death, 40 per cent; and
  - (d) where the transfer is made more than six but not more than seven years before the death, 20 per cent.
- (5) If, in the case of a chargeable transfer made before the death of the transferor, the tax which would fall to be charged in accordance with subsection (4) above is less than the tax which would have been chargeable (in accordance with subsection (2) above) if the transferor had not died within the period of seven years beginning with the date of the transfer, subsection (4) above shall not apply in the case of that transfer.]

#### Textual Amendments

- F21** Finance Act 1986 Sch. 19, para. 2(1)(a), with effect from 18 March 1986.
- F22** Finance Act 1986 Sch. 19, para. 2(1)(b), with effect from 18 March 1986. Originally “ten years”.
- F23** Repealed by Finance Act 1986 s. 101(3) and Sch. 19, para. 2(1)(c), with effect from 18 March 1986.
- F24** Finance Act 1986 Sch. 19, para. 2(2), with effect from 18 March 1986. Originally “(2) Except as otherwise provided, the first Table in Schedule 1 to this Act is the appropriate Table for a transfer made on or at any time within three years of the death of the transferor, and the second Table in that Schedule is the appropriate Table for any other transfer.”
- F25** Finance Act 1986 Sch. 19, para. 2(3), with effect from 18 March 1986. Originally “each of the Tables”.
- F26** Finance Act 1986 Sch. 19, para. 2(4), with effect from 18 March 1986.

## 8 Indexation of rate bands.

- (1) If the retail prices index for the month of [F27 September in 1993] or any later year is higher than it was for the [F27 previous September], then, unless Parliament otherwise determines, section 7 above and Schedule 1 to this Act shall apply to chargeable transfers made on or after 6th April in the following year with the substitution of [F28 a new Table for the Table] applying (whether by virtue of this section or otherwise) to earlier chargeable transfers.
- (1A) . . . . . F29
- (2) The new [F30 Table] shall differ from the [F30 Table] it replaces in that for each of the amounts specified in the first and second columns there shall be substituted amounts arrived at by increasing the previous amounts by the same percentage as the percentage increase in the retail prices index and, if the result is not a multiple of £1,000, rounding it up to the nearest amount which is such a multiple.
- (3) The references in this section to the retail prices index are references to the general index of retail prices (for all items) published by the [F31 Office for National Statistics]; and if that index is not published for a month of [F27 September] those references shall

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be construed as references to any substituted index or index figures published by [<sup>F32</sup>that Office].

- (4) The Treasury shall before 6th April [<sup>F27</sup>1994] and each subsequent 6th April make an order specifying the amounts which by virtue of this section will be treated, in relation to chargeable transfers on or after that date, as specified in the [<sup>F33</sup>Table] in Schedule 1 to this Act; and any such order shall be made by statutory instrument.

#### Textual Amendments

- F27** Words in s. 8(1)(3)(4) substituted (27.7.1993: the substituting section applying in relation to chargeable transfers made on or after 6.4.1994) by 1993 c. 34, s. 197(1)(2).
- F28** Finance Act 1986 Sch. 19, para. 3(1), with effect from 18 March 1986. Originally “new Tables for the Tables”.
- F29** Finance Act 1986 Sch. 19, para. 3(2), with effect from 18 March 1986. repealed by 1988, s. 136(3) and Sch.14, Part X with effect from 15 March 1988.
- F30** Finance Act 1986 Sch. 19, para. 3(3), with effect from 18 March 1986. Originally “Tables”.
- F31** Words in s. 8(3) substituted (1.4.1996) by S.I. 1996/273, art. 5(1), Sch. 2 para. 21(a)
- F32** Words in s. 8(3) substituted (1.4.1996) by S.I. 1996/273, art. 5(1), Sch. 2 para. 21(b)
- F33** Finance Act 1986 Sch. 19, para. 3(4), with effect from 18 March 1986. Originally “Tables”.

