



# Finance Act 1930

## 1930 CHAPTER 28

### PART III

#### ESTATE DUTY

##### *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
  - (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

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- (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;
  - (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.

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- (3) In ascertaining for the purposes of this section the value of a benefit—
- (a) In 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 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

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- (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.