Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1986, SCHEDULE 19. (See end of Document for details)*

SCHEDULE 19

Section 101.

INHERITANCE TAX

PART I

AMENDMENTS OF 1984 ACT

1 After section there shall be inserted the following section—

"**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; 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 andmaintenance trust or a disabled trust;

but this subsection has 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) 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, otherwise than as settled property, 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, otherwise than by an increase in the value of settled property comprised in this estate.

(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.

(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.

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(6) Where, under any provision of this Act, tax is in any circumstances to be charged as if a trnafer of value had been made, that transfer shall be taken to be a transfer which is not a potentially exempt transfer."

2 (1) In section 7 (rates of tax), in subsection (1)—

(a) at the beginning there shall be inserted the words "Subject to subsections (2), (4) and (5) below";

(b) for the words "ten years" there shall be substituted " seven years "; and

(c) the word "appropriate" shall be omitted.

(2) For subsection (2) of that section there shall be substituted the following subsection—

"(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 subsection (3) of that section for the words "each of the Tables" there shall be substituted " Table ".

(4) After subsection (3) of that section there shall be inserted the following subsections—

"(4) Subject to subsection (5) below, subsection (2) 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 that three years before the death, the tax charged on the value 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."

3 (1) In section 8 (indexation) in subsection (1) for the words "new Tables for the Tables" there shall be substituted " a new Table for the Table ".

(2) . . . . . [F1]

(3) In subsection (2) of that section for the word "Tables", in each place where it occurs, there shall be substituted " Table " and for the words "they replace" there shall be substituted " it replaces ".

(4) In subsection (4) of that section, for the word "Tables" there shall be substituted " Table ".

Textual Amendments

F1 Sch. 19 Pt. I para. 3(2) repealed by Finance Act 1988 (c. 39, SIF 65), s. 148, **Sch. 14 Pt. X**

4 In section 9 (transitional provisions on reduction of tax) for the words "new Tables" there shall be substituted " a new Table ".

5 In section 19 (annual exemption), after subsection (3) there shall be inserted the following subsection—

"(3A) A transfer of value which is a potentially exempt transfer—

(a) shall in the first instance be left out of account for the purposes of subsections (1) to (3) above; and

(b) if it proves to be a chargeable transfer, shall for the purposes of those subsections be taken into account as if, in the year in which it was made, it was made later than any transfer of value which was not a potentially exempt transfer."

6 After section 26 there shall be inserted the following section—

"**26A Potentially exempt transfer of property subsequently held for national purposes etc.**

A potentially exempt transfer which would (apart from this section) have proved to be a chargeable transfer shall be an exempt transfer to the extent that the value transferred by it is attributable to property which has been or could be designated under section 31(1) below and which, during the period beginning with the date of the transfer and ending with the death of the transferor,—

(a) has been disposed of by sale of private treaty to a body mentioned in Schedule 3 to this Act or has been disposed of to such a body otherwise than by sale, or

(b) has been disposed of in pursuance of section 230 below."

7 In section 30 (conditionally exempt transfers) after subsection (3) there shall be inserted the following subsections—

"(3A) The provisions of this section shall be disregarded in determining under section 3A above whether a transfer of value is a potentially exempt transfer.

(3B) No claim may be made under subsection (1) above with respect to a potentially exempt transfer until the transferor has died.

(3C) Subsection (1) above shall not apply to a potentially exempt transfer to the extent that the value transferred by it is attributable to property which has been disposed of by sale during the period beginning with the date of the transfer and ending with the death of the transferor."

8 (1) In section 31 (designation and undertakings) after subsection (1) there shall be inserted the following subsection—

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"(1A) Where the transfer of value in relation to which the claim for designation is made is a potentially exempt transfer which (apart from section 30 above) has proved to be a chargeable transfer, the question whether any property is appropriate for designation under this section shall be determined by reference to circumstances existing after the death of the transferor."

(8) After subsection (4F) of that section there shall be inserted the following subsection—

"(4G) In a case where—

(a) the transfer of a value in question is a potentially exempt transfer which, (apart from section 30 above) has proved to be a chargeable transfer, and

(b) at the time of the transferor's death an undertaking by such a person as is mentioned in section 30(1)(b) above given under paragraph 3(3) of Schedule 4 to this Act or under section 147 of the Capital Gains Tax Act 1979 is in force with respect to any property to which the value transferred by the transfer is attributable,

that undertaking shall be treated for the purposes of this Chapter as an undertaking given under section 30 above."