#### Modifications etc. (not altering text)

- C1** S. 8(1) restricted (7.4.2005) by Finance Act 2005 (c. 7), s. 98(6)
- C2** S. 8(1) excluded (19.7.2006) by Finance Act 2006 (c. 25), s. 155(5)
- C3** S. 8 restricted (19.3.1997 with effect as mentioned in s. 93(2) of the amending Act) by 1997 c. 16, s. 93(2)
- C4** S. 8(1) excluded (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 72(2).  
S. 8(1) excluded (27.7.1993) by 1993 c. 34, s. 196.  
S. 8(1) excluded (3.5.1994 with effect as mentioned in s. 246 of the amending Act) by 1994 c. 9, s. 246
- C5** S. 8(1) restricted (24.7.2002) by 2002 c. 23, s. 118(2)

VALID FROM 21/07/2008

#### <sup>F34</sup>8A Transfer of unused nil-rate band between spouses and civil partners

- (1) This section applies where—
- (a) immediately before the death of a person (a “deceased person”), the deceased person had a spouse or civil partner (“the survivor”), and
  - (b) the deceased person had unused nil-rate band on death.
- (2) A person has unused nil-rate band on death if—

$$M > VT$$

where—

M is the maximum amount that could be transferred by a chargeable transfer made (under section 4 above) on the person's death if it were to be wholly chargeable to tax at the rate of nil per cent. (assuming, if necessary, that the value of the person's estate were sufficient but otherwise having regard to the circumstances of the person); and



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VT is the value actually transferred by the chargeable transfer so made (or nil if no chargeable transfer is so made).

(3) Where a claim is made under this section, the nil-rate band maximum at the time of the survivor's death is to be treated for the purposes of the charge to tax on the death of the survivor as increased by the percentage specified in subsection (4) below (but subject to subsection (5) and section 8C below).

(4) That percentage is—

$$\frac{E}{\text{NRBMD}} \times 100$$

where—

E is the amount by which M is greater than VT in the case of the deceased person; and

NRBMD is the nil-rate band maximum at the time of the deceased person's death.

(5) If (apart from this subsection) the amount of the increase in the nil-rate band maximum at the time of the survivor's death effected by this section would exceed the amount of that nil-rate band maximum, the amount of the increase is limited to the amount of that nil-rate band maximum.

(6) Subsection (5) above may apply either—

- (a) because the percentage mentioned in subsection (4) above (as reduced under section 8C below where that section applies) is more than 100 because of the amount by which M is greater than VT in the case of one deceased person, or
- (b) because this section applies in relation to the survivor by reference to the death of more than one person who had unused nil-rate band on death.

(7) In this Act “nil-rate band maximum” means the amount shown in the second column in the first row of the Table in Schedule 1 to this Act (upper limit of portion of value charged at rate of nil per cent.) and in the first column in the second row of that Table (lower limit of portion charged at next rate).

#### Textual Amendments

**F34** Ss. 8A-8C inserted (with effect as mentioned in [Sch. 4 para. 9\(1\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. 10, [Sch. 4 para. 2](#) (with transitional modifications in [Sch. 4 paras. 10, 11](#))

VALID FROM 21/07/2008

#### 8B Claims under section 8A

(1) A claim under section 8A above may be made—

- (a) by the personal representatives of the survivor within the permitted period, or
- (b) (if no claim is so made) by any other person liable to the tax chargeable on the survivor's death within such later period as an officer of Revenue and Customs may in the particular case allow.

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- (2) If no claim under section 8A above has been made in relation to a person (P) by reference to whose death that section applies in relation to the survivor, the claim under that section in relation to the survivor may include a claim under that section in relation to P if that does not affect the tax chargeable on the value transferred by the chargeable transfer of value made on P's death.
- (3) In subsection (1)(a) above “the permitted period” means—
- (a) the period of two years from the end of the month in which the survivor dies or (if it ends later) the period of three months beginning with the date on which the personal representatives first act as such, or
  - (b) such longer period as an officer of Revenue and Customs may in the particular case allow.
- (4) A claim made within either of the periods mentioned in subsection (3)(a) above may be withdrawn no later than one month after the end of the period concerned.

#### Textual Amendments

**F34** Ss. 8A-8C inserted (with effect as mentioned in [Sch. 4 para. 9\(1\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. 10, [Sch. 4 para. 2](#) (with transitional modifications in [Sch. 4 paras. 10, 11](#))

VALID FROM 21/07/2008

#### 8C Section 8A and subsequent charges

- (1) This section applies where—
- (a) the conditions in subsection (1)(a) and (b) of section 8A above are met, and
  - (b) after the death of the deceased person, tax is charged on an amount under any of sections 32, 32A and 126 below by reference to the rate or rates that would have been applicable to the amount if it were included in the value transferred by the chargeable transfer made (under section 4 above) on the deceased person's death.
- (2) If the tax is charged before the death of the survivor, the percentage referred to in subsection (3) of section 8A above is (instead of that specified in subsection (4) of that section)—

$$\left( \frac{E}{\text{NRBMD}} - \frac{\text{TA}}{\text{NRBME}} \right) \times 100$$

where—

E and NRBMD have the same meaning as in subsection (4) of that section;

TA is the amount on which tax is charged; and

NRBME is the nil-rate band maximum at the time of the event occasioning the charge.

