



Finance Act 1930

1930 CHAPTER 28

PART III

ESTATE DUTY

Rates of Estate Duty

33 Amended rates of estate duty

The scale set out in the Second Schedule to this Act shall in the case of persons dying after the commencement of this Act be substituted for the scale set out in the Fourth Schedule to the Finance Act, 1925, as the scale of rates of estate duty:

Provided that, where an interest in expectancy within the meaning of Part I of the Finance Act, 1894 (in this Part of this Act referred to as "the principal Act"), in any property (other than property deemed to pass on a death by virtue of the provisions of the next succeeding section but one of this Act) has, before the fourteenth day of April, nineteen hundred and thirty, been bona fide sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this Part of this Act had not passed, and in the case of a mortgage any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Companies

34 Estate duty where property of deceased has been transferred to a company

- (1) On the death after the commencement of this Act of any person who has, at any time after the thirty-first day of July, nineteen hundred and eighteen—
 - (i) made to a company to which this Part of this Act applies, whether directly or indirectly, any such transfer as is specified in subsection (2) of this section; and

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(ii) received within the prescribed period out of the resources or at the expense of the company, whether directly or indirectly, any such benefit as is so specified, there shall be computed for each accounting year falling wholly or partly within the prescribed period the proportion which the total value of the benefits so received in the accounting year bears to the total income of the company in the accounting year, and, if the average of the proportions so computed exceeds fifty per cent., there shall for the purposes of estate duty be deemed to pass on the death (over and above any other property which passes or is deemed to pass thereon), such sum of money not exceeding the value of the total assets of the company as bears to the said value the same proportion as the said average proportion:

Provided that—

- (a) the sum computed as aforesaid shall be reduced by the amount, if any, by which the principal value at the date of death—
 - (1) of the subject of the transfer; or
 - (2) if the subject of the transfer has been sold or exchanged by the company, either of the subject of the transfer or of the property in the hands of the company which is or represents the proceeds of the sale or exchange is shown to the satisfaction of the Commissioners of Inland Revenue to fall short of the said sum; and
 - (b) notwithstanding anything in this section, the value of any property or any interest in property shall not be taken into account, directly or indirectly, for the purpose of assessment of estate duty more than once on the same death; and
 - (c) if the total assets of the company comprise any property which is by virtue of the next succeeding section deemed to pass on the death, there shall in computing the said proportions and ascertaining the sum of money, if any, which is deemed to pass by virtue of this section, be subtracted—
 - (1) from the value of the total assets of the company, the value of the said property as ascertained for the purposes of the next succeeding section;
 - (2) from the total income of the company in every accounting year and also from the total value of the benefits received by the deceased therein, a sum equal to so much of that total income as is ascribable to—
 - (i) that property; or
 - (ii) in a case where that property is deemed to pass as being or representing the proceeds of any other property, that other property or the proceeds thereof or any property representing those proceeds.
- (2) The transfers referred to in the preceding subsection are transfers, whether made for consideration or not, of property (being property which, if it had been in the disposition of the deceased at his death, would have been property in respect of which estate duty would have been payable on the death) or any interest in any such property, other than—
- (a) bona fide sales where the consideration for the sale was received or receivable wholly by the deceased for his own use or benefit and was satisfied or to be satisfied in one or more of the following manners, that is to say, by a capital sum of a fixed amount or by shares in or debentures of the company;

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- (b) transfers of or incidental to the transfer of a business, not being a business which substantially consists in holding, managing, developing or dealing in land situate in Great Britain;
- (c) transfers of, or of any interest in, property which by virtue of the next succeeding section is deemed to pass on the death;
- (d) transfers of patents or copyrights, or of any moveable tangible property except money and securities;
- (e) transfers where either the deceased or the company is acting in the capacity of trustee, factor, agent, receiver, or manager;