9 In section 32 (chargeable events) in subsection (1) after the words "after the transfer" there shall be inserted " (or, if the transfer was a potentially exempt transfer, after the death of the transferor) ".

10 In section 32A (associated properties) in subsection (2) after the words "after the transfer" there shall be inserted " (or, if the transfer was a potentially exempt transfer, after the death of the transferor) ".

11 (1) In section 33 (amount of the charge in relation to conditionally exempt transfers) in subsection (1)(b)—

(a) in sub-paragraph (i) for the words "under the second Table in Schedule 1 to this Act" there shall be substituted " in accordance with section 7(2) above "; and

(b) in sub-paragraph (ii) for the words "under the appropriate Table" there shall be substituted " in accordance with the appropriate provision of section 7 above ".

(2) For subsection (2) of that section there shall be substituted the following subsections—

"(2) For the purposes of subsection (1)(b)(ii) above the appropriate provision of section 7 above is—

(a) if the conditionally exempt transfer by the relevant person made on eath (but the property was not treated as forming part of his estate immediately before his death only by virtue of section 102(3) of the Finance Act 1986) subsection (1) of section 7; and

(b) in any other case, subsection (2) of section 7.

(2A) The rate or rates of tax determined under subsection (1)(b)(i) above in respect of any charegable event shall not be affected by the death of the relevant person after that event.".

(3) In subsection (7) of that section at the beginning there shall be inserted the words " Subject to subsection (8) below ".

(4) After that subsection there shall be added the following subsection—

"(8) Where after a conditionally exempt trnafer of any property there is a potentially exempt transfer the value transferred by which is w h olly or partly attributable to that property and either—

(a) the potentially exempt transfer is a chargeable event with respect to the property, or

(b) after the potentially exempt transfer, but before the death of the person who is the transferor in relation to the potentially exempt transfer, a chargeable event occurs with respect to the property,

the tax charged in accordance with this section by reference to that chargeable event shall be allowed as a credit against any tax which may become chargeable, by reason of the potentially exempt transfer proving to be a chargeable transfer, on so much of the value transferred by that transfer as is attributable to the property; and subsection (7) above shall not apply with respect to any tax so becoming chargeable."

12 In section 35 (conditional exemption on death before 7th April 1976) in subsection (3) for the words "section 33(7) above, the reference" there shall be substituted " section 33(7) and (8) above, references ", and for the words "includes a reference" there shall be substituted " include references ".

13 In section 38 (attribution of value to specific gifts) in subsection (6) after the words "section 5(5) above" there shall be inserted " or by virtue of section 103 of the Finance Act 1986 " and at the end of that subsection there shall be added " and, to the extent that any liability of the transferor is abated under the said section 103, that liability shall be treated as a specific gift ".

14 *At the end of section 49 (treatment of interests in possession) there shall be added the following subsection—* ***[****[F2]For text see IHTA 1984 s. 49(3).***]**

Textual Amendments

F2 Repealed by Finance Act 1987 (No. 2) (c. 51, SIF 63:1), s. 96(4)(5) respectively and Sch. 9, Part III in relation to transfers of value made on or after 17 March 1987.

15 *In section 55 (reversionary interst acquired by beneficiary) at the end of subsection (2) there shall be added "and such a dispostition is not a potentially exempt transfer".*[F3]

Textual Amendments

F3 Repealed by Finance Act 1987 (No. 2) (c. 51, SIF 63:1), s. 96(4)(5) respectively and Sch. 9, Part III in relation to transfers of value made on or after 17 March 1987.

16 (1) In section 66 (rate of ten-yearly charge) in subsection (3)(b) for the words "preceding ten years" there shall be substituted " preceding seven years ".

(2) For paragraph (c) of subsection (3) of that section there shall be substituted—

"(c) on which tax is charged in accordance with section 7(2) of this Act".

(3) In subsection (5)(a) of that section for the word "ten" there shall be substituted " seven ".

17 In section 67 (added property etc.) in subsections (3)(b) and (4) for the word "ten" there shall be substituted " seven ".

18 (1) In section 68 (rate before first-year anniversary) in subsection (4)(b) for the word "ten", in both places where it occurs, there shall be substituted " seven ".

