



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART V

MISCELLANEOUS RELIEFS

CHAPTER V

MISCELLANEOUS

Successive charges

141 Two or more transfers within five years

- (1) Where the value of a person's estate was increased by a chargeable transfer (" the first transfer ") made not more than five years before—
- (a) his death, or
 - (b) a chargeable transfer which is made by him otherwise than on his death and as to which the conditions specified in subsection (2) below are satisfied,
- the tax chargeable on the value transferred by the transfer made on his death or, as the case may be, referred to in paragraph (b) above ("the later transfer") shall be reduced by an amount calculated in accordance with subsection (3) below.
- (2) The conditions referred to in subsection (1)(b) above are—
- (a) that the value transferred by the later transfer falls to be determined by reference to the value of settled property in which there subsists an interest in possession to which the transferor is entitled ;
 - (b) that the value transferred by the first transfer also fell to be determined by reference to the value of that property; and
 - (c) that the first transfer either was or included the making of the settlement or was made after the making of the settlement.

Status: This is the original version (as it was originally enacted).

- (3) The amount referred to in subsection (1) above is a percentage of the tax charged on so much of the value transferred by the first transfer as is attributable to, - the increase mentioned in that subsection; and the percentage is—
- (a) 100 per cent. if the period beginning with the date of the first transfer and ending with the date of the later does not exceed one year ;
 - (b) 80 per cent. if it exceeds one year but does not exceed two years;
 - (c) 60 per cent. if it exceeds two years but does not exceed three years;
 - (d) 40 per cent. if it exceeds three years but does not exceed four years ; and
 - (e) 20 per cent. if it exceeds four years.
- (4) Where in relation to the first transfer there is more than one later transfer, the reduction provided for by this section shall be given only in respect of the earliest of them, unless the reduction represents less than the whole of the tax charged as mentioned in subsection (3) above ; and in that case a reduction may be made in respect of subsequent transfers (in chronological order) until reductions representing the whole of that tax have been made.
- (5) For the purposes of subsection (4) above, a reduction made in accordance with paragraph (a) of subsection (3) above represents an equivalent amount of tax, a reduction made in accordance with paragraph (b) represents the amount of tax of which it is 80 per cent, and so on.
- (6) In determining for the purposes of this section whether or to what extent the value of the transferor's estate was increased by a chargeable transfer, there shall be disregarded any excluded property consisting of a reversionary interest to which he became entitled on the occasion of or before the chargeable transfer.
- (7) Where—
- (a) the value of the transferor's estate was increased in consequence of—
 - (i) a gift inter vivos, or
 - (ii) a disposition or determination of a beneficial interest in possession in property comprised in a settlement, and
 - (b) tax under section 22(5) of the Finance Act 1975 was by reason of the gift or interest payable on a subsequent death,
- this section shall apply as if the increase had been by the chargeable transfer made on the occasion of the death.

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.

- (2) Subsection (1) above shall not apply to a variation unless an election to that effect is made by written notice given to the Board within six months after the date of the instrument, or such longer time as the Board may allow, by—
- (a) the person or persons making the instrument, and
 - (b) where the variation results in additional tax being payable, the personal representatives ;
- but personal representatives may decline to join in an election 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.
- (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.
- (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.

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.

144 Distribution etc. from property settled by will

- (1) This section 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 (apart from this section) 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 75 or 76 above or paragraph 16(1) of Schedule 4 to this Act.
- (2) Where this section 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 this section 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.

145 Redemption of surviving spouse's life interest

Where an election is made by a surviving spouse under section 47A of the Administration of Estates Act 1925, this Act shall have effect as if the surviving spouse, instead of being entitled to the life interest, had been entitled to a sum equal to the capital value mentioned in that section.

146 Inheritance (Provision for Family and Dependants) Act 1975

- (1) Where an order is made under section 2 of the 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—
 - (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.

Status: This is the original version (as it was originally enacted).

- (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 Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979.