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- (3) If this section has applied by reason of a previous event or events, the reference in subsection (2) to the fraction

$$\frac{\text{TA}}{\text{NRBME}}$$

is to the aggregate of that fraction in respect of the current event and the previous event (or each of the previous events).

- (4) If the tax is charged after the death of the survivor, it is charged as if the personal nil-rate band maximum of the deceased person were appropriately reduced.

- (5) In subsection (4) above—

“the personal nil-rate band maximum of the deceased person” is the nil rate band maximum which is treated by Schedule 2 to this Act as applying in relation to the deceased person's death, increased in accordance with section 8A above where that section effected an increase in that nil-rate band maximum in the case of the deceased person (as survivor of another deceased person), and

“appropriately reduced” means reduced by the amount (if any) by which the amount on which tax was charged at the rate of nil per cent. on the death of the survivor was increased by reason of the operation of section 8A above by virtue of the position of the deceased person.]

#### Textual Amendments

**F34** Ss. 8A-8C inserted (with effect as mentioned in [Sch. 4 para. 9\(1\)](#) of the amending Act) by [Finance Act 2008 \(c. 9\)](#), s. 10, [Sch. 4 para. 2](#) (with transitional modifications in [Sch. 4 paras. 10, 11](#))

## 9 Transitional provisions on reduction of tax.

The transitional provisions in Schedule 2 to this Act shall have effect in relation to any enactment by virtue of which tax is reduced by the substitution of [<sup>F35</sup>a new Table] in Schedule 1.

#### Textual Amendments

**F35** Finance Act 1986 Sch. 19, para. 4 with effect from 18 March 1986. Originally “new Tables”.

### *Dispositions that are not transfers of value*

## 10 Dispositions not intended to confer gratuitous benefit.

- (1) A disposition is not a transfer of value if it is shown that it was not intended, and was not made in a transaction intended, to confer any gratuitous benefit on any person and either—

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- (a) that it was made in a transaction at arm's length between persons not connected with each other, or
  - (b) that it was such as might be expected to be made in a transaction at arm's length between persons not connected with each other.
- (2) Subsection (1) above shall not apply to a sale of [<sup>F36</sup>unquoted shares or unquoted debentures] unless it is shown that the sale was at a price freely negotiated at the time of the sale or at a price such as might be expected to have been freely negotiated at the time of the sale.
- (3) In this section—  
“disposition” includes anything treated as a disposition by virtue of section 3(3) above;  
“transaction” includes a series of transactions and any associated operations.

#### **Textual Amendments**

**F36** Finance Act 1987 Sch. 8, para. 1, *with effect from 17 March 1987. Originally*  
“shares or debentures not quoted on a recognised stock exchange”.

## **11 Dispositions for maintenance of family.**

- (1) A disposition is not a transfer of value if it is made by one party to a marriage [<sup>F37</sup>or civil partnership] in favour of the other party or of a child of either party and is—
- (a) for the maintenance of the other party, or
  - (b) for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (2) A disposition is not a transfer of value if it is made in favour of a child who is not in the care of a parent of his and is for his maintenance, education or training for a period ending not later than the year in which—
- (a) he attains the age of eighteen, or
  - (b) after attaining that age he ceases to undergo full-time education or training;
- but paragraph (b) above applies only if before attaining that age the child has for substantial periods been in the care of the person making the disposition.
- (3) A disposition is not a transfer of value if it is made in favour of a dependent relative of the person making the disposition and is a reasonable provision for his care or maintenance.
- (4) A disposition is not a transfer of value if it is made in favour of an illegitimate child of the person making the disposition and is for the maintenance, education or training of the child for a period ending not later than the year in which he attains the age of eighteen or, after attaining that age, ceases to undergo full-time education or training.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.
- (6) In this section—

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“child” includes a step-child and an adopted child and “parent” shall be construed accordingly;

[<sup>F38</sup>“civil partnership”, in relation to a disposition made on the occasion of the dissolution or annulment of a civil partnership, and in relation to a disposition varying a disposition so made, includes a former civil partnership;]

“dependent relative” means in relation to any person—

(a) a relative of his, or of his spouse [<sup>F39</sup>or civil partner] , who is incapacitated by old age or infirmity from maintaining himself, or

(b) [<sup>F40</sup>his mother or father or his spouse's or civil partner's mother or father;]

“marriage”, in relation to a disposition made on the occasion of the dissolution or annulment of a marriage, and in relation to a disposition varying a disposition so made, includes a former marriage;

“year” means period of twelve months ending with 5th April.

