



Capital Transfer Tax Act 1984

1984 CHAPTER 51

PART VIII

ADMINISTRATION AND COLLECTION

Management

215 General

The tax shall be under the care and management of the Board.

Accounts and information

216 Delivery of accounts

- (1) Except as otherwise provided by this section or by regulations under section 256 below, the personal representatives of a deceased person and every person who—
- (a) is liable as transferor for tax on the value transferred by a chargeable transfer, or would be so liable if tax were chargeable on that value, or
 - (b) is liable as trustee of a settlement for tax on the value transferred by a transfer of value, or would be so liable if tax were chargeable on that value, or
 - (c) is liable as trustee of a settlement for tax on an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79), or would be so liable if tax were chargeable on the occasion,
- shall deliver to the Board an account specifying to the best of his knowledge and belief all appropriate property and the value of that property.
- (2) Where in the case of the estate of a deceased person no grant of representation or confirmation has been obtained in the United Kingdom before the expiration of the period of twelve months from the end of the month in which the death occurred—
- (a) every person in whom any of the property forming part of the estate vests (whether beneficially or otherwise) on or at any time after the deceased's death

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or who at any such time is beneficially entitled to an interest in possession in any such property, and

- (b) where any of the property is at any such time comprised in a settlement and there is no person beneficially entitled to an interest in possession in that property, every person for whose benefit any of that property (or income from it) is applied at any such time,

shall deliver to the Board an account specifying to the best of his knowledge and belief the appropriate property vested in him, in which he has an interest or which (or income from which) is applicable for his benefit and the value of that property.

- (3) Where an account is to be delivered by personal representatives (but not where it is to be delivered by a person who is an executor of the deceased only in respect of settled land in England and Wales), the appropriate property is all property which formed part of the deceased's estate immediately before his death ; but—

- (a) if the personal representatives, after making the fullest enquiries that are reasonably practicable in the circumstances, are unable to ascertain the exact value of any particular property, their account shall in the first instance be sufficient as regards that property if it contains a statement to that effect, a provisional estimate of the value of the property and an undertaking to deliver a further account of it as soon as its value is ascertained; and
- (b) the Board may from time to time give such general or special directions as they think fit for restricting the property to be specified in pursuance of this subsection by any class of personal representatives.

- (4) Where subsection (3) above does not apply the appropriate property is any property to the value of which the tax is or would be attributable.

- (5) Except in the case of an account to be delivered by personal representatives, a person shall not be required to deliver an account under this section with respect to any property if a full and proper account of the property, specifying its value, has already been delivered to the Board by some other person who—

- (a) is or would be liable for the tax attributable to the value of the property, and
- (b) is not or would not be liable with him jointly as trustee;

and a person within subsection (2) above shall not be required to deliver an account under that subsection if he or another person within that subsection has satisfied the Board that an account will in due course be delivered by the personal representatives.

- (6) An account under the preceding provisions of this section shall be delivered—

- (a) in the case of an account to be delivered by personal representatives, before the expiration of the period of twelve months from the end of the month in which the death occurs, or, if it expires later, the period of three months beginning with the date on which the personal representatives first act as such ;
- (b) in the case of an account to be delivered by a person within subsection (2) above, before the expiration of the period of three months from the time when he first has reason to believe that he is required to deliver an account under that subsection ;
- (c) in the case of an account to be delivered by any other person, before the expiration of the period of twelve months from the end of the month in which the transfer is made or, if it expires later, the period of three months beginning with the date on which he first becomes liable for tax.

- (7) A person liable for tax under section 32, 79 or 126 above or under Schedule 5 to this Act shall deliver an account under this section before the expiration of the period of

six months from the end of the month in which the event by reason of which the tax is chargeable occurs.

217 Defective accounts

If a person who has delivered an account under section 216 above discovers at any time that the account is defective in a material respect by reason of anything contained in or omitted from it he shall, within six months of that time, deliver to the Board a further account containing such information as may be necessary to remedy the defect.

218 Non-resident trustees

(1) Where any person, in the course of a trade or profession carried on by him, other than the profession of a barrister, has been concerned with the making of a settlement and knows or has reason to believe—

- (a) that the settlor was domiciled in the United Kingdom, and
- (b) that the trustees of the settlement are not or will not be resident in the United Kingdom,

he shall, within three months of the making of the settlement, make a return to the Board stating the names and addresses of the settlor and of the trustees of the settlement.

(2) A person shall not be required to make a return under this section in relation to—

- (a) any settlement made by will, or
- (b) any other settlement, if such a return in relation to that settlement has already been made by another person or if an account has been delivered in relation to it under section 216 above.

(3) For the purposes of this section trustees of a settlement shall be regarded as not 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 for the time being resident in the United Kingdom.

219 Power to require information

(1) The Board may by notice in writing require any person to furnish them within such time, not being less than thirty days, as may be specified in the notice with such information as the Board may require for the purposes of this Act.

(2) A notice under this section may be combined with one relating to income tax.

(3) Subject to subsection (4) below, a barrister or solicitor shall not be obliged in pursuance of a notice under this section to disclose, without his client's consent, any information with respect to which a claim to professional privilege could be maintained.