147 Scotland: legitim

- (1) Where a testator dies leaving a surviving spouse and a person under the age of 18 entitled to claim legitim, and provision is made in his will or other testamentary document for a disposition to his spouse which, if it could take effect, would leave insufficient property in the estate to satisfy the entitlement of that person in respect of legitim, 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 did not include any amount in respect of legitim, but if within the period mentioned in subsection (6) below the person or persons concerned renounce their claim to legitim, tax shall be repaid to the estate calculated on the basis that the disposition to the spouse 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 had taken effect, but where the person or persons concerned claim legitim 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) and the tax chargeable thereon had been apportioned rateably among the persons entitled to claim legitim (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 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.

Status: This is the original version (as it was originally enacted).

- (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 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 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.

Mutual and voidable transfers

148 Mutual transfers: exemption for donee's gift

- (1) This section and section 149 below have effect where—
 - (a) a person (" the donor") makes a chargeable transfer (" the donor's transfer") which increases the estate of another person ("the donee "), and
 - (b) the donee, within the period of ten years beginning with the date of the donor's transfer, makes a transfer of value (" the donee's transfer ") which either—
 - (i) is made in the donor's life-time and increases the value of the estate of the donor or his spouse, or
 - (ii) is made within two years after the donor's death and increases the value of the estate of the donor's widow or widower.
- (2) The donee's transfer shall be an exempt transfer to the extent to which the value thereby transferred does not exceed—
 - (a) the amount by which his estate was increased by the donor's transfer, or
 - (b) if there has been a previous donee's transfer, so much of that amount as has not been taken into account under this subsection for exempting that transfer.
- (3) In subsection (1) above references to a transfer are references to a transfer that is a disposition between individuals, including any disposition treated as made by virtue of section 3(3) above but not anything else that is treated as a disposition for the purposes of this Act.
- (4) Subsection (1)(b) above has effect in relation to a person as the donor's spouse, widow or widower only if at the relevant time both the donor and that person were, or neither of them was, domiciled in the United Kingdom; and for that purpose the relevant time is, in the case of a spouse, the time of the donee's transfer and, in the case of a widow or widower, the time of the donor's death.
- (5) The extent to which the donee's transfer is an exempt transfer by virtue of subsection (2) above shall be determined without regard to Chapters I and II of this

Part of this Act, and those Chapters shall not apply to that transfer to the extent to which it is an exempt transfer by virtue of that subsection.

149 Mutual transfers: relief for donor's gift

- (1) The donor may, within six years after the donee's transfer, claim that for the purposes of this section the value transferred by the donor's transfer shall be treated as cancelled by the donee's transfer to the extent specified in subsection (3) below ; and thereupon—
 - (a) tax on the cancelled value paid or payable (whether or not by the claimant) shall be repaid to him by the Board or, as the case may be, shall not be payable ; and
 - (b) the rate or rates of tax applicable to any chargeable transfer made by the donor after the claim, and within the period of ten years beginning with the date of the donor's transfer, shall be determined as if the values previously transferred by chargeable transfers made by the donor were reduced by the cancelled value.
- (2) Where the donor has died, then—
 - (a) if the case falls within section 148(1)(b)(i) above, a claim may be made under subsection (1) above by the donor's personal representatives and paragraph (b) of that subsection shall apply as if for the reference to any chargeable transfer made by the donor after the claim there were substituted a reference to the chargeable transfer made by him on his death ;
 - (b) if the case falls within section 148(1)(b)(ii) above, a claim may be made under subsection (1) above by the donor's widow or widower.
- (3) The amount of the value transferred to be treated as cancelled by a donee's transfer shall be such amount as, after deduction of the tax charged on it, is equal—
 - (a) if paragraph (b) below does not apply, to the value restored by the transfer ;
 - (b) if more than twelve months have elapsed between the donor's transfer and the donee's, to the value so restored reduced by 4 per cent. for every twelve months that have so elapsed ;and where the cancelled amount is less than the whole of the value transferred it shall be treated as the highest part of that value.
- (4) As between two or more donor's transfers made by the same donor to the same donee value transferred by a later transfer shall be treated as cancelled rather than value transferred by an earlier one; and where there has been a claim in respect of a previous donee's transfer references in the foregoing provisions of this section to the value transferred shall be construed as references to the part of that value not treated as cancelled by that transfer.
- (5) For the purposes of subsection (3) above the value restored by the donee's transfer is so much of the value thereby transferred as does not exceed—
 - (a) whichever is the smaller of—
 - (i) the amount by which the donee's estate was increased by the donor's transfer, or
 - (ii) the amount by which the donor's estate was increased by the donee's transfer, or
 - (b) if there has been a previous donee's transfer, so much of the amount applying under paragraph (a) above as was not taken into account as the value restored by that transfer.