#### Textual Amendments

- F37** Words in s. 11(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **4(2)**
- F38** S. 11(6): definition of "civil partnership" inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **4(3)(b)**
- F39** S. 11(6): words in definition of "dependent relative" inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **4(3)(a)(i)**
- F40** S. 11(6): words in definition of "dependent relative" substituted (5.12.2005 with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **4(3)(a)(ii)**

## 12 Dispositions allowable for income tax or conferring retirement benefits.

- (1) A disposition made by any person is not a transfer of value if it is allowable in computing that person's profits or gains for the purposes of income tax or corporation tax or would be so allowable if those profits or gains were sufficient and fell to be so computed.
- (2) Without prejudice to subsection (1) above, a disposition made by any person is not a transfer of value if—
- (a) it is a contribution to a retirement benefits scheme which is approved by the Board for the purposes of Chapter [<sup>F41</sup>I of Part XIV of the <sup>M3</sup>Taxes Act 1988] (occupational pension schemes) and provides benefits in respect of service which is or includes service as an employee (as defined in that Chapter) of that person; or
- (b) it is made so as to provide—
- (i) benefits on or after retirement for a person not connected with him who is or has been in his employ, or
- (ii) benefits on or after the death of such a person for his widow [<sup>F42</sup>or surviving civil partner] or dependants,
- and does not result in the recipient receiving benefits which, having regard to their form and amount, are greater than what could be provided under a scheme approved as aforesaid; [<sup>F43</sup>or]

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- [<sup>F43</sup>(c) it is a contribution under approved personal pension arrangements within the meaning of Chapter [<sup>F44</sup>IV of Part XIV of the Taxes Act 1988] entered into by an employee of the person making the disposition.]
- (3) Where a person makes dispositions of the kinds described in [<sup>F45</sup>more than one paragraph] of subsection (2) above in respect of service by the same person, they shall be regarded as satisfying the conditions of that subsection only to the extent to which the benefits they provide do not exceed what could be provided by a disposition of the kind described in [<sup>F46</sup>any one] of those paragraphs.
- (4) For the purposes of subsection (2)(b) above, the right to occupy a dwelling rent-free or at a rent less than might be expected to be obtained in a transaction at arm's length between persons not connected with each other shall be regarded as equivalent to a pension at a rate equal to the rent or additional rent that might be expected to be obtained in such a transaction.
- (5) Where a disposition satisfies the conditions of the preceding provisions of this section to a limited extent only, so much of it as satisfies them and so much of it as does not satisfy them shall be treated as separate dispositions.

#### Textual Amendments

- F41** *Substituted by* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29**, para. 32. *Originally* “II of Part II of the Finance Act 1970”.
- F42** Words in s. 12(2)(b)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), **reg. 5**
- F43** [Finance Act 1987 \(No.2\)](#), **s. 98(2)**, with effect from 23 July 1987.
- F44** *Substituted by* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), **Sch. 29**, para.32. *Originally* “II of Part I of the Finance (No.2) Act 1987.”
- F45** *Substituted by* [Finance Act 1987 \(No. 2\)](#), **s. 98(3)** with effect from 23 July 1987. *Originally* “both paragraph (a) and paragraph (b)”.
- F46** *Substituted by* [Finance Act 1987 \(No. 2\)](#), **s. 98(3)** with effect from 23 July 1987. *Originally* “either”.

#### Marginal Citations

- M3** [1988 c. 1](#).

### 13 Dispositions by close companies for benefit of employees.

- (1) A disposition of property made to trustees by a close company whereby the property is to be held on trusts of the description specified in section 86(1) below is not a transfer of value if the persons for whose benefit the trusts permit the property to be applied include all or most of either—
- the persons employed by or holding office with the company, or
  - the persons employed by or holding office with the company or any one or more subsidiaries of the company.
- (2) Subsection (1) above shall not apply if the trusts permit any of the property to be applied at any time (whether during any such period as is referred to in section 86(1) below or later) for the benefit of—
- a person who is a participator in the company making the disposition, or