(4) A solicitor may be obliged in pursuance of a notice under this section to disclose the name and address of his client; and if his client is resident outside the United Kingdom and carries on outside the United Kingdom a business which includes the provision for persons in the United Kingdom of services or facilities relating to—

- (a) the formation of companies outside the United Kingdom,
- (b) the making of settlements outside the United Kingdom, or

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- (c) the securing of control over, or the management or administration of, such companies or settlements,

a solicitor may also be so obliged to disclose the names and addresses of persons in the United Kingdom for whom such services or facilities have been provided in the course of that business.

220 Inspection of property

- (1) If the Board authorise any person to inspect any property for the purpose of ascertaining its value for the purposes of this Act, the person having the custody or possession of that property shall permit him to inspect it at such reasonable times as the Board may consider necessary.
- (2) If any person wilfully delays or obstructs a person acting in pursuance of this section he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale (within the meaning of section 75 of the Criminal Justice Act 1982).

Determinations and appeals

221 Notices of determination

- (1) Where it appears to the Board that a transfer of value has been made or where a claim under this Act is made to the Board in connection with a transfer of value, the Board may give notice in writing to any person who appears to the Board to be the transferor or the claimant or to be liable for any of the tax chargeable on the value transferred, stating that they have determined the matters specified in the notice.
- (2) The matters that may be specified in a notice under this section in relation to any transfer of value are all or any of the following—
 - (a) the date of the transfer;
 - (b) the value transferred and the value of any property to which the value transferred is wholly or partly attributable ;
 - (c) the transferor;
 - (d) the tax chargeable (if any) and the persons who are liable for the whole or part of it;
 - (e) the amount of any payment made in excess of the tax for which a person is liable and the date from which and the rate at which tax or any repayment of tax overpaid carries interest; and
 - (f) any other matter that appears to the Board to be relevant for the purposes of this Act.
- (3) A determination for the purposes of a notice under this section of any fact relating to a transfer of value—
 - (a) shall, if that fact has been stated in an account or return under this Part of this Act and the Board are satisfied that the account or return is correct, be made by the Board in accordance with that account or return, but
 - (b) may, in any other case, be made by the Board to the best of their judgment.
- (4) A notice under this section shall state the time within which and the manner in which an appeal against any determination in it may be made.

- (5) Subject to any variation by agreement in writing or on appeal, a determination in a notice under this section shall be conclusive for the purposes of this Act against the person on whom the notice is served ; and if the notice is served on the transferor and specifies a determination of the value transferred by the transfer of value or previous transfers of value, the determination, so far as relevant to the tax chargeable in respect of later transfers of value (whether or not made by the transferor) shall be conclusive also against any other person, subject however to any adjustment under section 240 or 241 below.
- (6) References in this section to transfers of value or to the values transferred by them shall be construed as including references to—
- (a) chargeable events by reference to which tax is chargeable under section 32 of this Act,
 - (b) occasions on which tax is chargeable under Chapter III of Part III of this Act,
 - (c) disposals on which tax is chargeable under section 126 of this Act,
- or to the amounts on which tax is then chargeable.

222 Appeals against determinations

- (1) A person on whom a notice under section 221 above has been served may, within thirty days of the service, appeal against any determination specified in it by notice in writing given to the Board and specifying the grounds of appeal.
- (2) Subject to the following provisions of this section the appeal shall be to the Special Commissioners.
- (3) Where—
- (a) it is so agreed between the appellant and the Board, or
 - (b) the High Court, on an application made by the appellant, is satisfied that the matters to be decided on the appeal are likely to be substantially confined to questions of law and gives leave for that purpose,
- the appeal may be to the High Court.
- (4) Neither the Special Commissioners nor the High Court shall determine any question as to the value of land in the United Kingdom on any appeal under this section, but on any such question the appeal shall be to the Lands Tribunal or, as the case may be, the Lands Tribunal for Scotland or for Northern Ireland.
- (5) In the application of this section to Scotland, for references to the High Court there shall be substituted references to the Court of Session.

223 Appeals out of time

An appeal under section 222 above may be brought out of time with the consent of the Board or the Special Commissioners ; and the Board—

- (a) shall give that consent if satisfied, on an application for the purpose, that there was a reasonable excuse for not bringing the appeal within the time limited and that the application was made thereafter without unreasonable delay, and
- (b) shall, if not so satisfied, refer the application for determination by the Special Commissioners.

224 Procedure before Special Commissioners

- (1) On an appeal before the Special Commissioners—
 - (a) the Board may be represented by any of its officers, and
 - (b) any party to the appeal may be represented by a barrister, solicitor or any accountant who has been admitted a member of an incorporated society of accountants or, with the leave of the Special Commissioners, by any other person.
- (2) The Special Commissioners may at any time before the determination of an appeal give notice to any party to the proceedings other than the Board requiring him within the time specified in the notice—
 - (a) to deliver to them such particulars as they may require for the purpose of determining the appeal, and
 - (b) to make available for inspection by them, or by an officer of the Board, all such books, accounts or other documents in his possession or power as may be specified or described in the notice, being books, accounts or other documents which in the opinion of the Special Commissioners contain or may contain information relating to the subject matter of the proceedings;
and any officer of the Board may, at all reasonable times, inspect and take copies of, or extracts from, any particulars delivered under paragraph (a) above and the Commissioners or any officer of the Board may take copies of, or extracts from, any books, accounts or other documents made available for inspection under paragraph (b) above.
- (3) The Special Commissioners may summon any person to appear before them and give evidence, and a witness before the Special Commissioners may be examined on oath.
- (4) On an appeal before the Special Commissioners, the Special Commissioners may allow the appellant to put forward any ground of appeal not specified in the notice of appeal and may take it into consideration if satisfied that the omission was not wilful or unreasonable.
- (5) The Special Commissioners shall on an appeal to them confirm the determination appealed against unless they are satisfied that the determination ought to be varied or quashed.