and the benefits so referred to are—

- (i) any payments made, whether for consideration or not, to or for the benefit of the deceased, other than the following payments, that is to say :—
 - (1) dividends in respect of shares in the company;
 - (2) interest on, and repayments in respect of, money lent to the company;
 - (3) payments of or on account of purchase money under a bona fide sale, where that purchase money is a capital sum of a fixed amount;
 - (4) payments of or on account of royalties, not being royalties limited to cease at the death of the deceased :
 - (ii) any right in or enjoyment of any land.
- (3) In ascertaining for the purposes of this section the value of a benefit—
- (a) Tin the case of a benefit consisting of a payment, a deduction shall be made in respect of any income tax (other than sur-tax) paid or borne by the deceased in respect of that payment; and
 - (b) The value of a benefit consisting of any right in or enjoyment of land shall be computed by reference to the annual value of that land as ascertained for purposes of income tax, due allowance being made in respect of any rent paid by the deceased.
- (4) In ascertaining for the purposes of this section the total income for any accounting year of a company, the income of the company from any source shall be computed in accordance with the provisions of the Income Tax Acts relating to the computation of income from such a source, subject to the modification that the computation shall be made by reference to the actual income for the accounting year and not by reference to the income for any other period:

Provided that—

- (a) no deduction shall be made .in respect of any payment made to or for the benefit of, or any other benefit accorded to, the deceased, except dividends on preference shares in, and interest on money lent to, the company; and
 - (b) subject to the provisions of the last preceding paragraph, deductions shall be made for—
 - (i) income tax paid or borne by the company; and
 - (ii) interest on money lent to the company; and
 - (iii) dividends on preference shares; and
 - (iv) rents, royalties and other payments by the company on which income tax is deducted at source.
- (5) Where the accounting years falling wholly or partly within the prescribed period do not coincide with the periods for which the accounts of the company are made up, the Commissioners of Inland Revenue may for the purpose of ascertaining the total

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income of the company for an accounting year divide any of the said periods and make such apportionments and aggregations of the income of the company as may be necessary, so, however, that any apportionments so made shall be made in proportion to the number of months or fractions of months in the respective periods for which the apportionment is made.

(6) In this section—

The expression "accounting year,"—

- (a) in relation to a company which at the time of the death of the deceased person has made up accounts for a period of twelve months ending on a date within the twelve months next preceding the death, means a period of twelve months ending either on that date, or on the same day of the year in any previous year; and
- (b) in relation to any other company, means a period of twelve months ending on such date within the twelve months next preceding the death as may be determined by the Commissioners of Inland Revenue or on the same day of the year in any previous year; and

The expression "the prescribed period" means the period which—

- (i) ends on the date on which the last accounting year ends; and
- (ii) begins three years before that date, or, if the company in question was not then in existence, on the day on which the company came into existence.

(7) Property which is deemed to pass on a death by virtue of the provisions of this section shall, notwithstanding anything in any Act, be an estate by itself, and shall not be aggregated with any other property.

35 Estate duty where property in which deceased had a life-interest is transferred to a company

(1) Whereat any time before the death of a person dying after the commencement of this Act any property in which the deceased had an estate or interest limited to cease at his death, was transferred by the deceased and the person interested in the remainder or reversion, whether directly or indirectly, and whether by one or more transactions, to or for the benefit of a company to which this Part of this Act applies, then unless—

- (a) the transfer was made before the first day of August, nineteen hundred and eighteen; or
- (b) the property was settled property and the interest of the deceased would, in any case have failed by reason of his death before it would have become an interest in possession; or
- (c) the share of the consideration payable to the deceased in respect of the transfer was satisfied otherwise than by an allotment of shares in the company or the grant to him by the company of an annuity or other right to receive periodical payments, not being payments on account of purchase money being a capital sum of fixed amount; or
- (d) the deceased had at least three years before his death relinquished all interest in the property and had not at any time within those three years the possession or enjoyment (otherwise than under a lease or agreement for a lease at a rack rent) of any part thereof or of any benefit secured to him, whether by contract or otherwise, in relation to the relinquishment of his interest therein, and was not at any time within the said period in receipt of or entitled to any payment from the company, otherwise than in respect or on account of debentures or loans or purchase money being a capital sum of a fixed amount,

the property shall be deemed for the purposes of estate duty to pass on the death in like manner as if the estate or interest of the deceased therein had continued until the death:

Provided that where the property or any part thereof has been bona fide sold or exchanged by the company during the deceased's life time for full consideration in money or money's worth, the property or so much thereof as has been so sold or exchanged shall not be deemed to pass on the death, but in lieu thereof the proceeds of the sale or exchange or, as the case may be, the property which, at the time of death, represents those proceeds shall be deemed so to pass.

