



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER I

BUSINESS PROPERTY

103 Preliminary

- (1) In this Chapter references to a transfer of value include references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), and
 - (a) references to the value transferred by a transfer of value include references to the amount on which tax is then chargeable, and
 - (b) references to the transferor include references to the trustees of the settlement concerned.
- (2) For the purposes of this Chapter a company and all its subsidiaries are members of a group, and " holding company " and " subsidiary " have the same meanings as in the Companies Act 1948.
- (3) In this Chapter " business " includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.

104 The relief

- (1) Where the whole or part of the value transferred by a transfer of value is attributable to the value of any relevant business property, the whole or that part of the value transferred shall be treated as reduced—

Status: This is the original version (as it was originally enacted).

- (a) in the case of property falling within section 105(1)(c) or (b) below, by 50 per cent;
 - (b) in the case of other relevant business property, by 30 per cent;
- but subject to the following provisions of this Chapter.

- (2) 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.

105 Relevant business property

- (1) Subject to the following provisions of this section and to sections 106, 108, 112(3) and 113 below, in this Chapter "relevant business property" means, in relation to any transfer of value,—
- (a) property consisting of a business or interest in a business ;
 - (b) shares in or securities of a company which (either by themselves or together with other such shares or securities owned by the transferor) gave the transferor control of the company immediately before the transfer;
 - (c) shares in a company which do not fall within paragraph (b) above and are not quoted on a recognised stock exchange;
 - (d) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by a company of which the transferor then had control or by a partnership of which he then was a partner ; and
 - (e) any land or building, machinery or plant which, immediately before the transfer, was used wholly or mainly for the purposes of a business carried on by the transferor and was settled property in which he was then beneficially entitled to an interest in possession.
- (2) Shares in or securities of a company do not fall within subsection (1)(b) above if—
- (a) they would not have been sufficient, without other property, to give the transferor control of the company immediately before the transfer, and
 - (b) their value is taken by virtue of section 176 below to be less than the value previously determined.
- (3) A business or interest in a business, or shares in or securities of a company, are not relevant business property if the business or, as the case may be, the business carried on by the company consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings or making or holding investments.
- (4) Subsection (3) above—
- (a) does not apply to any property if the business concerned is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom, and
 - (b) does not apply to shares in or securities of a company if the business of the company consists wholly or mainly in being a holding company of one or more companies whose business does not fall within that subsection.
- (5) Shares in or securities of a company are not relevant business property in relation to a transfer of value if at the time of the transfer a winding-up order has been made in respect of the company or the company has passed a resolution for voluntary winding-up or is otherwise in process of liquidation, unless the business of the company is to

continue to be carried on after a reconstruction or amalgamation and the reconstruction or amalgamation either is the purpose of the winding-up or liquidation or takes place not later than one year after the transfer of value.

- (6) Land, a building, machinery or plant owned by the transferor and used wholly or mainly for the purposes of a business carried on as mentioned in subsection (1) (d) or (e) above is not relevant business property in relation to a transfer of value, unless the business or the transferor's interest in it is, or shares or securities of the company carrying on the business immediately before the transfer are, relevant business property in relation to the transfer.

106 Minimum period of ownership

Property is not relevant business property in relation to a transfer of value unless it was owned by the transferor throughout the two years immediately preceding the transfer.

107 Replacements

- (1) Property shall be treated as satisfying the condition in section 106 above if—
- (a) it replaced other property and it, that other property and any property directly or indirectly replaced by that other property were owned by the transferor for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value, and
 - (b) any other property concerned was such that, had the transfer of value been made immediately before it was replaced, it would (apart from section 106) have been relevant business property in relation to the transfer.
- (2) In a case falling within subsection (1) above relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.
- (3) For the purposes of subsection (2) above changes resulting from the formation, alteration or dissolution of a partnership, or from the acquisition of a business by a company controlled by the former owner of the business, shall be disregarded.
- (4) Subsection (1) above does not apply to shares falling within section 105(1)(c) above; but where such shares owned by the transferor immediately before the transfer would under any of the provisions of sections 77 to 86 of the Capital Gains Tax Act 1979 be identified with other shares previously owned by him his period of ownership of the first-mentioned shares shall be treated for the purposes of section 106 above as including his period of ownership of the other shares.

108 Successions

For the purposes of sections 106 and 107 above, where the transferor became entitled to any property on the death of another person—

- (a) he shall be deemed to have owned it from the date of the death, and
- (b) if that other person was his spouse he shall also be deemed to have owned it for any period during which the spouse owned it.