225 Statement of case for opinion of High Court

- (1) Within thirty days of the determination by the Special Commissioners of an appeal under this Part of this Act any party to the appeal may question the determination on a point of law by a written request to the Special Commissioners to state and sign a case for the opinion of the High Court.
- (2) A request for a case under this section shall be accompanied by a fee of £25 and any such case shall set forth the facts and the determination of the Commissioners.
- (3) A party requiring a case to be stated under this section shall, within thirty days of receiving it, send it to the High Court and shall, at or before the time of sending it to the High Court, send a copy of it to every other party.
- (4) The High Court shall hear and determine any question of law arising on the case and may reverse, affirm or amend the determination of the Special Commissioners or make such other order as the court thinks fit.

- (5) The High Court may cause the case to be sent back for amendment, and the Special Commissioners shall amend it accordingly.
- (6) This section shall have effect—
 - (a) in its application to Scotland, with the substitution of references to the Court of Session for references to the High Court; and
 - (b) in its application to Northern Ireland, with the substitution of references to the Court of Appeal in Northern Ireland for references to the High Court.
- (7) Until the coming into force of paragraph 6 of Schedule 22 to the Finance Act 1984, the reference in subsection (2) above to £25 shall have effect as a reference to £1.

Payment

226 Payment: general rules

- (1) Except as otherwise provided by the following provisions of this Part of this Act, the tax on the value transferred by a chargeable transfer shall be due six months after the end of the month in which the chargeable transfer is made or, in the case of a transfer made after 5th April and before 1st October in any year otherwise than on death, at the end of April in the next year.
- (2) Personal representatives shall, on delivery of their account, pay all the tax for which they are liable and may, on delivery of that account, also pay any part of the tax chargeable on the death for which they are not liable, if the persons liable for it request them to make the payment.
- (3) So much of the tax chargeable on the value transferred by a chargeable transfer made within three years or, as the case may be, one year of the death of the transferor as—
 - (a) exceeds what it would have been had the transferor died more than three years after the transfer, or
 - (b) is tax for which, by virtue of section 206 above, only a political party is liable, shall be due six months after the end of the month in which the death occurs.
- (4) Tax chargeable under section 32, 79 or 126 above or under Schedule 5 to this Act shall be due six months after the end of the month in which the event by reason of which it is chargeable occurs.
- (5) The Board may in the first instance, and without prejudice to the recovery of the remainder of the tax, accept or demand payment of an amount by reference to the value stated in an account delivered to the Board under section 216 or 217 above.
- (6) Nothing in this section shall be taken to authorise the recovery from, or require the payment by, any person of tax in excess of his liability as limited by section 204 above.

227 Payment by instalments-land, shares and businesses

- (1) Where any of the tax payable on the value transferred by a chargeable transfer is attributable to the value of qualifying property and—
 - (a) the transfer is made on death, or
 - (b) the tax so attributable is borne by the person benefiting from the transfer, or

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- (c) the transfer is made under Part III of this Act and the property concerned continues to be comprised in the settlement,
the tax so attributable may, if the person paying it by notice in writing to the Board so elects, be paid by ten equal yearly instalments.
- (2) In this section "qualifying property" means—
- (a) land of any description, wherever situated ;
 - (b) shares or securities to which section 228 below applies;
 - (c) a business or an interest in a business.
- (3) The first of the instalments referred to in subsection (1) above shall be payable—
- (a) if the chargeable transfer was made on death, six months after the end of the month in which the death occurred, and
 - (b) in any other case, at the time when the tax would be due if it were not payable by instalments ;
- and interest under section 233 below on the unpaid portion of the tax shall be added to each instalment and paid accordingly, except as otherwise provided in section 234 below.
- (4) Notwithstanding the making of an election under this section, the tax for the time being unpaid, with interest to the time of payment, may be paid at any time; and if at any time (whether before or after the date when the first instalment is payable) the whole or any part of the property concerned is sold, the tax unpaid (or, in the case of a sale of part, the proportionate part of that tax) shall become payable forthwith (or, if the sale precedes the date when the first instalment is payable, on that date) together with any interest accrued under section 233 below.
- (5) References in subsection (4) above to the sale of property shall have effect—
- (a) in a case within subsection (1)(b) above, as if they included references to any chargeable transfer in which the value transferred is wholly or partly attributable to the value of the property, other than a transfer made on death, and
 - (b) in a case within subsection (1)(c) above, as references to the property ceasing to be comprised in the settlement.
- (6) For the purposes of subsection (4) above—
- (a) the sale of an interest or part of an interest in a business shall be treated as a sale of part of the business, and
 - (b) the payment, under a partnership agreement or otherwise, of a sum in satisfaction of the whole or part of an interest in a business otherwise than on a sale shall be treated as a sale of the interest or part at the time of payment.
- (7) For the purposes of this section—
- (a) the value of a business or of an interest in a business shall be taken to be its net value ;
 - (b) the net value of a business is the value of the assets used in the business (including goodwill) reduced by the aggregate amount of any liabilities incurred for the purposes of the business;
 - (c) in ascertaining the net value of an interest in a business, no regard shall be had to assets or liabilities other than those by reference to which the net value of the business would have fallen to be ascertained if the tax had been attributable to the entire business ; and

- (d) " business " includes a business carried on in the exercise of a profession or vocation, but does not include a business carried on otherwise than for gain.

