



Inheritance Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER V

MISCELLANEOUS

Changes in distribution of deceased's estate, etc.

142 Alteration of dispositions taking effect on death.

- (1) Where within the period of two years after a person's death—
- (a) any of the dispositions (whether effected by will, under the law relating to intestacy or otherwise) of the property comprised in his estate immediately before his death are varied, or
 - (b) the benefit conferred by any of those dispositions is disclaimed,
- by an instrument in writing made by the persons or any of the persons who benefit or would benefit under the dispositions, this Act shall apply as if the variation had been effected by the deceased or, as the case may be, the disclaimed benefit had never been conferred.

[^{F1}(2) Subsection (1) above shall not apply to a variation unless the instrument contains a statement, made by all the relevant persons, to the effect that they intend the subsection to apply to the variation.

- (2A) For the purposes of subsection (2) above the relevant persons are—
- (a) the person or persons making the instrument, and
 - (b) where the variation results in additional tax being payable, the personal representatives.

Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)

Personal representatives may decline to make a statement under subsection (2) above only if no, or no sufficient, assets are held by them in that capacity for discharging the additional tax.]

- (3) Subsection (1) above shall not apply to a variation or disclaimer made for any consideration in money or money's worth other than consideration consisting of the making, in respect of another of the dispositions, of a variation or disclaimer to which that subsection applies.

[^{F2}(3A) Subsection (1) does not apply to a variation by virtue of which any property comprised in the estate immediately before the person's death becomes property in relation to which section 23(1) applies unless it is shown that the appropriate person has been notified of the existence of the instrument of variation.

- (3B) For the purposes of subsection (3A) "the appropriate person" is—
- (a) the charity or registered club to which the property is given, or
 - (b) if the property is to be held on trust for charitable purposes or for the purposes of registered clubs, the trustees in question.]

- (4) Where a variation to which subsection (1) above applies results in property being held in trust for a person for a period which ends not more than two years after the death, this Act shall apply as if the disposition of the property that takes effect at the end of the period had had effect from the beginning of the period; but this subsection shall not affect the application of this Act in relation to any distribution or application of property occurring before that disposition takes effect.

- (5) For the purposes of subsection (1) above the property comprised in a person's estate includes any excluded property but not any property to which he is treated as entitled by virtue of section 49(1) above [^{F3}or section 102 of the Finance Act 1986].

- (6) Subsection (1) above applies whether or not the administration of the estate is complete or the property concerned has been distributed in accordance with the original dispositions.

- (7) In the application of subsection (4) above to Scotland, property which is subject to a proper liferent shall be deemed to be held in trust for the liferenter.

Textual Amendments

- F1** S. 142(2)(2A) substituted for s. 142(2) (24.7.2002 with application as mentioned in s. 120(4) of the amending Act) by 2002 c. 23, s. 120(1)(4)
- F2** S. 142(3A)(3B) inserted (with effect in accordance with Sch. 33 para. 10(2) of the amending Act) by Finance Act 2012 (c. 14), Sch. 33 para. 9
- F3** Finance Act 1986 Sch. 19, para. 24, with effect from 18 March 1986.

143 Compliance with testator's request.

Where a testator expresses a wish that property bequeathed by his will should be transferred by the legatee to other persons, and the legatee transfers any of the property in accordance with that wish within the period of two years after the death of the testator, this Act shall have effect as if the property transferred had been bequeathed by the will to the transferee.

Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)

144 Distribution etc. from property settled by will.

- (1) [^{F4}Subsection (2) below applies] where property comprised in a person's estate immediately before his death is settled by his will and, within the period of two years after his death and before any interest in possession has subsisted in the property, there occurs—
- (a) an event on which tax would [^{F5}(apart from subsection (2) below)] be chargeable under any provision, other than section 64 or 79, of Chapter III of Part III of this Act, or
 - (b) an event on which tax would be so chargeable but for section [^{F6}65(4),] 75 [^{F7}, 75A] or 76 above or paragraph 16(1) of Schedule 4 to this Act.

[^{F8}(1A) Where the testator dies on or after 22nd March 2006, subsection (1) above shall have effect as if the reference to any interest in possession were a reference to any interest in possession that is—

- (a) an immediate post-death interest, or
- (b) a disabled person's interest.]

- (2) Where [^{F9}this subsection] applies by virtue of an event within paragraph (a) of subsection (1) above, tax shall not be charged under the provision in question on that event; and in every case in which [^{F9}this subsection] applies in relation to an event, this Act shall have effect as if the will had provided that on the testator's death the property should be held as it is held after the event.

[^{F10}(3) Subsection (4) below applies where—

- (a) a person dies on or after 22nd March 2006,
- (b) property comprised in the person's estate immediately before his death is settled by his will, and
- (c) within the period of two years after his death, but before an immediate post-death interest or a disabled person's interest has subsisted in the property, there occurs an event that involves causing the property to be held on trusts that would, if they had in fact been established by the testator's will, have resulted in—
 - (i) an immediate post-death interest subsisting in the property, or
 - (ii) section 71A or 71D above applying to the property.