(2) For paragraph (c) of subsection (4) and for paragraph (c) of subsection (6) of that section there shall be substituted—

"(c) on which tax is charged in accordance with section 7(2) of this Act".

(3) In subsection (6)(b) of that section—

(a) for the word "ten", in the first place where it occurs, there shall be substituted " seven "; and

(b) in sub-paragraph (i) for the words "that period of ten years" there shall be substituted " the period of ten years ending with that day ".

19 (1) In section 78 (conditionally exempt occasions) in subsection (4) for the words from "and the appropriate Table" to the end there shall be substituted " and the appropriate provision of section 7 for the purposes of section 33(1)(b)(ii) is, if the settlement was created on his death, subsection (1) and, if not, subsection (2). "

(2) In subsection (5) of that section, in the substituted sub-paragraph (ii) for section 33(1)(b), for the words "under the appropriate Table" there shall be substituted " in accordance with the appropriate provision of section 7 above. "

20 At the end of section 98 (effect of alteration of capital of close company etc.) there shall be added the following subsection—

"(3) The disposition referred to in subsection (1) above shall be ataken to be one which is not a potentially exempt transfer."

21 After section 113 there shall be inserted the following sections—

"**113A Transfers within seven years before death of transferor.**

(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) are satisfied.

(2) Where—

(a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and

(b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) above are—

(a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor; and

(b) that, in relation to a notional transfer of value made by the transferee immediately before the death, the original property would (apart from section 106 above) be relevant business property.

(4) If the transferee has dies before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the orginal property, then—

(a) in a case falling within subsection (1) above, only a proprtionate part of so much of the value tranferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and

(a) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred was attributable to the original property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

(a) would under any of the provisions of sections 77 to 86 of the Capital Gains Tax Act 1979 be identified with the original property (or part of it), or

(b) were issued to him in consideration of the transfer of a business or interest in a business consisting of the original property (or part of it),

they shall be treated for the purposes of this section as if they were the original property (or that part of it).

(7) This section has effect subject to section 113B below.

(8) In this section—

"the original property" means the property which was relevant business property in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above; and

"the transferee" means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.

113B Applciation of section 113A to replacement property.

(1) Subject to subsection (2) below, this section applies where—

(a) the transferee has disposed of all or part of the original property before the death of the transferor; and

(b) the whole of the consideration received by him for the disposal has been applies by him in acquiring other property (in this section referred to as "the replacement property").

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(2) This section does not apply unless—

(a) the replacement property is acquired, or binding contract for its acquisition is entered into, within twelve months after the disposal of the original property (or, as the case may be, the part concerned); and

(b) the disposal and acquisition are both made in transactions at arm's length or on terms such as might be expected to be included in a transaction at arm's length.

(3) Where this section applies, the conditions in section 113A(3) above shall be taken to be satisfied in relation ro the original proeprty (or, as the case may be, the part concerned) if—

(a) the replacement property is owned by the transferee immediately before the death of the transferor; and

(b) throughout the period beginning with the date of the chargeable transfer and ending with the death (disregarding any period between the disposal and acquisition) either the original property or the replacement property was owned by the transferee; and

(c) in relation to notional transfer of value made by the transferee immediately before the death, the replacement property would (apart from section 106 above) be relevant business property.

(4) If the transferee has dies before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

(a) all or part of the original property has been disposed of before the death of the transferor or is excluded by section 113 above from being relevant business property in relation to the notional transfer of value referred to in section 113A(b) abvoe, and

(b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within twelve months after the disposal of the original property or part, and

(c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraph (a), and as if any reference to a time immediately before the death of the transferor or to the death were a reference to the time when the replacement property is acquired.

(6) Section 113A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section "the original property" and "the transferee" have the same meaning as in section 113A above."

22 After section 124 there shall be inserted the following sections—

"124A Transfers within seven years before the death of the transferor.

(1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall be is reduced unless the conditions in subsection (3) below are satisfied.

(2) Where—

(a) any part of the value transfered by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and

(b) the transfer is made within seven years of the death of the transferor,

then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.

(3) The conditions referred to in subsections (1) and (2) are—

(a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor (in this subsection referred to as "the relevant period") and it is not at the time of the death subject to a binding contract for sale; and

(b) except in a case falling within paragraph (c) below, that the original property is agricultural property immediately before the death and has been occupied (by the transferee or another) for the purpsoes of agriculture throughout the relevant period; and

(c) where the original property consists of shares in or securities of a company, that throughout the relevant period the agricultural property to which section 116 above applies by virtue of section 122(1) above on the chargeable transfer was owned by the company and occupied (by the company or another) for the purposes of agriculture.