228 Shares etc. within section 227

- (1) This section applies—
- (a) to shares or securities of a company which immediately before the chargeable transfer gave control of the company—
 - (i) in the case of a transfer on death, to the deceased,
 - (ii) in the case of a transfer under Chapter III of Part III of this Act, to the trustees, and
 - (iii) in any other case, to the transferor ;
 - (b) to shares or securities of a company not falling under paragraph (a) above and not quoted on a recognised stock exchange, if the chargeable transfer is made on death and the condition stated in subsection (2) below is satisfied;
 - (c) to shares or securities of a company not falling under paragraph (a) above and not quoted on a recognised stock exchange, if the Board are satisfied that the tax attributable to their value cannot be paid in one sum without undue hardship (assuming, in the case of a chargeable transfer made otherwise than on death, that the shares or securities would be retained by the persons liable to pay the tax);
 - (d) to shares of a company not falling under paragraph (a) above and not quoted on a recognised stock exchange, if the conditions stated in subsection (3) below are satisfied.
- (2) The condition mentioned in subsection (1)(b) above is that not less than 20 per cent. of so much of the tax chargeable on the value transferred as is tax for which the person paying the tax attributable as mentioned in section 227(1) above is liable (in the same capacity) consists of tax attributable to the value of the shares or securities or such other tax (if any) as may by virtue of section 227 be paid by instalments.
- (3) The conditions mentioned in subsection (1)(d) above are that so much of the value transferred (calculated, if the transfer is not made on death, as if no tax were chargeable on it) as is attributable to the shares exceeds £20,000, and that either—
- (a) the nominal value of the shares is not less than 10 per cent. of the nominal value of all the shares of the company at the time of the transfer, or
 - (b) the shares are ordinary shares and their nominal value is not less than 10 per cent. of the nominal value of all ordinary shares of the company at that time.
- (4) In this section " ordinary shares " means shares which carry either—
- (a) a right to dividends not restricted to dividends at a fixed rate, or
 - (b) a right to conversion into shares carrying such a right as is mentioned in paragraph (a) above.

229 Payment by instalments-woodlands

Tax chargeable on such a chargeable transfer as is mentioned in section 129 above may, if the person paying the tax by notice in writing to the Board so elects, be paid by ten equal yearly instalments, of which the first shall be payable six months after the end of the month in which the transfer is made.

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230 Acceptance of property in satisfaction of tax

- (1) The Board may, if they think fit and the Ministers agree, on the application of any person liable to pay tax or interest payable under section 233 below, accept in satisfaction of the whole or any part of it any property to which this section applies.
- (2) This section applies to any such land as may be agreed upon between the Board and the person liable to pay tax.
- (3) This section also applies to any objects which are or have been kept in any building—
 - (a) if the Board have determined to accept or have accepted that building in satisfaction or part satisfaction of tax or of estate duty, or
 - (b) if the building or any interest in it belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belongs to the Duchy of Cornwall or belongs to a Government department or is held for the purposes of a Government department, or
 - (c) if the building is one of which the Secretary of State is guardian under the Ancient Monuments and Archaeological Areas Act 1979 or of which the Department of the Environment for Northern Ireland is guardian under the Historic Monuments Act (Northern Ireland) 1971, or
 - (d) if the building belongs to any body within Schedule 3 to this Act,
 in any case where it appears to the Ministers desirable for the objects to remain associated with the building.
- (4) This section also applies to—
 - (a) any picture, print, book, manuscript, work of art, scientific object or other thing which the Ministers are satisfied is pre-eminent for its national, scientific, historic or artistic interest, and
 - (b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the Ministers are satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest.
- (5) In this section—

" the Ministers " means the Secretary of State and the Lord President of the Council;

" national interest " includes interest within any part of the United Kingdom;

and in determining under subsection (4) above whether an object or collection or group of objects is pre-eminent, regard shall be had to any significant association of the object, collection or group with a particular place.

231 Powers to transfer property in satisfaction of tax

- (1) Where a person has power to sell any property in order to raise money for the payment of tax, he may agree with the Board for the property to be accepted in satisfaction of that tax in pursuance of section 230 above; and, except as regards the nature of the consideration and its receipt and application, any such agreement shall be subject to the same provisions and shall be treated for all purposes as a sale made in the exercise of the said power, and any conveyance or transfer made or purporting to be made to give effect to such¹ an agreement shall have effect accordingly.