(4) Where this subsection applies by virtue of an event—

- (a) this Act shall have effect as if the will had provided that on the testator's death the property should be held as it is held after the event, but
- (b) tax shall not be charged on that event under any provision of Chapter 3 of Part 3 of this Act.

(5) Subsection (4) above also applies where—

- (a) a person dies before 22nd March 2006,
- (b) property comprised in the person's estate immediately before his death is settled by his will,
- (c) an event occurs—
 - (i) on or after 22nd March 2006, and
 - (ii) within the period of two years after the testator's death,that involves causing the property to be held on trusts within subsection (6) below,

Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)

- (d) no immediate post-death interest, and no disabled person's interest, subsisted in the property at any time in the period beginning with the testator's death and ending immediately before the event, and
 - (e) no other interest in possession subsisted in the property at any time in the period beginning with the testator's death and ending immediately before 22nd March 2006.
- (6) Trusts are within this subsection if they would, had they in fact been established by the testator's will and had the testator died at the time of the event mentioned in subsection (5)(c) above, have resulted in—
- (a) an immediate post-death interest subsisting in the property, or
 - (b) section 71A or 71D above applying to the property.]

Textual Amendments

- F4** Words in s. 144(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **27(2)(a)**
- F5** Words in s. 144(1)(a) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **27(2)(b)**
- F6** Word in s. 144(1)(b) inserted (with effect in accordance with s. 14(2) of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), s. **14(1)**
- F7** Word in s. 144(1)(b) inserted (6.4.2014) by [Finance Act 2014 \(c. 26\)](#), **Sch. 37 para. 16(1)(2)**
- F8** S. 144(1A) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **27(3)**
- F9** Words in s. 144(2) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **27(4)**
- F10** S. 144(3)-(6) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, Sch. 20 paras. 7, **27(5)**

^{F11}145 Redemption of surviving spouse's or civil partner's life interest.

.....

Textual Amendments

- F11** S. 145 omitted (1.10.2014) by virtue of [Inheritance and Trustees' Powers Act 2014 \(c. 16\)](#), s. 12(2), **Sch. 4 para. 4(b)** (with s. 12(4)); S.I. 2014/2039, art. 2

146 Inheritance (Provision for Family and Dependants) Act 1975.

- (1) Where an order is made under section 2 of the ^{M1}Inheritance (Provision for Family and Dependants) Act 1975 (“the 1975 Act”) in relation to any property forming part of the net estate of a deceased person, then, without prejudice to section 19(1) of that Act, the property shall for the purposes of this Act be treated as if it had on his death devolved subject to the provisions of the order.
- (2) Where an order is made under section 10 of the 1975 Act requiring a person to provide any money or other property by reason of a disposition made by the deceased, then—
- (a) if that disposition was a chargeable transfer and the personal representatives of the deceased make a claim for the purpose [^{F12}not more than 4 years after the date on which the order is made]—

Changes to legislation: *There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)*

- (i) tax paid or payable on the value transferred by that chargeable transfer (whether or not by the claimants) shall be repaid to them by the Board or, as the case may be, shall not be payable, and
 - (ii) the rate or rates of tax applicable to the transfer of value made by the deceased on his death shall be determined as if the values previously transferred by chargeable transfers made by him were reduced by that value;
 - (b) the money or property shall be included in the deceased's estate for the purpose of the transfer of value made by him on his death.
- (3) Where the money or other property ordered to be provided under section 10 of the 1975 Act is less than the maximum permitted by that section, subsection (2)(a) above shall have effect in relation to such part of the value there mentioned as is appropriate.
- (4) The adjustment in consequence of the provisions of this section or of section 19(1) of the 1975 Act of the tax payable in respect of the transfer of value made by the deceased on his death shall not affect—
 - (a) the amount of any deduction to be made under section 8 of that Act in respect of tax borne by the person mentioned in subsection (3) of that section, or
 - (b) the amount of tax to which regard is to be had under section 9(2) of that Act;and where a person is ordered under that Act to make a payment or transfer property by reason of his holding property treated as part of the deceased's net estate under section 8 or 9 and tax borne by him is taken into account for the purposes of the order, any repayment of that tax shall be made to the personal representatives of the deceased and not to that person.
- (5) Tax repaid under paragraph (a)(i) of subsection (2) above shall be included in the deceased's estate for the purposes of the transfer of value made by him on his death; and tax repaid under that paragraph or under subsection (4) above shall form part of the deceased's net estate for the purposes of the 1975 Act.
- (6) Anything which is done in compliance with an order under the 1975 Act or occurs on the coming into force of such an order, and which would (apart from this subsection) constitute an occasion on which tax is chargeable under any provision, other than section 79, of Chapter III of Part III of this Act, shall not constitute such an occasion; and where an order under the 1975 Act provides for property to be settled or for the variation of a settlement, and (apart from this subsection) tax would be charged under section 52(1) above on the coming into force of the order, section 52(1) shall not apply.
- (7) In subsections (2)(a) and (5) above references to tax include references to interest on tax.
- (8) Where an order is made staying or dismissing proceedings under the 1975 Act on terms set out in or scheduled to the order, this section shall have effect as if any of those terms which could have been included in an order under section 2 or 10 of that Act were provisions of such an order.
- (9) In this section any reference to, or to any provision of, the 1975 Act includes a reference to, or to the corresponding provision of, the ^{M2}Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979.

Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)

Textual Amendments

F12 Words in s. 146(2)(a) inserted (1.4.2011) by [Finance Act 2009 \(c. 10\)](#), s. 99, [Sch. 51 para. 7](#); [S.I. 2010/867](#), [art. 2\(2\)](#)

Marginal Citations

M1 1975 c. 63.

M2 [S.I. 1979/924](#) (N.I. 8.).

147 Scotland; legitim. [^{F13} etc.]

- (1) Where a testator dies leaving a surviving spouse [^{F14} or civil partner] and a person under the age of 18 entitled to claim legitim [^{F15} or rights under section 131 of the Civil Partnership Act 2004 (“section 131 rights”)], and provision is made in his will or other testamentary document for a disposition to his spouse [^{F14} or civil partner] which, if it could take effect, would leave insufficient property in the estate to satisfy the entitlement of that person in respect of legitim [^{F16} or to section 131 rights] , the following provisions of this section shall apply.
- (2) Subject to subsections (3) and (4) below, tax shall be charged at the testator’s death as if the disposition to the spouse [^{F17} or civil partner] did not include any amount in respect of legitim [^{F18} or section 131 rights] , but if within the period mentioned in subsection (6) below the person or persons concerned renounce their claim to legitim [^{F18} or section 131 rights] , tax shall be repaid to the estate calculated on the basis that the disposition to the spouse [^{F17} or civil partner] did include the amount renounced.
- (3) The executors or judicial factor of the testator may, in accordance with the provisions of this section, elect that subsection (2) above shall not apply but that subsection (4) below shall apply.
- (4) Tax shall be charged at the testator’s death as if the disposition to the spouse [^{F19} or civil partner] had taken effect, but where the person or persons concerned claim legitim [^{F20} or section 131 rights] within the period mentioned in subsection (6) below, tax shall be charged on the amount so claimed calculated on the basis that the legitim fund had been paid out in full at the testator’s death (excluding any part of the fund renounced before any claim has been made) [^{F21} or on the basis that all section 131 rights had been claimed in full at the testator's death (excluding any rights renounced before any claim has been made)] and the tax chargeable thereon had been apportioned rateably among the persons entitled to claim legitim [^{F20} or section 131 rights](excluding any who have renounced as aforesaid).
- (5) Where the executors or judicial factor of the testator decide to make an election under subsection (3) above they shall give notice in writing of that election to the Board within two years from the date of death of the testator or such longer period as the Board may permit.
- (6) For the purposes of subsections (2) and (4) above, a person shall be treated as having claimed legitim [^{F22} or section 131 rights] unless he has renounced his claim before attaining the age of 18 or he renounces his claim within two years of his attaining that age or such longer period as the Board may permit.
- (7) Where a person dies before attaining the age of 18 or before making a renunciation under subsection (6) above the provisions of this section shall apply in relation to that

Changes to legislation: There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross Heading: Changes in distribution of deceased's estate, etc.. (See end of Document for details)

person's executors or judicial factor as they would have applied in relation to that person if that person had attained the age of 18 with the substitution of the date of death of that person for the date on which a person attained that age; but where the executors or factor renounce a claim to legitim [^{F23}or section 131 rights] in respect of a person the amount renounced shall not be treated as part of that person's estate.

(8) Where subsection (2) above applies in relation to any estate, then notwithstanding anything in section 241 below the Board may repay tax under that subsection without limit of time.

(9) Where subsection (4) above applies in relation to any estate, then notwithstanding anything in section 239 below a certificate of discharge may be given under that section in respect of the whole estate, and notwithstanding anything in section 240 below the giving of the certificate shall not preclude the Board from claiming tax under subsection (4) above without limit of time.

[^{F24}(10) Where the application of subsection (4) in relation to the estate of a person means that too great an increase has been made under subsection (3) of section 8A above in the case of another person, the claim under that section in that case may be amended accordingly by the Commissioners for Her Majesty's Revenue and Customs.]

Textual Amendments

- F13** Word in s. 147 sidenote inserted (5.12.2005) by virtue of [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(7)**
- F14** Words in s. 147(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(2)(a)**
- F15** Words in s. 147(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(2)(b)**
- F16** Words in s. 147(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(2)(c)**
- F17** Words in s. 147(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(3)(a)**
- F18** Words in s. 147(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(3)(b)**
- F19** Words in s. 147(4) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(4)(a)**
- F20** Words in s. 147(4) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(4)(b)**
- F21** Words in s. 147(4) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(4)(c)**
- F22** Words in s. 147(6) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(5)**
- F23** Words in s. 147(7) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), **32(6)**
- F24** S. 147(10) 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. 3**

Changes to legislation:

There are currently no known outstanding effects for the Inheritance Tax Act 1984, Cross
Heading: Changes in distribution of deceased's estate, etc..