(4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) If the conditions in subsection (3) above are satisfied only with respect to part of the orginal property, then,—

(a) in a case falling within subsection (1) abvoe, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and

(b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proprtionate part of so much of the value transferred as was attributable to the orginal property had been so reduced.

(6) Where any shares owned by the transferee immediately before the death in question—

(a) would under any of the provisions of section 77 to 86 of the Capital Gains Tax Act 1979 be identified with the original property (or part of it), or

(b) were issued to him in consideration of the transfer of agricultural property consisting of the orginal property or (part of it),

they shall be treated for the purposes of this section as if they were the orginal property (or part of it).

(7) This section has effect subject to section 124B below.

(8) In this section—

"the prginal property" means the property which, in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above, was either agricultural property to which section 116 above applied or shares or securities of a company owning agricultural property to which that section applies by virtue of section 122(1) above; and

"the transferee" means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.

124B Application of section 124A to replacement property.

(1) Subject to subsection (2) below, this section applies where—

(a) the transferee has disposed of all or part of the original property before the death of the transferor; and

(b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as "the replacement property").

(2) This section does not apply unless—

(a) the replacement property is acquired, or binding contract for its acquisition is entered into, within twelve months after the disposal of the original property (or, as the case may be, the part concerned); and

(b) the disposal and acquisition are both made in transactions at arm's length or on terms such as might be expected to be included in a transaction at arm's length.

(3) Where this section applies, the conditions in section 124A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—

(a) the replacement property is owned by the transferee immediately before the death of the transferor and is not at that time subject to a binding contract for sale; and

(b) throughout the period beginning with the date of the chargeable transfer and ending with the disposal, the original property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and

(c) throughout the period beginning with the date when the transferee acquired the replacement property and ending with the death, the replacement property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and

(d) the replacement property is agricultural property immediately before the death.

(4) If the transferee has dies before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.

(5) In any case where—

(a) all or part of the original property has been disposed of before the death of the transferor or is subject to a binding contract for sale at the time of the death, and

(b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within twelve months after the disposal of the original property or part, and

(c) the transferor dies before the transferee,

subsection (3) above shall have effect with the omission of paragraphs (a) and (c), and as if any reference to a time immediately before the death of the transferor were a reference to the time when the replacement property is acquired.

(6) Section 124A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.

(7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.

(8) In this section "the original property" and "the transferee" have the same meaning as in section 124A above."

23 (1) In section 131 (relief in respect of additional tax payable on transfers within three years of death), in subsection (1) for the words from "(by virtue" to "transfer and" there shall be substituted " because of the transferor's death within seven years of the transfer, tax becomes chargeable in respect of the value transferred by a potentially exempt transfer or (by virtue of section 7(4) above) additional tax becomes chargeable in respect of the value transferred by any other chargeable transfer and (in either case) ".

(2) In subsection (2) of that section for the words "additional tax" in each place where they occur, there shall be substituted " the tax or, as the case may be, additional tax ".

(3) After that subsection there shall be inserted the following subsection—

"(2A) Where so much of the value transferred as is attributable to the value, or agricultural value, of the transferred property is reduced by any percentage (in this subsection referred to as "the appropriate percentage"), in accordance with Chapter I of thi Part of this Act, references in subsection (2) above to the market value of the transferred property at any time shall have effect—

(a) in a case within chapter I, as references to that market value reduced by the appropriate percentage; and

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(b) in a case within Chapter II, as references to that market value less the appropriate percentage of the agricultural value of the transferred property at that time."

24 In section 142 (alteration of dispositions taking effect on death) at the end of subsection (5) there shall be added " or section 102 of the Finance Act 1986 ".

25 Sections 148 and 149 (exemptions for mutual transfers) shall not apply if the donee's transfer (as defined in section 148) is made on or after 18th March 1986.

26 In section 199 (liability for tax etc. on dispositions by transferor) for subsection (2) there shall be substituted the following subsection—

"(2) Subsection (1)(a) above shall apply in relation to—

(a) the tax on the value transferred by a potentially exempt transfer; and

(b) so much of the tax on the value transferred by any other chargeable transfer made within seven years of the transferor's death as exceeds what it would have been had the transferor died more than seven years after the transfer,

with the substitution for the reference to the transferor of a reference to his personal representatives."

