

Status: Point in time view as at 18/11/2015.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, PART 4. (See end of Document for details)

SCHEDULES

SCHEDULE 36

AGREEMENT BETWEEN UK AND SWITZERLAND

Modifications etc. (not altering text)

- C1** Sch. 36 applied (with modifications) (19.4.2013) by [The Small Charitable Donations Regulations 2013 \(S.I. 2013/938\)](#), regs. 1, 6

PART 4

THE FUTURE: INHERITANCE TAX

Taxes affected

- 20 This Part affects inheritance tax.

Application of this Part

- 21 (1) This Part applies if—
- (a) an amount is withheld under Article 32(2) in respect of relevant assets of a deceased person (“P”), and
 - (b) a certificate is issued under Article 32(6) in respect of the withholding of that amount.
- (2) The certificate is referred to in this Part as “the Article 32 certificate”.
- (3) The relevant assets in relation to which the Article 32 certificate is issued are referred to as “the cleared assets”.
- (4) Any reference in this Part to “the chargeable transfer” is to the transfer made (under section 4 of IHTA 1984) on P's death.

Effect of Article 32 certificate

- 22 (1) The cleared assets are to be treated as if they were excluded property in determining the value of P's estate immediately before P's death.
- (2) As a result, any ancillary charge directly connected with those assets is also extinguished.
- (3) But—
- (a) treating the cleared assets as if they were excluded property does not affect any liability to inheritance tax on the rest of P's estate, and

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- (b) that liability remains what it would have been, had the cleared assets not been treated as excluded property.
- (4) Accordingly, if the cleared assets were ever to be included in an account or further account under section 216 or 217 of IHTA 1984 in respect of the chargeable transfer and it were found that the inheritance tax charged on the value of the property in P's estate other than the cleared assets should have been higher, the extra tax charged on the value of that other property remains due, together with any associated ancillary charge.
- (5) For the purposes of sub-paragraphs (3) and (4), the value of the cleared assets is assumed to form the highest part of the value transferred by the chargeable transfer.

Election in respect of Article 32 certificates

- 23 (1) This paragraph applies if the cleared assets for each of the Article 32 certificates issued in respect of P's death are included in full in an account or further account delivered in respect of P's death under section 216 or 217 of IHTA 1984 within the time permitted for delivering such an account or further account.
- (2) The person who delivers the account or further account may elect to disapply paragraph 22.
- (3) An election under this paragraph must be made in writing at the same time as the account or further account in which all the cleared assets are included, and signed by each person delivering the account or further account.
- (4) An election may only be made under this paragraph if it is accompanied by each of the Article 32 certificates.
- (5) If an election is made under this paragraph—
- (a) paragraph 22 does not apply to the cleared assets for any of the Article 32 certificates issued in respect of P's death, and
 - (b) the amounts withheld under Article 32(2) are instead to be treated as if they were credits allowable against the inheritance tax due on the value transferred by the chargeable transfer (calculated with the value of all those cleared assets brought into account).

Repayments

- 24 Nothing in this Part entitles any person to a repayment or refund of tax, save for any repayment to which a person may be entitled as a result of paragraph 23 if the credit allowable under that paragraph exceeds the inheritance tax due from the person on the value transferred by the chargeable transfer.

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