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- (b) any other person who is a participator in any close company that has made a disposition whereby property became comprised in the same settlement, being a disposition which but for this section would have been a transfer of value, or
  - (c) any other person who has been a participator in any such company as is mentioned in paragraph (a) or (b) above at any time after, or during the ten years before, the disposition made by that company, or
  - (d) any person who is connected with any person within paragraph (a), (b) or (c) above.
- (3) The participators in a company who are referred to in subsection (2) above do not include any participator who—
- (a) is not beneficially entitled to, or to rights entitling him to acquire, 5 per cent. or more of, or of any class of the shares comprised in, its issued share capital, and
  - (b) on a winding-up of the company would not be entitled to 5 per cent. or more of its assets.
- (4) In determining whether the trusts permit property to be applied as mentioned in subsection (2) above, no account shall be taken—
- (a) of any power to make a payment which is the income of any person for any of the purposes of income tax, or would be the income for any of those purposes of a person not resident in the United Kingdom if he were so resident, or
  - (b) if the trusts are those of a profit sharing scheme approved under [<sup>F47</sup>Schedule 9 to the <sup>M4</sup>Taxes Act 1988], of any power to appropriate shares in pursuance of the scheme [<sup>F48</sup>; or].
- [<sup>F48</sup>(c) if the trusts are those of [<sup>F49</sup>a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003] , of any power to appropriate shares to, or acquire shares on behalf of, individuals under the plan.]
- (5) In this section—
- “close company” and “participator” have the same meanings as in Part IV of this Act;
  - “ordinary shares” means shares which carry either—
    - (a) a right to dividends not restricted to dividends at a fixed rate, or
    - (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above,
  - “subsidiary” has [<sup>F50</sup>the meaning given by section 736 of] the [<sup>F51M5</sup>Companies Act 1985];
- and references in subsections (2) and (3) above to a participator in a company shall, in the case of a company which is not a close company, be construed as references to a person who would be a participator in the company if it were a close company.

#### Textual Amendments

- F47** Substituted by Income and Corporation Taxes Act 1988 (c. 1. SIF 63:1), Sch. 29, para. 32. Originally “the Finance Act 1978”.
- F48** S. 13(4)(c) and the word “or” immediately preceding it inserted (28.7.2000) by 2000 c. 17, s. 138(2)
- F49** Words in s. 13(4)(c) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), Sch. 6 para. 151(1)(a)(2)

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**F50** Companies Act 1989 s. 144(4) and Sch. 18 para. 30(2), with effect from the appointed day—on and after 1 November 1990 (S.I. 1990 No. 1392). Originally

“the same meaning as in”.

**F51** Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), Sch. 2, with effect from 1 July 1985. Originally

“Companies Act 1948”.

#### Marginal Citations

**M4** 1988 c. 1.

**M5** 1985 c. 6.

## 14 Waiver of remuneration.

- (1) Subject to subsection (2) below, the waiver or repayment of an amount of remuneration is not a transfer of value if, apart from the waiver or repayment, that amount [<sup>F52</sup>would be earnings, or would be treated as earnings, and would constitute employment income (see section 7(2)(a) or (b) of the Income Tax (Earnings and Pensions) Act 2003)] .
- (2) Where, apart from the waiver or repayment, the amount of the remuneration would be allowable as a deduction in computing for the purposes of income tax or corporation tax the profits or gains or losses of the person by whom it is payable or paid, this section shall apply only if, by reason of the waiver or repayment, it is not so allowed or is otherwise brought into charge in computing those profits or gains or losses.

#### Textual Amendments

**F52** Words in s. 14(1) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by [Income Tax \(Earnings and Pensions\) Act 2003 \(c. 1\)](#), ss. 722, 723(1), **Sch. 6 para. 152**

## 15 Waiver of dividends.

A person who waives any dividend on shares of a company within twelve months before any right to the dividend has accrued does not by reason of the waiver make a transfer of value.

## 16 Grant of tenancies of agricultural property.

- (1) The grant of a tenancy of agricultural property in the United Kingdom, the Channel Islands or the Isle of Man for use for agricultural purposes is not a transfer of value by the grantor if he makes it for full consideration in money or money’s worth.
- (2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

## 17 Changes in distribution of deceased’s estate, etc.

None of the following is a transfer of value—

- (a) a variation or disclaimer to which section 142(1) below applies;
- (b) a transfer to which section 143 below applies;



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- (c) an election by a surviving spouse [<sup>F53</sup>or civil partner] under section 47A of the Administration of <sup>M6</sup>Estates Act 1925;
- (d) the renunciation of a claim to legitim [<sup>F54</sup>or rights under section 131 of the Civil Partnership Act 2004] within the period mentioned in section 147(6) below.

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#### Textual Amendments

**F53** Words in s. 17(c) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **6(a)**

**F54** Words in s. 17(d) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **6(b)**

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#### Marginal Citations

**M6** 1925 c.23.

**Status:**

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