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## SCHEDULES

### SCHEDULE 15

#### CHARGE TO INCOME TAX ON BENEFITS RECEIVED BY FORMER OWNER OF PROPERTY

##### *Election for application of inheritance tax provisions*

- 21 (1) This paragraph applies where—
- (a) a person (“the chargeable person”) would (apart from this paragraph) be chargeable under paragraph 3 (land) or paragraph 6 (chattels) for any year of assessment (“the initial year”) by reference to his enjoyment of any property (“the relevant property”), and
  - (b) he has not been chargeable under the paragraph in question in respect of any previous year of assessment by reference to his enjoyment of the relevant property, or of any other property for which the relevant property has been substituted.
- (2) The chargeable person may elect in accordance with paragraph 23 that—
- (a) the preceding provisions of this Schedule shall not apply to him during the initial year and subsequent years of assessment by reference to his enjoyment of the relevant property or of any property which may be substituted for the relevant property, but
  - (b) so long as the chargeable person continues to enjoy the relevant property or any property which is substituted for the relevant property—
    - (i) the chargeable proportion of the property is to be treated for the purposes of Part 5 of the 1986 Act (in relation to the chargeable person) as property subject to a reservation<sup>[F1]</sup>, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property]
    - <sup>[F2]</sup>(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property, and
    - (iii) if the chargeable person is beneficially entitled to an interest in possession in the property, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to the chargeable proportion of the property.]
- (3) In this paragraph, “the chargeable proportion”, in relation to any property, means—

$$\frac{DV}{V}$$

where DV and V are to be read in accordance with paragraph 4(2) or 7(2), as the case requires, but as if—

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- (a) any reference in paragraph 4(2) or 7(2) to the valuation date were a reference—
    - (i) in the case of property falling within subsection (3) of section 102 of the Finance Act 1986, to the date of the death of the chargeable person, and
    - (ii) in the case of property falling within subsection (4) of that section, to the date on which the property ceases to be treated as property subject to a reservation, and
    - [<sup>F3</sup>(iii) in the case of property in which the chargeable person is beneficially entitled to an interest in possession, to the date of his death or (if his interest comes to an end on an earlier date) that earlier date, and]
  - (b) the transactions to be taken into account in calculating DV included transactions after the time when the election takes effect as well as transactions before that time.
- (4) For the purposes of this paragraph a person “enjoys” property if—
- (a) in the case of an interest in land, he occupies the land, and
  - (b) in the case of an interest in a chattel, he is in possession of, or has the use of, the chattel.

#### Textual Amendments

- F1** Words in Sch. 15 para. 21(2)(b)(i) inserted (retrospective and with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 80\(3\)\(a\)\(8\)](#)
- F2** Sch. 15 para. 21(2)(b)(ii)(iii) substituted for Sch. 15 para. 21(2)(b)(ii) (retrospective and with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 80\(3\)\(b\)\(8\)](#)
- F3** Sch. 15 para. 21(3)(a)(iii) inserted (retrospective and with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 80\(3\)\(c\)\(8\)](#)

- 22 (1) This paragraph applies where—
- (a) a person (“the chargeable person”) would (apart from this paragraph) be chargeable under paragraph 8 (intangible property) for any year of assessment (“the initial year”) by reference to any property (“the relevant property”), and
  - (b) he has not been chargeable under that paragraph in respect of any previous year of assessment by reference to the relevant property or any property which the relevant property represents or is derived from.
- (2) The chargeable person may elect in accordance with paragraph 23 that—
- (a) the preceding provisions of this Schedule shall not apply to him during the initial year and subsequent years of assessment by reference to the relevant property or any property which represents or is derived from the relevant property, but
  - (b) so long as the conditions in sub-paragraph (3) are satisfied—
    - (i) the relevant property and any property which represents or is derived from the relevant property shall be treated for the purposes of Part 5 of the 1986 Act (in relation to the chargeable person) as property subject to a reservation[<sup>F4</sup>, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned]
    - [<sup>F5</sup>(ii) section 102(3) and (4) of that Act shall apply, but only so far as the chargeable person is not beneficially entitled to an interest in possession in the property concerned, and

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(iii) if the chargeable person is beneficially entitled to an interest in possession in the property concerned, sections 53(3) and (4) and 54 of IHTA 1984 (which deal with cases of property reverting to the settlor etc) shall not apply in relation to that property.]

(3) The conditions referred to in sub-paragraph (2)(b) are—

- (a) that the relevant property or the property which represents or is derived from the relevant property remains comprised in the settlement, and
- (b) that any income arising under the settlement would be treated by virtue of [<sup>F6</sup>section 624 of ITTOIA 2005] as income of the chargeable person.

#### Textual Amendments

- F4** Words in Sch. 15 para. 22(2)(b)(i) inserted (retrospective and with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 80\(4\)\(a\)\(8\)](#)
- F5** Sch. 15 para. 22(2)(b)(ii)(iii) substituted for Sch. 15 para. 22(2)(b)(ii) (retrospective and with effect in accordance with s. 80(5) of the amending Act) by [Finance Act 2006 \(c. 25\), s. 80\(4\)\(b\)\(8\)](#)
- F6** Words in Sch. 15 para. 22(3)(b) substituted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\), s. 883\(1\), Sch. 1 para. 653\(5\)](#) (with Sch. 2)

23 (1) In this paragraph—

“election” means an election under paragraph 21 or 22;

“the relevant filing date” means 31st January in the year of assessment that immediately follows the initial year within the meaning of paragraph 21 or (as the case requires) paragraph 22.

(2) The election must be made in the prescribed manner.

[<sup>F7</sup>(3) The election must be made on or before—

- (a) the relevant filing date, or
- (b) such later date as an officer of Revenue and Customs may, in a particular case, allow.]

(5) The election may be withdrawn or amended, during the life of the chargeable person, at any time on or before the relevant filing date.

(6) Subject to sub-paragraph (5), the election takes effect for the purposes of inheritance tax from the beginning of the initial year within the meaning of paragraph 21 or (as the case requires) paragraph 22 or, if later, the date on which the chargeable person would (but for the election) have first become chargeable under this Schedule by reference to the property to which the election relates.

#### Textual Amendments

- F7** Sch. 15 para. 23(3) substituted for Sch. 15 para. 23(3)(4) (retrospective to 21.3.2007) by [Finance Act 2007 \(c. 11\), s. 66\(1\)\(2\)](#)

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

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

- s. 236ZA inserted by [S.I. 2024/357 art. 2\(2\)](#)