- (2) In determining the value of any property deemed to pass under this section, there shall be deducted from the principal value thereof—
 - (a) so much of any sum borrowed by the company as has been applied by the company in the improvement of the property, and has not at the death been repaid by the company;
 - (b) a sum equal to the capital sum of money paid to the deceased as part of the consideration for the transfer; and where estate duty is payable in connection with the death on any shares of or debentures in the company, a sum equal to the principal value of such of those shares or debentures as were transferred or allotted to the deceased in consideration of the transfer of the property.
- (3) Property which is deemed to pass on a death by virtue of the provisions of this section shall, notwithstanding anything in any Act, be an estate by itself, and shall not be aggregated with any other property.

36 Charge of duty and powers of recovery

- (1) The estate duty payable in respect of any property which is by virtue of the provisions of the two last preceding sections deemed to pass on the death of any person shall be a debt due from the company concerned to His Majesty.
- (2) The company concerned shall be accountable for any such duty and shall, for the purpose of raising and paying that duty, have all the powers conferred on accountable persons by the principal Act, and if the duty or any part thereof is paid by the executor of the deceased it shall be repaid to him by the company.
- (3) Where on the death of any person a claim for duty arises by virtue of any of the provisions of the two last preceding sections, the company concerned shall notify the Commissioners of Inland Revenue of the death of the said person, and any company wilfully failing to give such a notification shall be liable to a penalty not exceeding five hundred pounds.
- (4) The Commissioners of Inland Revenue may, for the purposes of carrying the two last preceding sections and the next following section of this Act into effect, require any company to which this Part of this Act applies to furnish to them within two months copies of such of the balance sheets and profit and loss or income and expenditure accounts, and such other particulars, as the Commissioners may reasonably require, and if any company fails to comply with the provisions of this subsection—
 - (i) the company shall be liable to a penalty not exceeding five hundred pounds, and every director, manager, secretary or other officer of the company who knowingly and wilfully authorises or permits the failure shall be liable to the like penalty; and
 - (ii) an order may be made against all or any of the directors of the company requiring them to comply with the requirements of the Commissioners in

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like manner as an order may be made against any person who is accountable for succession duty or legacy duty to deliver an account and the provisions of section fifty-five of the Crown Suits, &c. Act, 1865, and in Scotland the provisions of section forty-seven of the Succession Duty Act, 1853, shall apply accordingly, subject to the necessary modifications.

37 Valuation of shares in certain companies

(1) Where there pass on the death of any person dying after the commencement of this Act, any shares (not being preference shares) in any company to which this Part of this Act applies, then if either—

- (a) there is deemed by virtue of the provisions of this Part of this Act to pass on the death a sum of money computed by reference to the value of the total assets of the company; or
- (b) the control of the company was immediately before the death in the hands of the deceased;

the principal value of those shares for the purposes of estate duty shall not be ascertained in the manner provided by subsection (5) of section seven of the principal Act, but shall be ascertained by reference to the value of the total assets of the company:

Provided that in cases falling within paragraph (a) of this subsection, the value of the total assets of the company shall, for the purposes of this section, be deemed to be reduced by the sum of money therein referred to.

(2) For the purposes of this section the control of a company shall be deemed to be in the hands of a person if—

- (a) by virtue of the shares which he controls he has control of more than half the voting power of the company; or
- (b) he has by virtue of the provisions in the memorandum of association or articles of the company, or other instrument whatsoever constituting or defining the constitution of the company, the powers of a board of directors or of a governing director or the right to nominate a majority of the directors or the power to veto the appointment of a director, or powers of the like nature; or
- (c) he has otherwise the right to receive, or the power to dispose of, more than half of the income of the company.