27 In section 201 (liability for tax in respect of settled property), in subsection (2) for the words "three years", in each place where they occur, there shall be substituted " seven years ".

28 (1) In section 204 (limitation of liability), subsection (4) shall be omitted.

(2) In subsection (6)(a) of that section, after the word "transferor" there shall be inserted " or personal representative of the transferor ".

(3) For subsection (7) of that section there shall be substituted the following subsections—

"(7>) Where the tax exceeds what it would have been had the transferor dies more than seven years after the transfer, subsection (6) above shall not apply in relation to the excess.

(8) A person liable by virtue of section 199(2) above for any tax as personal representative of the transferor shall be liable only to the extent that either—

(a) in consequence of subsections (2), (3) and (5) above, no person falling within paragraphs (b) to (d) of section 199(1) above is liable for the tax, or

(b) the tax remains unpaid twelve months after the end of the month in which the death of the transferor occurs,

and, subject to that, shall be liable to the extent of the assets mentioned in subsection (1) above.

(9) Where by virtue of subsection (3) of section 102 of the Finance Act 1986 the estate of a deceased person is treated as including property which would not apart from that subsection form part of his estate, a person shall be liable under section 200(1)(a) above as personal representatice for tax attributable to the value of the property only if the tax remains unpaid twelve months after the end of the month in which the death occurs and, subject to that, only to the extent of the assets mentioned in subsection (1) above."

29 (1) In section 216 (delivery of accounts) in subsection (1) after paragraph (b) there shall be inserted the following paragraphs—

"(bb) is liable under section 199(1)(b) above for tax on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, or would be so liable if tax were chargeable on that value, or

(bc) is liable under section 200(1)(c) above for tax on the value transferred by a chargeable transfer made on death, so far as the tax is attributable to the value of the property which, apart from section 102(3) of the Finance Act 1986, would not form part of the deceased's estate, or would be so liable if tax were chargeable on the value transferred on the death, or"

(2) In subsection (3) of that section after the words "his death" there shall be inserted " other than property which would not, apart from section 102(3) of the Finance Act 1986, form part of his estate ".

(3) In subsection (6) of that section after paragraph (a) there shall be inserted the following paragraphs—

"(aa) in the case of an account to be delivered by a person within subsection (1)(bb) above, before the expiration ot the period of twelve months from the end of the month in which the death occurs;

(ab) in the case of an account to be delivered by a person within subsection (1)(bc) above, before the expiration of the period of twelve months from the end of the month in which the death occurs".

30 (1) In section 226 (payment: general rules), in subsection (3) for the words "three years", in each place where they occur, there shall be substituted " seven years ".

(2) After subsection (3) of that subsection there shall be inserted the following subsections—

"(3A) Without prejudice to subsection (3) above, the tax chargeable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer shall be due six months after the end of the month in which the transferor's death occurs.

(3B) So much (if any) of the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor's death as exceeds what it would have been had the settllor died more than seven years after the date of the transfer shall be due six months after the end of the month in which the death occurs."

31 (1) In section 227 (payment by instalments) after subsection (1) there shall be inserted the following subsections—

"(1A) Subsection (1) above does not apply to tax payable on the value transferred by a potentially exempt transfer which proves to be a chargeable transfer, except to the extent that the tax is attributable to qualifying property which is owned by the transferee immediately before the death of the transferor (or, if earlier, his own death).

(1B) In subsection (1A) above "the transferee" means the person whose property the qualifying property became on the transfer or, where on the transfer the

qualifying property became comprised in a settlement in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement."

(2) In subsection (5) of that section after the words "subsection (1)(b) above" there shall be inserted " other than a case within subsection (1A) above where the transferee dies before the transferor ".

32 *In section 233 (interest on unpaid tax) in subsection (2) for paragraphs (a) and (b) there shall be substituted—* ***[****[F4]For substitution see IHTA 1985 s. 233(2)(a) and (b)****]***

Textual Amendments

F4 Repealed by Finance Act 1989 (c.26, SIF 63:1, 2), **s. 187** and Sch. 17, Part X and S.I. 1989 No. 1298 with effect from 18 August 1989.

33 (1) In section 236 (application of section 233 in special cases etc.), in subsection (1)(a), for the words "three years", in each place where they occur, there shall be substituted " seven years ".

