



Finance Act 1975

1975 CHAPTER 7

PART III

CAPITAL TRANSFER TAX

Liability for tax

25 Liability for tax

- (1) The persons liable for the tax on the value transferred by any chargeable transfer shall be determined in accordance with the following provisions of this section and, in the cases mentioned in other provisions of this Part of this Act, in accordance with those provisions; and, except as otherwise provided, where under this Part of this Act two or more persons are liable for the same tax each of them shall be liable for the whole of it.
- (2) Where the chargeable transfer is made by a disposition (including any omission treated as a disposition under section 20(7) of this Act) of the transferor the persons liable are—
 - (a) the transferor and the transferee ; and
 - (b) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the transfer or who at any such time is beneficially entitled to an interest in possession in the property ; and
 - (c) where by the chargeable transfer any property becomes comprised in a settlement, any person for whose benefit any of the property or income from it is applied.
- (3) Where the chargeable transfer is one made under Schedule 5 to this Act, the persons liable are—
 - (a) the trustees of the settlement; and
 - (b) any person entitled (whether beneficially or not) to an interest in possession in the settled property; and

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- (c) any person for whose benefit any of the settled property or income from it is applied at or after the time of the transfer; and
 - (d) where the chargeable transfer is made during the life of the settlor and the trustees are not for the time being resident in the United Kingdom, the settlor.
- (4) Where the chargeable transfer is made within three years of the transferor's death, then, with respect to so much of the tax as exceeds what it would have been had the transferor died more than three years after the transfer, subsection (2)(a) above shall have effect with the omission of the words " the transferor and " and subsection (3) above with the omission of paragraph (d).
- (5) Where the chargeable transfer is (under section 22 of this Act) made on the death of any person, the persons liable are, subject to subsection (7) below.—
- (a) so far as the tax is attributable to the value of property which either—
 - (i) was not immediately before the death comprised in a settlement; or
 - (ii) was so comprised and consists of land in the United Kingdom which devolves upon or vests in the deceased's personal representatives, the deceased's personal representatives;
 - (b) so far as the tax is attributable to the value of property which, immediately before the death, was comprised in a settlement, the trustees of the settlement;
 - (c) so far as the tax is attributable to the value of any property, any person in whom the property is vested (whether beneficially or otherwise) at any time after the death or who at any such time is beneficially entitled to an interest in possession in the property;
 - (d) so far as the tax is attributable to the value of any property which, immediately before the death, was comprised in a settlement, any person for whose benefit any of the property or income from it is applied after the death ;
- and for the purposes of this subsection a person entitled to part only of the income of any property shall, notwithstanding anything in paragraph 3 of Schedule 5 to this Act, be deemed to be entitled to an interest in the whole of the property.
- (6) For the purposes of this section—
- (a) any person who takes possession of or intermeddles with, or otherwise acts in relation to, property so as to become liable as executor or trustee (or, in Scotland, any person who intromits with property or has become liable as a vitious intromitter); and
 - (b) any person to whom the management of property is entrusted on behalf of a person not of full legal capacity,
- shall be treated as a person in whom the property is vested.
- (7) Where the chargeable transfer is made on death and any tax is by virtue of section 22(5) of this Act attributable to the value of any property which would have passed on the death for the purposes of estate duty, subsection (5) above does not apply in relation to the tax so attributable but the persons liable for that tax are the persons who would have been accountable for the estate duty in respect of that property.
- (8) Where a transferor is liable for any tax and, by another transfer of value made by him on or after 27th March 1974, any property became the property of a person who at the time of both transfers was his spouse, that person is liable for so much of the tax as does not exceed the value of the property at the time of the other transfer.

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- (9) In this section " the transferee " means, in relation to a chargeable transfer, any person the value of whose estate is increased by the transfer; and for the purposes of this section any question whether trustees are resident in the United Kingdom shall be determined as under paragraph 12(5) of Schedule 5 to this Act.
- (10) References in this section to any property include references to any property directly or indirectly representing it.

26 Exceptions from liability

- (1) A purchaser of property, and a person deriving title from or under such a purchaser, shall not by virtue of subsection (2)(b) or (5)(c) of section 25 of this Act be liable for tax attributable to the value of the property, unless the property is subject to an Inland Revenue charge.
- (2) No person other than those liable under subsection (1) or (2) of section 32 or subsection (3) or (4) of section 34 of this Act or, in the case of tax payable on the proceeds of a sale in accordance with paragraph 3(a) of Schedule 9 to this Act, the person liable under paragraph 2(2) of that Schedule, shall be liable for any tax chargeable under those provisions respectively, and no person other than those liable under subsection (3) of section 39 of this Act shall be liable for any tax chargeable under subsection (1) of that section.
- (3) Where a transfer of value is made within one year of the death of the transferor and, by reason of an excess over the amount specified in paragraph 10(1)(b) or 11(1)(b) of Schedule 6 to this Act, any tax is chargeable on a part of the value transferred which is attributable to property given to a charity or property which becomes the property of a political party, no person other than the charity or, as the case may be, the political party shall be liable for tax on that part.
- (4) A person shall not by virtue of section 25(5)(a) of this Act be liable for tax attributable to the value of any heritable property in Scotland which is vested in him as executor in the circumstances and for the purposes mentioned in subsection (1) or (2) of section 18 of the Succession (Scotland) Act 1964.