(3) This section shall not apply to shares which have, within the period of twelve months immediately preceding the death of the deceased, been the subject of dealings on a recognised stock exchange in the United Kingdom or been quoted in the official list of such a stock exchange.

38 Interpretation

In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that, is to say—

" Company to which this Part of this Act applies " means any body corporate wheresoever incorporated, which either—

- (i) is so constituted as not to be controlled by its shareholders or by any class thereof; or
- (ii) has not issued to the public, or, in the case of a company which is about to make an issue of shares to the public, will not, when it has made that

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issue, have issued to the public, more than half of the shares by the holders whereof it is controlled:

" Share " includes any interest whatsoever in a company, by whatsoever name it is called, analogous to a share, and the expression " shareholder " shall be construed accordingly:

" Preference share " means a share the holder whereof is entitled to a dividend at a fixed rate only:

" Value of the total assets of the company " means the principal value, ascertained in accordance with the provisions of subsection (5) of section seven of the principal Act, of all the assets of the company as a going concern, including goodwill, after deducting therefrom—

- (i) the par or redemption value, whichever is the greater, of any debentures, debenture stock and preference shares of the company;
- (ii) all debts of the company incurred or created bona fide for consideration in money or money's worth;
- (iii) such sum as on a just and fair computation represents any future or contingent liabilities of the company or any liabilities thereof which are uncertain in amount;
- (iv) the amount of any reserve fund separately invested which is bona fide intended to be applied in payment of pensions to employees or otherwise for the benefit of them or their dependents or relatives, and in no other manner.

Miscellaneous

39 Death duties on property subject to an annuity which has been surrendered

In the case of a person dying after the commencement of this Act, property which was subject to an annuity or other periodical payment limited to cease on the death of the deceased shall, for the purposes of the principal Act be deemed to pass on the death of the deceased to the extent of the benefit which would accrue from the cesser of that annuity or other payment notwithstanding that the annuity or other payment has been surrendered, assured, divested or otherwise disposed of during the lifetime of the deceased, whether for value or not, to or for the benefit of the person entitled to the property, unless the surrender, assurance, divesting or disposition was bona fide made or effected three years before the death of the deceased and the person entitled to the annuity or other payment was not at any time within that period in receipt of any substituted annuity or other periodical payment limited to cease on his death, being an annuity or payment which was secured, whether by contract or otherwise, to him in return for the surrender, assurance, divesting or disposition.

40 Exemption from death duties of objects of national, scientific, historic or artistic interest

- (1) Where there pass on the death of a person dying after the commencement of this Act any objects to which this section applies, the value of those objects shall not be taken into account for the purpose of estimating the principal value of the estate passing on the death or the rate at which estate duty is chargeable thereon, and those objects shall, while enjoyed in kind, be exempt from death duties.

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- (2) In the event of the sale of any objects to which this section applies, death duties shall, subject as hereinafter provided, become chargeable on the proceeds of sale in respect of the last death on which the objects passed and, as respects estate duty, at the rate appropriate to the principal value of the estate passing on that death upon which estate duty is leviable, and with which the objects would have been aggregated if they had not been objects to which this section applies, and the person by whom or for whose benefit the objects were sold shall be accountable for the duties and shall deliver an account for the purposes thereof within one month after the sale :

Provided that death duties shall not become chargeable as aforesaid if the sale is to the National Gallery, British Museum, or any other similar national institution, any university, county council or municipal corporation in Great Britain, or the National Art Collections Fund.

- (3) The objects to which this section applies are such pictures, prints, books, manuscripts, works of art, scientific collections or other things not yielding income as on a claim being made to the Treasury under this section appear to them to be of national, scientific, historic or artistic interest.
- (4) Nothing in this section shall affect the power of the Treasury under subsection (2) of section fifteen of the principal Act to remit death duties chargeable in respect of any objects to which that section applies.