(2) After subsection (1) of that section there shall be inserted the following subsection—

"(1A) Section 233 above shall apply in relation to the amount (if any) by which—

(a) the tax chargeable on the value transferred by a chargeable transfer made under Chapter III of Part III of this Act within the period of seven years ending with the settlor's death,

exceeds

(b) what that tax would have been had the settlor dies more than seven years after the date of the transfer,

as if the chargeable transfer had been made on the death of the settlor."

34 In section 237 (imposition of charge) after subsection (3) there shall be inserted the following subsection—

"(3A) In the case of a potentially exempt transfer which proves to be a chargeable transfer—

(a) property concerned, or an interest in property concerned, which has been disposed of to a purchaser before the transferor's death is not subject to the Inland Revenue charge, but

(b) property concerned which has been otherwise disposed of before the death and property which at the death represents any property or interest falling within paragraph (a) above shall be subject to the charge;

and in this subsection "property concerned" means property to the value of which the value transferred by the transfer is wholly or partly attributable."

35 In section 239 (certificates of discharge) after subsection (2) there shallbe inserted the following subsection—

"(2A) An application under subsection (1) or (2) above with respect to tax which is or may become chargeable on the value trnaferred by a potentially exempt transfer may not be made before the expiration of two years from the death of the transferor (except where the Board think fit to entertain the application an earlier time after the death)."

36 For Schedule 1 (rates of tax) there shall be substituted—

"SCHEDULE 1

TABLE OF RATES OF TAX

Portion	**of value**	**Rate of tax**
Lower limit	*Upper limit*	*Per cent*
£	£	
0	71,000	Nil
71,000	95,000	30
95,000	129,000	35
129,000	164,000	40
164,000	206,000	45
206,000	257,000	50
257,000	317,000	55
317,000	–	60"

37 (1) In Schedule 2 (provisions applying on reduction of tax),—

(a) for the words "new Tables", wherever occurring, there shall be substituted " a new Table "; and

(b) for the words "the Tables", wherver occurring, there shall be substituted " the Table ".

(2) In paragraph (1)(b) of that Schedule for the word "come" there shall be substituted " comes ".

(3) After paragraph 1 of that Schedule there shall be inserted the following paragraph—

" Death within seven years of potentially exempt transfer

1A Where a person who has made a potentially exempt transfer before a reduction dies after that reduction (or after that and one or more subsequent reductions) and within the period of seven years beginning with the date of the transfer, tax shall be chargeable by reason of the transfer proving to be a chargeable transfer only if, and to the extent that, it would have been so chargeable if the Table in Schedule 1 as substituted by that reduction (or by the most recent of those reductions) had applies to that transfer."

(4) In paragraph 2 of that Schedule,—

(a) for the words "three years", wherever occurring, there shall be substituted " seven years "; and

(b) after the words "chargeable transfer" there shall be inserted " (other than a potentially exempt transfer) "; and

(c) the words "the first of" shall be omitted.

(5) In paragraph 3 of that Schedule, the words "the second of" shall be omitted.

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1986, SCHEDULE 19. (See end of Document for details)*

(6) In paragraph 4 of that Schedule, the words "the first of" shall be omitted.

38 (1) In Schedule 4 (maintenance funds for historic buildings etc.) in paragraph 14 (rates of charge) in sub-paragraphs (1) to (3), for the words "under the appropriate Table", wherever occurring, there shall be substituted " in accordance with the appropriate provision of section 7 of this Act ".

(2) After sub-paragraph (1) of that paragraph there shall be inserted the following sub-paragraph—

"(1A) The rate of tax determined under sub-paragraph (1) above in respect of any occasion shall not be affected by the death of the settlor after that occasion."

(3) In sub-paragraph (6) of that paragraph for the words "ten years" there shall be substituted " seven years ".

(4) For sub-paragraph (9) of that paragraph there shall be substituted the following sub-paragraph—

"(9) For the purposes of sub-paragraph (1) above the appropriate provision of section 7 of this Act is subsection (2), and for the purposes of sub-paragraphs (2) and (3) above it is (if the settlement was made on death) subsection (1) and (if not) subsection (2)."

39 In Schedule 6 (transition from estate duty) in paragraph 4(3) after the words "sections 33(7)" there shall be inserted the words " and (8). "

PART II

TRANSITIONAL PROVISIONS

40 (1) Notwithstanding that Part of this Schedule has effect with respect to events occurring on or after 18th March 1986, where a death or other event occurs on or after that date, nothing in that Part shall affect the tax chargeable on a transfer of value occurring before that date.