Status: This is the original version (as it was originally enacted).

- (6) Where the value transferred by the donor's transfer fell to be calculated in accordance with the provisions of Schedule 8 to the Finance Act 1975, Schedule 10 to the Finance Act 1976, Schedule 14 to the Finance Act 1981 or Chapter I or II of this Part of this Act, the value restored by the donee's transfer as determined under subsection (5) above shall be treated as reduced to such part of it as bears to the whole the same proportion as the value transferred by the donor's transfer after applying those provisions bears to the value transferred by it before applying those provisions.
- (7) In subsection (1)(a) above the reference to tax includes a reference to interest on tax.
- (8) For the purposes of liability to additional tax by reason of the donor's death within three years after the donor's transfer, the value thereby transferred which is treated as cancelled by a donee's transfer made before the death shall include any value that would be so treated if subsection (3)(b) above had not applied.
- (9) Where the donee's transfer has increased the estate of the spouse, widow or widower of another person any value thereby transferred which can (or if a claim were made could) be taken into account as value restored in relation to a transfer made by the spouse, widow or widower shall not be so taken into account in relation to a transfer made by that other person.

150 Voidable transfers

- (1) Where on a claim made for the purpose it is shown that the whole or any part of a chargeable transfer (" the relevant transfer ") has by virtue of any enactment or rule of law been set aside as voidable or otherwise defeasible—
 - (a) tax paid or payable by the claimant (in respect of the relevant transfer or any other chargeable transfer made before the claim) that would not have been payable if the relevant transfer had been void ab initio shall be repaid to him by the Board, or as the case may be shall not be payable, and
 - (b) the rate or rates of tax applicable to any chargeable transfer made after the claim by the person who made the relevant transfer shall be determined as if that transfer or that part of it had been void as aforesaid.
- (2) In subsection (1)(a).above the reference to tax includes a reference to interest on tax.

Pension schemes, etc.

151 Treatment of pension rights, etc.

- (1) This section applies to any fund to which section 218 of the Taxes Act applies, to any scheme approved under section 226 or 226A of that Act, to any exempt approved scheme or statutory scheme as defined in Chapter II of Part II of the Finance Act 1970 and to any other sponsored superannuation scheme as defined in section 226(11) of the Taxes Act.
- (2) An interest in or under a fund or scheme to which this section applies which comes to an end on the death of the person entitled to it shall be left out of account in determining for the purposes of this Act the value of his estate immediately before his death, if the interest—
 - (a) is, or is a right to, a pension or annuity, and

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- (b) is not an interest resulting (whether by virtue of the instrument establishing the fund or scheme or otherwise) from the application of any benefit provided under the fund or scheme otherwise than by way of a pension or annuity.
- (3) Sections 49 to 53 above shall not apply in relation to an interest satisfying the conditions of paragraphs (a) and (b) of subsection (2) above.
- (4) In relation to an interest in or under a fund or scheme to which this section applies, section 5(2) above shall apply as if the words " other than settled property " were omitted (in both places).
- (5) Where a benefit has become payable under a fund or scheme to which this section applies, and the benefit becomes comprised in a settlement made by a person other than the person entitled to the benefit, the settlement shall for the purposes of this Act be treated as made by the person so entitled.

152 Cash options

Where under a contract or trust scheme approved by the Board under section 226 or 226A of the Taxes Act or (before the commencement of that Act) under section 22 of the Finance Act 1956 (retirement annuities) an annuity becomes payable on a person's death to a widow, widower or dependant of that person, and under the terms of the contract or scheme a sum of money might at his option have become payable instead to his personal representatives, he shall not, by virtue of section 5(2) above, be treated as having been beneficially entitled to that sum.