- (2) The references in subsection (1) above to tax include references to interest payable under section 233 below.
- (3) This section shall not affect paragraph 1(4) or 3(4) of Schedule 5 to this Act.

232 Administration actions

Where proceedings are pending in any court for the administration of any property to the value of which any tax charged on the value transferred by a chargeable transfer is attributable, the court shall provide, out of any such property in the possession or control of the court, for the payment of any of the tax so attributable, or interest on it, which remains unpaid.

Interest

233 Interest on unpaid tax

- (1) If—
 - (a) an amount of tax charged on the value transferred by a chargeable transfer made after 5th April and before 1st October in any year and otherwise than on death remains unpaid after the end of the period ending with April in the next year, or
 - (b) an amount of tax charged on the value transferred by any other chargeable transfer remains unpaid after the end of the period of six months beginning with the end of the month in which the chargeable transfer was made, or
 - (c) an amount of tax chargeable under section 32, 79(3) or 126 above or under Schedule 5 to this Act remains unpaid after the end of the period of six months beginning with the end of the month in which the event occasioning the charge occurs,it shall carry interest from the end of that period at the rate applicable under subsection (2) below.
- (2) The rate referred to in subsection (1) above is—
 - (a) if the chargeable transfer was made on death, 6 per cent.;
 - (b) in any other case, 8 per cent.;or (in either case) such rate as the Treasury may from time to time by order made by statutory instrument prescribe.
- (3) Interest payable under this section shall not be allowed as a deduction in computing any income, profits or losses for any tax purposes.
- (4) A statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

234 Interest on instalments

- (1) Where tax payable on the value transferred by a chargeable transfer—
 - (a) is payable by instalments under section 227 above and is attributable to the value of any shares, securities, business or interest in a business, or to value treated as reduced under Chapter II of Part V of this Act, or
 - (b) is payable by instalments under section 229 above,

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it shall, for the purposes of any interest to be added to each instalment, be treated as carrying interest from the date at which the instalment is payable.

- (2) Subsection (1) above shall not apply to tax attributable to the value of shares or securities of a company falling within paragraph (a) of subsection (3) below (not being tax attributable to value treated as reduced under Chapter II of Part V of this Act) unless it also falls within paragraph (b) or (c) of that subsection.
- (3) The companies referred to in subsection (2) above are—
 - (a) any company whose business consists wholly or mainly of one or more of the following, that is to say, dealing in securities, stocks or shares, land or buildings, or making or holding investments ;
 - (b) any company whose business consists wholly or mainly in being a holding company (within the meaning of the Companies Act 1948) of one or more companies not falling within paragraph (a) above ;
 - (c) any company whose business is that of a jobber (as defined in section 477 of the Taxes Act) or discount house and is carried on in the United Kingdom.

235 Interest on overpaid tax

- (1) Any repayment of an amount paid in excess of a liability for tax or for interest on tax shall carry interest from the date on which the payment was made at the same rate as that at which the tax, if outstanding, would have carried interest.
- (2) Interest paid under this section shall not constitute income for any tax purposes.

236 Special cases

- (1) Section 233 above shall apply in relation to—
 - (a) the amount by which tax chargeable on the value transferred by a chargeable transfer made within three years of the transferor's death exceeds what it would have been had the transferor died more than three years after the transfer, and
 - (b) any tax for which, by virtue of section 206 above, only a political party is liable,
 as if the chargeable transfer had been made on the death of the transferor.
- (2) Tax overpaid or underpaid in consequence of—
 - (a) section 146(1) above, or section 19(1) of the Inheritance (Provision for Family and Dependants) Act 1975, or
 - (b) the corresponding provision of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979,
 shall not carry interest for any period before the order there mentioned is made.
- (3) Tax repayable on a claim under section 146(2), 149 or 150 above shall carry interest (which shall not constitute income for any tax purposes) at the rate for the time being applicable under section 233(2)(b) above from the date on which the claim is made.
- (4) Tax repayable under section 147(2) above shall carry interest (which shall not constitute income for any tax purposes) at the rate for the time being applicable under section 233(2)(a) above from the date on which the tax was paid; and tax charged by virtue of section 147(4) above shall carry interest at that rate as if section 233(1)(b) above had applied.

Inland Revenue charge for unpaid tax

237 Imposition of charge

- (1) Except as otherwise provided, where any tax charged on the value transferred by a chargeable transfer, or any interest on it, is for the time being unpaid a charge for the amount unpaid (to be known as an Inland Revenue charge) is by virtue of this section imposed in favour of the Board on—
 - (a) any property to the value of which the value transferred is wholly or partly attributable, and
 - (b) where the chargeable transfer is made by the making of a settlement or is made under Part III of this Act, any property comprised in the settlement.
- (2) References in subsection (1) above to any property include references to any property directly or indirectly representing it.
- (3) Where the chargeable transfer is made on death, personal or movable property situated in the United Kingdom which was beneficially owned by the deceased immediately before his death and vests in his personal representatives is not subject to the Inland Revenue charge; and for this purpose " personal property " includes leaseholds and undivided shares in land held on trust for sale, whether statutory or not, and the question whether any property was beneficially owned by the deceased shall be determined without regard to section 49(1) above.
- (4) No heritable property situated in Scotland is subject to the Inland Revenue charge, but where such property is disposed of any other property for the time being representing it is subject to the charge to which the first-mentioned property would have been subject but for this subsection.
- (5) The Inland Revenue charge imposed on any property shall take effect subject to any incumbrance on it which is allowable as a deduction in valuing that property for the purposes of the tax.
- (6) Except as provided by section 238 below, a disposition of property subject to an Inland Revenue charge shall take effect subject to that charge.