109 Successive transfers

- (1) Where—

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- (a) the whole or part of the value transferred by a transfer of value (in this section referred to as the earlier transfer) was eligible for relief under this Chapter (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time), and
 - (b) the whole or part of the property which, in relation to the earlier transfer, was relevant business property became, through the earlier transfer, the property of the person or of the spouse of the person who is the transferor in relation to a subsequent transfer of value, and
 - (c) that property or part, or any property directly or indirectly replacing it, would (apart from section 106 above) have been relevant business property in relation to the subsequent transfer of value, and
 - (d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor, the property which would have been relevant business property but for section 106 above shall be relevant business property notwithstanding that section.
- (2) Where the property which, by virtue of subsection (1) above, is relevant business property replaced the property or part referred to in paragraph (c) of that subsection, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but section 107(3) above shall apply with the necessary modifications for the purposes of this subsection.
- (3) Where, under the earlier transfer, the amount of the value transferred which was attributable to the property or part referred to in subsection (1)(c) above was part only of its value, a like part only of the value which (apart from this subsection) would fall to be reduced under this Chapter by virtue of this section shall be so reduced.

110 Value of business

For the purposes of this Chapter—

- (a) the value of a business or of an interest in a business shall be taken to be its net value ;
- (b) the net value of a business is the value of the assets used in the business (including goodwill)-, reduced by the aggregate amount of any liabilities" incurred for the purposes of the business ;
- (c) in ascertaining the net value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the entire business would fall to be ascertained.

111 Value of certain shares and securities

Where a company is a member of a group and the business of any other company which is a member of the group falls within section 105(3) above, then, unless either—

- (a) that business also falls within section 105(4), or
- (b) that business consists wholly or mainly in the holding of land or buildings wholly or mainly occupied by members of the group whose business either does not fall within section 105(3) or falls within both section 105(3) and section 105(4),

the value of shares in or securities of the company shall be taken for the purposes of this Chapter to be what it would be if that other company were not a member of the group.

112 Exclusion of value of excepted assets

- (1) In determining for the purposes of this Chapter what part of the value transferred by a transfer of value is attributable to the value of any relevant business property so much of the last-mentioned value as is attributable to any excepted assets within the meaning of subsection (2) below shall be left out of account.
- (2) An asset is an excepted asset in relation to any relevant business property if it was neither—
 - (a) used wholly or mainly for the purposes of the business concerned throughout the whole or the last two years of the relevant period defined in subsection (5) below, nor
 - (b) required at the time of the transfer for future use for those purposes;but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately before the transfer was also a member of that group shall be treated as use for the purposes of the business concerned, unless that other company's membership of the group falls to be disregarded under section 111 above.
- (3) Subsection (2) above does not apply in relation to an asset which is relevant business property by virtue only of section 105(1)(d) above, and an asset is not relevant business property by virtue only of that provision unless either—
 - (a) it was used as mentioned in that provision throughout the two years immediately preceding the transfer of value, or
 - (b) it replaced another asset so used and it and the other asset and any asset directly or indirectly replaced by that other asset were so used for periods which together comprised at least two years falling within the five years immediately preceding the transfer of value ;but in a case where section 109 above applies this condition shall be treated as satisfied if the asset (or it and the asset or assets replaced by it) was or were so used throughout the period between the earlier and the subsequent transfer mentioned in that section (or throughout the part of that period during which it or they were owned by the transferor or the transferor's spouse).
- (4) Where part but not the whole of any land or building is used exclusively for the purposes of any business and the land or building would, but for this subsection, be an excepted asset, or, as the case may be, prevented by subsection (3) above from being relevant business property, the part so used and the remainder shall for the purposes of this section be treated as separate assets, and the value of the part so used shall (if it would otherwise be less) be taken to be such proportion of the value of the whole as may be just.
- (5) For the purposes of this section the relevant period, in relation to any asset, is the period immediately preceding the transfer of value during which the asset (or, if the relevant business property is an interest in a business, a corresponding interest in the asset) was owned by the transferor or, if the business concerned is that of a company, was owned by that company or any other company which immediately before the transfer of value was a member of the same group.
- (6) For the purposes of this section an asset shall be deemed not to have been used wholly or mainly for the purposes of the business concerned at any time when it was used wholly or mainly for the personal benefit of the transferor or of a person connected with him.

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113 Contracts for sale

Where any property would be relevant business property in relation to a transfer of value but a binding contract for its sale has been entered into at the time of the transfer, it is not relevant business property in relation to the transfer unless—

- (a) the property is a business or interest in a business and the sale is to a company which is to carry on the business and is made in consideration wholly or mainly of shares in or securities of that company, or
- (b) the property is shares in or securities of a company and the sale is made for the purpose of reconstruction or amalgamation.

114 Avoidance of double relief

- (1) Where any part of the value transferred by a transfer of value is reduced under Chapter II of this Part of this Act by reference to the agricultural value of any property, or would be so reduced but for section 121(3), such part of the value transferred as is or would be so reduced under that Chapter shall not be reduced under this Chapter.
- (2) Where the value transferred by a transfer of value is reduced under section 129 below by reference to the tax chargeable on the disposal of any trees or underwood, the value to be reduced under section 104 above shall be the value as reduced under section 129 (but subject to section 104(2) above).