153 Overseas pensions

- (1) In determining for the purposes of this Act the value of a person's estate immediately before his death there shall be left out of account any pension payable under the regulations or rules relating to any fund vested in Commissioners under section 273 of the Government of India Act 1935 or to any fund administered under a scheme made under section 2 of the Overseas Pensions Act 1973 which is certified by the Secretary of State for the purpose of this section to correspond to an Order in Council under subsection (1) of the said section 273.
- (2) For the purposes of this Act—
 - (a) a pension paid under the authority of a scheme made under section 2 of the Overseas Pensions Act 1973 which is constituted by the Pensions (India, Pakistan and Burma) Act 1955 or is certified by the Secretary of State for the purposes of this section to correspond to the said Act of 1955 shall be treated as if it had been paid by the Government of India or the Government of Pakistan (according as the arrangements in pursuance of which the pension was first paid under the said Act of 1955 were made with the one or the other Government);
 - (b) a pension paid out of any fund established in the United Kingdom by the Government of any country which, at the time when the fund was established, was, or formed part of, a colony, protectorate, protected state or United Kingdom trust territory shall, if the fund was established for the sole purpose of providing pensions, whether contributory or not, payable in respect of service under the Government be treated as if it had been paid by the Government by which the fund was established;

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- (c) a pension paid out of the Central African Pension Fund established by section 24 of the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council 1963 shall be treated as if it had been paid by the Government of a territory outside the United Kingdom; and
 - (d) so much of any pension paid to or in respect of any person under—
 - (i) the scheme which by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973 is constituted under that section by section 2 or subsection (2) of section 4 of the Overseas Service Act 1958, or
 - (ii) such other scheme made under section 2 of the Overseas Pensions Act 1973 as is certified by the Secretary of State for the purposes of the Taxes Act to correspond to section 2 or subsection (2) of section 4 of the Overseas Service Act 1958,
 as is certified by the Secretary of State to be attributable to service under the Government of an overseas territory shall be treated as if it had been paid by the Government of that territory.
- (3) Subsection (1) above shall be construed as if contained in section 273 of the Government of India Act 1935 ; and for the purposes of subsection (2) above—
- (a) " pension " includes a gratuity and any sum payable on or in respect of death, and a return of contributions with or without interest thereon or any other addition thereto ;
 - (b) " United Kingdom trust territory " means a territory administered by the Government of the United Kingdom under the trusteeship system of the United Nations;
 - (c) " overseas territory " means any country or territory outside the United Kingdom ;
 - (d) references to the Government of any such country or territory as is mentioned in paragraph (b) or (d) of that subsection include a Government constituted for two or more such countries or territories and any authority established for the purpose of providing or administering services which are common to, or relate to matters of common interest to, two or more such countries or territories.
- (4) If, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for a pension, allowance or gratuity within the meaning of section 1 of the Overseas Pensions Act 1973, payments in respect of it are made under that section, this section shall apply in relation to the pension, allowance or gratuity, exclusive of so much (if any) of it as is paid by virtue of the application to it of any provisions of the Pensions (Increase) Act 1971 or any enactment repealed by that Act, as if it continued to be paid by the Government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

Armed forces

154 Death on active service, etc.

- (1) Section 4 above shall not apply in relation to the death of a person in whose case it is certified by the Defence Council or the Secretary of State—
- (a) that he died from a wound inflicted, accident occurring or disease contracted at a time when the conditions specified in subsection (2) below were satisfied, or

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- (b) that he died from a disease contracted at some previous time, the death being due to or hastened by the aggravation of the disease during a period when those conditions were satisfied.
- (2) The conditions referred to in subsection (1) above are that the deceased was a member of any of the armed forces of the Crown or (not being a member of any of those forces) was subject to the law governing any of those forces by reason of association with or accompanying any body of those forces and (in any case) was either—
- (a) on active service against an enemy, or
 - (b) on other service of a warlike nature or which in the opinion of the Treasury involved the same risks as service of a warlike nature.
- (3) In relation to any time before 28th July 1981 (the date of the passing of the Armed Forces Act 1981), the reference in subsection (2) above to membership of the armed forces of the Crown shall include a reference to employment as a person of any of the descriptions specified in paragraph 1(3) of Schedule 7 to the Finance Act 1975 (women's services).