238 Effect of purchases

- (1) Where property subject to an Inland Revenue charge, or an interest in such property, is disposed of to a purchaser, then if at the time of the disposition—
 - (a) in the case of land in England and Wales, the charge was not registered as a land charge or, in the case of registered land, was not protected by notice on the register, or
 - (b) in the case of land in Northern Ireland the title to which is registered under the Land Registration Act (Northern Ireland) 1970, the charge was not entered as a burden on the appropriate register maintained under that Act or was not protected by a caution or inhibition under that Act or, in the case of other land in Northern Ireland, the purchaser had no notice of the facts giving rise to the charge, or
 - (c) in the case of personal property situated in the United Kingdom other than such property as is mentioned in paragraph (a) or (b) above, and of any property situated outside the United Kingdom, the purchaser had no notice of the facts giving rise to the charge, or

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- (d) in the case of any property, a certificate of discharge had been given by the Board under section 239 below and the purchaser had no notice of any fact invalidating the certificate,
the property or interest shall then cease to be subject to the charge but the property for the time being representing it shall be subject to it.
- (2) Where property subject to an Inland Revenue charge, or an interest in such property, is disposed of to a purchaser in circumstances where it does not then cease to be subject to the charge, it shall cease to be subject to it at the end of the period of six years beginning with the later of—
- (a) the date on which the tax became due, and
 - (b) the date on which a full and proper account of the property was first delivered to the Board in connection with the chargeable transfer concerned.
- (3) In this section " the time of the disposition " means—
- (a) in relation to registered land, the time of registration of the disposition, and
 - (b) in relation to other property, the time of completion.

Certificates of discharge

239 Certificates of discharge

- (1) Where application is made to the Board by a person liable for any tax on the value transferred by a chargeable transfer which is attributable to the value of property specified in the application, the Board, on being satisfied that the tax so attributable has been or will be paid, may give a certificate to that effect, and shall do so if the chargeable transfer is one made on death or the transferor has died.
- (2) Where tax is or may be chargeable on the value transferred by a transfer of value and—
- (a) application is made to the Board after the expiration of two years from the transfer (or, if the Board think fit to entertain the application, at an earlier time) by a person who is or might be liable for the whole or part of the tax, and
 - (b) the applicant delivers to the Board, if the transfer is one made on death, a full statement to the best of his knowledge and belief of all property included in the estate of the deceased immediately before his death and, in any other case, a full and proper account under this Part of this Act,
- the Board may, as the case requires, determine the amount of the tax or determine that no tax is chargeable; and subject to the payment of any tax so determined to be chargeable the Board may give a certificate of their determination, and shall do so if the transfer of value is one made on death or the transferor has died
- (3) Subject to subsection (4) below,—
- (a) a certificate under subsection (1) above shall discharge the property shown in it from the Inland Revenue charge on its acquisition by a purchaser, and
 - (b) a certificate under subsection (2) above shall discharge all persons from any further claim for the tax on the value transferred by the chargeable transfer concerned and extinguish any Inland Revenue charge for that tax.
- (4) A certificate under this section shall not discharge any person from tax in case of fraud or failure to disclose material facts and shall not affect any further tax—
- (a) that may afterwards be shown to be payable by virtue of section 93, 142, 143, 144 or 145 above, or

- (b) that may be payable if any further property is afterwards shown to have been included in the estate of a deceased person immediately before his death; but in so far as the certificate shows any tax to be attributable to the value of any property it shall remain valid in favour of a purchaser of that property without notice of any fact invalidating the certificate.
- (5) References in this section to a transfer of value, or to the value transferred by a transfer of value, shall be construed as including references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79) or to the amount on which tax is then chargeable.

Adjustments

240 Underpayments

- (1) Where too little tax has been paid in respect of a chargeable transfer the tax underpaid shall be payable with interest under section 233 above, whether or not the amount that has been paid was that stated as payable in a notice under section 221 above; but subject to section 239 above and to the following provisions of this section.
- (2) Where tax attributable to the value of any property is paid in accordance with an account duly delivered to the Board under this Part of this Act and the payment is made and accepted in full satisfaction of the tax so attributable, no proceedings shall be brought for the recovery of any additional tax so attributable after the end of the period of six years beginning with the later of—
- (a) the date on which the payment (or in the case of tax paid by instalments the last payment) was made and accepted, and
 - (b) the date on which the tax or the last instalment became due;
- and at the end of that period any liability for the additional tax and any Inland Revenue charge for that tax shall be extinguished.
- (3) In any case of fraud, wilful default or neglect by any of the following—
- (a) a person liable for the tax, and
 - (b) in the case of tax chargeable under Chapter III of Part III of this Act (apart from section 79), the person who is the settlor in relation to the settlement,
- the period mentioned in subsection (2) above shall be the period of six years beginning when the fraud, default or neglect comes to the knowledge of the Board.