27 Limitation of liability

- (1) A person shall not be liable under section 25(5)(a) of this Act for any tax as a personal representative of a deceased person, except to the extent of the following assets, namely—
- (a) so far as the tax is attributable to the value of any property other than such as is mentioned in paragraph (b) below, the assets (other than property so mentioned) which he has received as personal representative or might have so received but for his own neglect or default; and
 - (b) so far as the tax is attributable to property which, immediately before the death, was comprised in a settlement and consists of land in the United Kingdom, so much of that property as is at any time available in his hands for the payment of the tax, or might have been so available but for his own neglect or default.
- (2) A person shall not be liable for tax as trustee in relation to any property, except to the extent of—

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- (a) so much of the property as he has actually received or disposed of or as he has become liable to account for to the persons beneficially entitled thereto ; and
 - (b) so much of any other property as is for the time being available in his hands as trustee for the payment of the tax or might have been so available but for his own neglect or default.
- (3) A person not liable as mentioned in subsection (1) or (2) above but liable for tax as a person in whom property is vested or liable for tax as a person entitled to a beneficial interest in possession in any property shall not be liable for the tax except to the extent of that property.
- (4) Where the tax exceeds what it would have been had the transferor died more than three years after the transfer, a person shall not be liable for the excess as a person in whom property is vested otherwise than beneficially, except to the extent of so much of the property as is vested in him at the time of the death ; and a person shall not be liable for the excess as a trustee in relation to any property, except to the extent of—
- (a) so much of the property as is vested in him at the time of the death ; and
 - (b) so much of the property as, after the death, he has actually received or disposed of or as, after the death, he has become liable to account for to the persons beneficially entitled thereto.
- (5) A person liable for tax as a person for whose benefit any settled property, or income from any settled property, is applied, shall not be liable for the tax except to the extent of the amount of the property or income (reduced in the case of income by the amount of any income tax borne by him in respect of it).
- (6) Where a person is liable for any tax—
- (a) under subsection (2) of section 25 of this Act otherwise than as transferor ; or
 - (b) under subsection (3) of that section otherwise than as trustee of the settlement;
- he shall be liable only if the tax remains unpaid after it ought to have been paid, and, in a case where any part of the value transferred is attributable to the tax on it, shall be liable to no greater extent than he would have been had the value transferred been reduced by the tax remaining unpaid.
- (7) Subsection (6) above shall not apply in relation to such an excess as is mentioned in subsection (4) above.

28 Burden of tax

- (1) Where personal representatives have paid an amount of tax and—
- (a) the tax is tax on the value transferred by a chargeable transfer made on death ; and
 - (b) an Inland Revenue charge for that amount is imposed on any property under paragraph 20 of Schedule 4 to this Act or would be so imposed but for subparagraph (4) of that paragraph ;
- the amount shall, where occasion requires, be repaid to them by the person in whom the property is vested.
- (2) Where a person has paid to the Board any tax which is or might at his option have been payable by instalments and he is entitled to recover the whole or part of it from another person, that other person shall, unless otherwise agreed between them, be entitled to refund the tax or that part by the same instalments (with the same interest thereon) as those by which it might have been paid to the Board.

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- (3) Where a person is liable, otherwise than as transferor, and otherwise than under section 25(8) of this Act, for tax attributable to the value of any property he shall, for the purpose of paying the tax or raising the amount of it when paid, have power, whether or not the property is vested in him, to raise the amount of the tax by sale or mortgage of, or a terminable charge on, that property or any part thereof.
- (4) A person having a limited interest in any property who pays the tax attributable to the value of that property shall be entitled to the like charge as if the tax so attributable had been raised by means of a mortgage to him.
- (5) Any money held on the trusts of a settlement may be expended in paying the tax attributable to the value of any property comprised in the settlement and held on the same trusts.
- (6) On an application being made in such form as the Board may prescribe by a person who has paid or borne the tax attributable to the value of any property, being tax for which he is not ultimately liable, the Board shall grant a certificate specifying the tax paid and the debts and incumbrances allowed in valuing the property.
- (7) Except to the extent of any repayment which may be or become due from the Board, a certificate under subsection (6) above shall be conclusive as between any person by whom the tax specified in the certificate falls to be borne and the person seeking to recover the tax from him; and any repayment of the tax falling to be made by the Board shall be duly made if made to the person producing the certificate.
- (8) References in this section to tax include interest on tax and, in subsections (1) to (5), costs properly incurred in respect of it.