155 Visiting forces, etc.

- (1) Section 6(4) above applies to—
- (a) the emoluments paid by the Government of any designated country to a member of a visiting force of that country, not being a British citizen, a British Dependent Territories citizen or a British Overseas citizen, and
 - (b) any tangible movable property the presence of which in the United Kingdom is due solely to the presence in the United Kingdom of such a person while serving as a member of the force.
- (2) A period during which any such member of a visiting force as is referred to in subsection (1) above is in the United Kingdom by reason solely of his being such a member shall not be treated for the purposes of this Act as a period of residence in the United Kingdom or as creating a change of his residence or domicile.
- (3) References in subsections (1) and (2) above to a visiting force shall apply to a civilian component of a visiting force as they apply to the force itself, and those subsections shall be construed as one with Part I of the Visiting Forces Act 1952, but so that for the purposes of this section references to a designated country shall be substituted in that Act for references to a country to which a provision of that Act applies.
- (4) For the purpose of conferring on persons attached to any designated allied headquarters the like benefits as are conferred by subsections (1) and (2) above on members of a visiting force or civilian component, any members of the armed forces of a designated country shall, while attached to any such headquarters, be deemed to constitute a visiting force of that country, and there shall be a corresponding extension of the class of persons who may be treated as members of a civilian component of such a visiting force.
- (5) In the case of persons of any category for the time being agreed between Her Majesty's Government in the United Kingdom and the other members of the North Atlantic Council, employment by a designated allied headquarters shall be treated for the purposes of subsections (1)(b) and (2) above as if it were service as a member of a visiting force of a designated country.
- (6) For the purposes of this section—

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" allied headquarters" means any international military headquarters established under the North Atlantic Council;

" designated " means designated for the purpose in question by or under any Order in Council made for giving effect to any international agreement.

- (7) Any Order in Council made under section 73 of the Finance Act 1960 which is in force immediately before the passing of this Act shall have effect for the purposes of this section as if it had also been made under this section, and may be varied or revoked accordingly.

Apsley House and Chevening Estate

156 Apsley House and Chevening Estate

This Act shall not apply in respect of—

- (a) the rights conferred by section 3 of the Wellington Museum Act 1947, or
- (b) property held on the trusts of the trust instrument set out in the Schedule to the Chevening Estate Act 1959.

Non-residents' bank accounts

157 Non-residents' bank accounts

- (1) In determining for the purposes of this Act the value of the estate immediately before his death of a person to whom this section applies there shall be left out of account the balance on—
 - (a) any qualifying foreign currency account of his, and
 - (b) subject to subsection (3) below, any qualifying foreign currency account of the trustees of settled property in which he is beneficially entitled to an interest in possession.
- (2) This section applies to a person who is not domiciled in the United Kingdom immediately before his death, and is neither resident nor ordinarily resident there at that time.
- (3) Subsection (1)(b) above does not apply in relation to settled property if the settlor was domiciled in the United Kingdom when he made the settlement, or if the trustees are domiciled, resident or ordinarily resident in the United Kingdom immediately before the beneficiary's death.
- (4) For the purposes of this section—
 - (a) the question whether a person is resident or ordinarily resident in the United Kingdom shall, subject to paragraph (b) below, be determined as for the purposes of income tax; but
 - (b) the trustees of a settlement shall be regarded as not resident or ordinarily resident in the United Kingdom unless the general administration of the settlement is ordinarily carried on in the United Kingdom and the trustees or a majority of them (and, where there is more than one class of trustees, a majority of each class) are resident and ordinarily resident there.

- (5) In this section "qualifying foreign currency account" means a foreign currency account with the Bank of England, the Post Office, a recognised bank or licensed institution; and for this purpose—
- (a) "foreign currency account" means any account other than one denominated in sterling, and
 - (b) "recognised bank" and "licensed institution" have the same meanings as in the Banking Act 1979.