241 Overpayments

- (1) If it is proved to the satisfaction of the Board that too much tax has been paid on the value transferred by a chargeable transfer or on so much of that value as is attributable to any property, the Board shall repay the excess unless the claim for repayment was made more than six years after the date on which the payment or last payment of the tax was made.
- (2) References in this section to tax include references to interest on tax.

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Recovery of tax

242 Recovery of tax

- (1) The Board shall not take any legal proceedings for the recovery of any amount of tax or of interest on tax which is due from any person unless the amount has been agreed in writing between that person and the Board or has been determined and specified in a notice under section 221 above.
- (2) Where an amount has been so determined and specified but an appeal to which this subsection applies is pending against the determination the Board shall not take any legal proceedings to recover the amount determined except such part of it as may be agreed in writing or determined and specified in a further notice under section 221 above to be a part not in dispute.
- (3) Subsection (2) above applies to any appeal under section 222 above but not to any further appeal; and section 222 above shall have effect, in relation to a determination made in pursuance of subsection (2) above, as if subsection (4) of that section were omitted.

243 Scotland: recovery of tax in sheriff court

In Scotland, tax and interest on tax may, without prejudice to any other remedy, and if the amount of the tax and interest does not exceed the sum for the time being specified in section 35(1)(a) of the Sheriff Courts (Scotland) Act 1971, be sued for and recovered in the sheriff court.

244 Right to address court

An officer of the Board who is authorised by the Board to do so may address the court in any proceedings in a county court or sheriff court for the recovery of tax or interest on tax.

Penalties

245 Failure to provide information

- (1) A person who—
 - (a) fails to deliver an account under section 216 or 217 above, or
 - (b) fails to make a return under section 218 above, or
 - (c) fails to comply with a notice under section 219 above, or
 - (d) fails to comply with a notice under section 224(2) above,shall be liable to a penalty not exceeding £50 and, if the failure continues after it has been declared by a court or the Special Commissioners, to a further penalty not exceeding £10 for each day on which it continues.
- (2) A person shall not be liable to a penalty under this section for a failure which is remedied before proceedings in which the failure could be declared are commenced; and where a person has a reasonable excuse for the failure he shall not be liable to a penalty under this section unless he fails to remedy it without unreasonable delay after the excuse has ceased.

246 Failure to appear before Special Commissioners, etc.

A person who, after being duly summoned under section 224(3) above, neglects or refuses to appear before the Special Commissioners at the time and place appointed for that purpose, or refuses to be sworn or to answer any lawful question concerning the matters under consideration, shall be liable to a penalty not exceeding £50.

247 Provision of incorrect information

- (1) If any person liable for any tax on the value transferred by a chargeable transfer fraudulently or negligently delivers, furnishes or produces to the Board any incorrect account, information or document, he shall be liable, in the case of fraud, to a penalty not exceeding the aggregate of £50 and twice the difference mentioned in subsection (2) below and, in the case of negligence, to a penalty not exceeding the aggregate of £50 and that difference.
- (2) The difference referred to in subsection (1) above is the amount by which the tax for which that person is liable exceeds what would be the amount of that tax if the facts were as shown in the account, information or document.
- (3) Any person not liable for tax on the value transferred by a chargeable transfer who fraudulently or negligently furnishes or produces to the Board any incorrect information or document in connection with the transfer shall be liable, in the case of fraud, to a penalty not exceeding £500 and, in the case of negligence, to a penalty not exceeding £250.
- (4) Any person who assists in or induces the delivery, furnishing or production in pursuance of this Part of this Act of any account, information or document which he knows to be incorrect shall be liable to a penalty not exceeding £500.

248 Failure to remedy errors

- (1) If after any account, information or document has been delivered, furnished or produced by any person without fraud or negligence it comes to his notice that it was incorrect in any material respect it shall be treated for the purposes of section 247 above as having been negligently delivered, furnished or produced unless the error is remedied without unreasonable delay.
- (2) If after any account, information or document has been delivered, furnished or produced by any person in pursuance of this Part of this Act it comes to the notice of any other person that it contains an error whereby tax for which that other person is liable has been or might be underpaid, that other person shall inform the Board of the error; and if he fails to do so without unreasonable delay he shall be liable to the penalty to which he would be liable under section 247 above if the account, information or document had been delivered, furnished or produced by him and the case were one of negligence.

249 Recovery of penalties

- (1) All proceedings for the recovery of penalties under this Part of this Act shall be commenced by the Board or, in Scotland, by the Board or the Lord Advocate.
- (2) Any such proceedings may be commenced either before the Special Commissioners or in the High Court or the Court of Session and shall, if brought in the High Court,

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be deemed to be civil proceedings by the Crown within the meaning of Part II of the Crown Proceedings Act 1947 or, as the case may be, that Part as for the time being in force in Northern Ireland.

- (3) Where any such proceedings are brought before the Special Commissioners, an appeal shall lie from their decision to the High Court or, as the case may be, the Court of Session—
- (a) by either party, on a question of law, and
 - (b) by the defendant (or, in Scotland, defender) against the amount of any penalty awarded ;
- and on an appeal under paragraph (b) above the Court may either confirm the decision or reduce or increase the sum awarded.
- (4) Proceedings under this section before the Special Commissioners shall be by way of information in writing made to them, and upon summons issued by them to the defendant (or defender) to appear before them at a time and place stated in the summons, and they shall hear and determine each case in a summary way.
- (5) References in this section to the Court of Session are references to that Court as the Court of Exchequer in Scotland.