(2) Sub-paragraph (1) above does not authorise the making of a claim under section 149 of the 1984 Act where the donee's transfer, as defined in section 148 of that Act, occurs on or after 18th March 1986.

41 Where tax is chargeable under section 32 or section 32A of the 1984 Act by reason of a chargeable event occurring on or after 18th March 1986 and the rate or rates at which it is charged fall to be determined under the provisions of section 33(1)(b)(ii) of the 1984 Act by reference to a death which occurred before that date, those provisions shall apply (subject to paragraph 5 of Schedule 2 to that Act) as if the amendments of section 7 of, and Schedule 1 to, that Act contained in Part I of this Schedule had been in force at the time of the death.

42 Where tax is chargeable under paragraph 8 of Schedule 4 to the 1984 Act on any occasion on or after 18th March 1986 and the rate at which it is charged falls to be determined under paragraph 14 of that Schedule by reference to a death which occurred before that date, that paragraph shall apply (subject to paragraph 6 of Schedule 2 to the 1984 Act) as if the amendments of section 7 of, and Schedule 2 to, the 1984 Act contained in Part I of this Schedule had been in force at the time of the death.

43 (1) This paragraph applies if, in the case of a settlement,—

(a) tax is charged under section 65 of the 1984 Act on an occasion falling on or after 18th March 1986; and

(b) the rate at which tax is so charged falls to be determined under section 69 of that Act (rate between ten-year anniversaries) by reference to the rate (in this paragraph referred to as "the last ten-year rate") at which tax was last charged under section 64 of that Act (or would have been charged apart from section 66(2) there of); and

(c) the most recent ten-year anniversary fell before 18th March 1986.

(2) For the purpose of determining the rate at which tax is charged on the occasion referred to in sub-paragraph (1)(a) above, it shall be assumed that the last ten-year rate was what that rate would have been if, immediately before the ten-year anniversary referred to in sub-paragraph (1)(c) above, the amendments of sections 66 and 67 of the 1984 Act contained in Part I of this Schedule had been in force.

(3) Where this paragraph applies, paragraph 3 of Schedule 2 to the 1984 Act shall have effect as if—

(a) references to a reduction included reference to a reduction by the substitution of a new Table in Schedule 1 to the 1984 Act; and

(b) in relation to a reduction resulting from the subsitution of such a new Table, the reference to the second of the Tbles in Schedule 1 to the 1984 Act were a reference to a Table in which the rates of tax were one-half of those specified in the new Table.

(4) In this paragraph "ten-year anniversary" has the same meannig as in Chapter III of Part III of the 1984 Act.

44 In relation to a death on or after 18th March 1986, paragraph 2 of Schedule 2 to the 1984 Act (provisions applying on reduction of tax) shall have effect, in a case where the chargeable transfer in question was made before 18th March 1986, as if—

(a) references to a reduction included references to a reduction by the substitution of a new Table in Schedule 1 to the 1984 Act; and

(b) the Tble in Schedule 1 to the Act was the first Table in that Schedule.

45 In relation to a disposal of trees or underwood on or after 18th March 1986, paragraph 4 of Schedule 2 to the 1984 Act shall have effect, in a case where the death in question occurred before 18th March 1986, as mentioned in paragraphs (a) and (b) of paragraph 44 above.

46 Notwithstanding anything in section 3A of the 1984 Act, a transfer of value which is made on or after 1st July 1986 and which, by virtue of subsection (4) of section 49 of the [M1]Finance Act 1975 (transitional provision relating to estate duty deferment in respect of timber etc.), brings to an end of the period during which estate duty is payable on the net moneys received from the sale of timber etc. is not a potentially exempt transfer **[**[F5]to the extent that the value transferred is attributable to the land concerned**]**.

Textual Amendments

F5 Words in Sch. 19 para. 46 inserted (with effect in accordance with art. 3 of the amending S.I.) by The Enactment of Extra-Statutory Concessions Order 2017 (S.I. 2017/495), arts. 1, **2**

Changes to legislation: *There are currently no known outstanding effects for the Finance Act 1986, SCHEDULE 19. (See end of Document for details)*

Marginal Citations

M1 1975 c. 7.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 1986, SCHEDULE 19.