Double taxation relief

158 Double taxation conventions

- (1) If Her Majesty by Order in Council declares—
- (a) that arrangements specified in the Order have been made with the government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to capital transfer tax payable under the laws of the United Kingdom and any tax imposed under the laws of that territory which is of a similar character or is chargeable on or by reference to death or gifts inter vivos, and
 - (b) that it is expedient that those arrangements should have effect,
- the arrangements shall, notwithstanding anything in this Act, have effect so far as they provide for relief from capital transfer tax, or for determining the place where any property is to be treated as situated for the purposes of the tax.
- (2) Any arrangements to which effect is given under this section may include provision for relief in cases occurring before the making of the arrangements and provisions as to property which is not itself subject to double taxation.
- (3) Any Order in Council under this section which revokes an earlier Order may contain such transitional provisions as appear to Her Majesty to be necessary or expedient.
- (4) An Order under this section shall not be submitted to Her Majesty in Council unless a draft of it has been laid before, and approved by resolution of, the House of Commons.
- (5) Where any arrangements have effect by virtue of this section, no obligation as to secrecy shall prevent the Board or an authorised officer of the Board from disclosing to any authorised officer of the government with which the arrangements are made such information as is required to be disclosed under the arrangements.
- (6) Where arrangements with the government of any territory outside the United Kingdom are specified under any Order in Council which—
- (a) was made, or has effect as made, under section 54 of the Finance (No. 2) Act 1945 or section 2 of the Finance Act (Northern Ireland) 1946, and
 - (b) had effect immediately before the passing of this Act,
- the Order shall, notwithstanding the repeal of that section by the Finance Act 1975, remain in force and have effect as if any provision made by those arrangements in relation to estate duty extended to capital transfer tax chargeable by virtue of section 4 above; but the Order may be amended or revoked by an Order in Council made under this section.

159 Unilateral relief

(1) Where the Board are satisfied that in any territory outside the United Kingdom (an "overseas territory") any amount of tax imposed by reason of any disposition or other event is attributable to the value of any property, then, if—

- (a) that tax is of a character similar to that of capital transfer tax or is chargeable on or by reference to death or gifts inter vivos, and
- (b) any capital transfer tax chargeable by reference to the same disposition or other event is also attributable to the value of that property,

they shall allow a credit in respect of that amount (" the overseas tax ") against that capital transfer tax in accordance with the following provisions.

(2) Where the property is situated in the overseas territory and not in the United Kingdom, the credit shall be of an amount equal to the overseas tax.

(3) Where the property—

- (a) is situated neither in the United Kingdom nor in the overseas territory, or
- (b) is situated both in the United Kingdom and in the overseas territory,

the credit shall be of an amount calculated in accordance with the following formula—

$$\frac{A}{A + B} \times C$$

where A is the amount of the capital transfer tax, B is the overseas tax and C is whichever of A and B is the smaller.

(4) Where tax is imposed in two or more overseas territories in respect of property which—

- (a) is situated neither in the United Kingdom nor in any of those territories, or
- (b) is situated both in the United Kingdom and in each of those territories,

subsection (3) above shall apply as if, in the formula there set out, B were the aggregate of the overseas tax imposed in each of those territories and C were the aggregate of all, except the largest, of A and the overseas tax imposed in each of them.

(5) Where credit is allowed under subsection (2) above or section 158 above in respect of overseas tax imposed in one overseas territory, any credit under subsection (3) above in respect of overseas tax imposed in another shall be calculated as if the capital transfer tax were reduced by the credit allowed under subsection (2) or section 158; and where, in the case of any overseas territory mentioned in subsection (3) or (4) above, credit is allowed against the overseas tax for tax charged in a territory in which the property is situated, the overseas tax shall be treated for the purposes of those provisions as reduced by the credit.

(6) In this section references to tax imposed in an overseas territory are references to tax chargeable under the law of that territory and paid by the person liable to pay it.

(7) Where relief can be given both under this section and under section 158 above, relief shall be given under whichever section provides the greater relief.