250 Time limit for recovery

- (1) No proceedings for the recovery of a penalty under this Part of this Act shall be brought after the end of the period of three years beginning with the date on which the amount of the tax properly payable in respect of the chargeable transfer concerned was notified by the Board to the person or one of the persons liable for the tax or any part of it.
- (2) Where the person who has incurred any such penalty has died, any proceedings for the recovery of the penalty which have been or could have been commenced against him may be continued or commenced against his personal representatives, and any penalty awarded in proceedings so continued or commenced shall be a debt due from and payable out of his estate.

251 Summary award

- (1) Any penalty incurred by a person for a failure to comply with a notice under section 224(2) above or incurred under section 246 above may be awarded summarily by the Special Commissioners, notwithstanding that no proceedings for its recovery have been commenced.
- (2) An appeal shall lie to the High Court or the Court of Session against any award of a penalty under this section and on such an appeal the Court may either confirm or reverse the decision of the Special Commissioners or reduce or increase the sum awarded.

252 Effect of award by Special Commissioners

Any penalty awarded by the Special Commissioners shall be recoverable by the Board as a debt due to the Crown.

253 Mitigation of penalties

The Board may in their discretion mitigate any penalty, or stay or compound any proceedings for recovery of any penalty, and may also, after judgment, further mitigate or entirely remit the penalty.

Miscellaneous

254 Evidence

- (1) For the purposes of the preceding provisions of this Part of this Act, a notice under section 221 above specifying any determination which can no longer be varied or quashed on appeal shall be sufficient evidence of the matters determined.
- (2) In any proceedings for the recovery of tax or interest on tax, a certificate by an officer of the Board—
 - (a) that the tax or interest is due, or
 - (b) that, to the best of his knowledge and belief, it has not been paid,shall be sufficient evidence that the sum mentioned in the certificate is due or, as the case may be, unpaid; and a document purporting to be such a certificate shall be deemed to be such a certificate unless the contrary is proved.

255 Determination of questions on previous view of law

Where any payment has been made and accepted in satisfaction of any liability for tax and on a view of the law then generally received or adopted in practice, any question whether too little or too much has been paid or what was the right amount of tax payable shall be determined on the same view, notwithstanding that it appears from a subsequent legal decision or otherwise that the view was or may have been wrong.

256 Regulations about accounts, etc.

- (1) The Board may make regulations—
 - (a) dispensing with the delivery of accounts under section 216 above in such cases as may be specified in the regulations;
 - (b) discharging, subject to such restrictions as may be so specified, property from an Inland Revenue charge and persons from further claims for tax in cases other than those mentioned in section 239 above ;
 - (c) requiring information to be furnished to the Board, in such circumstances as may be so specified, by persons who have not delivered accounts under section 216 above or who have produced documents other than an account or inventory in pursuance of arrangements made under the enactments mentioned in subsection (2) below;
 - (d) modifying section 264(8) below in cases where the delivery of an account has been dispensed with under the regulations.
- (2) The enactments referred to in subsection (1)(c) above are section 109(2) of the Supreme Court Act 1981, the proviso to section 42 of the Probate and Legacy Duties Act 1808 and Article 20 of the Administration of Estates (Northern Ireland) Order 1979.

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- (3) Regulations under this section may contain such supplementary or incidental provisions as the Board think fit.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the House of Commons.

257 Form etc. of accounts

- (1) All accounts and other documents required for the purposes of this Act shall be in such form and shall contain such particulars as may be prescribed by the Board.
- (2) All accounts to be delivered to the Board under this Act shall be supported by such books, papers and other documents, and verified (whether on oath or otherwise) in such manner, as the Board may require.
- (3) For the purposes of this Act, an account delivered to a probate registry pursuant to arrangements made between the President of the Family Division and the Board or delivered to the Probate and Matrimonial Office in Northern Ireland pursuant to arrangements made between the Lord Chancellor and the Board shall be treated as an account delivered to the Board.

258 Service of documents

A notice or other document which is to be served on a person under this Act may be delivered to him or left at his usual or last known place of residence or served by post, addressed to him at his usual or last known place of residence or his place of business or employment.

259 Inspection of records

Section 16 of the Stamp Act 1891, section 56 of the Finance Act 1946 and section 27 of the Finance (No. 2) Act (Northern Ireland) 1946 (inspection of public records and records of unit trusts) shall apply in relation to capital transfer tax as they apply in relation to stamp duties.

260 Inland Revenue Regulation Act 1890

Sections 21, 22 and 35 of the Inland Revenue Regulation Act 1890 (proceedings for fines, etc.) shall not apply in relation to capital transfer tax.

261 Scotland: inventories

In the application of this Part of this Act to Scotland, references to an account required to be delivered to the Board by the personal representatives of a deceased person, however expressed, shall be construed as references to such an inventory or additional inventory as is mentioned in section 38 of the Probate and Legacy Duties Act 1808 which has been duly exhibited as required by that section.