



Inheritance Tax Act 1984

1984 CHAPTER 51

PART III

SETTLED PROPERTY

CHAPTER III

SETTLEMENTS WITHOUT INTERESTS IN POSSESSION [F¹], AND CERTAIN SETTLEMENTS IN WHICH INTERESTS IN POSSESSION SUBSIST]

Special cases—charges to tax

70 Property leaving temporary charitable trusts.

- (1) This section applies to settled property held for charitable purposes only until the end of a period (whether defined by a date or in some other way).
- (2) Subject to subsections (3) and (4) below, there shall be a charge to tax under this section—
 - (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of an application for charitable purposes, and
 - (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by an application of property for charitable purposes) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) Tax shall not be charged under this section in respect of—
 - (a) a payment of costs or expenses (so far as they are fairly attributable to property to which this section applies), or
 - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,

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or in respect of a liability to make such a payment.

- (4) Tax shall not be charged under this section by virtue of subsection (2)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.
- (5) The amount on which tax is charged under this section shall be—
- (a) the amount by which the value of property which is comprised in the settlement and to which this section applies is less immediately after the event giving rise to the charge than it would be but for the event, or
 - (b) where the tax payable is paid out of settled property to which this section applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (6) The rate at which tax is charged under this section shall be the aggregate of the following percentages—
- (a) 0.25 per cent. for each of the first forty complete successive quarters in the relevant period,
 - (b) 0.20 per cent. for each of the next forty,
 - (c) 0.15 per cent. for each of the next forty,
 - (d) 0.10 per cent. for each of the next forty, and
 - (e) 0.05 per cent. for each of the next forty.
- (7) Where the whole or part of the amount on which tax is charged under this section is attributable to property which was excluded property at any time during the relevant period then, in determining the rate at which tax is charged under this section in respect of that amount or part, no quarter throughout which that property was excluded property shall be counted.
- (8) In subsections (6) and (7) above “the relevant period” means the period beginning with the later of—
- (a) the day on which the property in respect of which tax is chargeable became (or last became) property to which this section applies, and
 - (b) 13th March 1975,
- and ending with the day before the event giving rise to the charge.
- (9) Where the property in respect of which tax is chargeable—
- (a) was relevant property immediately before 10th December 1981, and
 - (b) became (or last became) property to which this section applies on or after that day and before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the ^{M1}Finance Act 1982 applied, 1st April 1983 or, as the case may be, 1st April 1984),
- subsection (8) above shall have effect as if the day referred to in paragraph (a) of that subsection were the day on which the property became (or last became) relevant property before 10th December 1981.
- (10) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

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Marginal Citations

M1 1982 c.39.

71 Accumulation and maintenance trusts.

- (1) Subject to [^{F2}subsections (1A) to](2) below, this section applies to settled property if—
- (a) one or more persons (in this section referred to as beneficiaries) will, on or before attaining a specified age not exceeding [^{F3}eighteen] , become beneficially entitled to it ^{F4}. . . , and
 - (b) no interest in possession subsists in it and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.

[^{F5}(1A) This section does not apply to settled property at any particular time on or after 22nd March 2006 unless this section—

- (a) applied to the settled property immediately before 22nd March 2006, and
- (b) has applied to the settled property at all subsequent times up to the particular time.

(1B) This section does not apply to settled property at any particular time on or after 22nd March 2006 if, at that time, section 71A below applies to the settled property.]

(2) This section does not apply to settled property unless either—

- (a) not more than twenty-five years have elapsed since the commencement of the settlement or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) of subsection (1) above became satisfied with respect to the property, or
- (b) all the persons who are or have been beneficiaries are or were either—
 - (i) grandchildren of a common grandparent, or
 - (ii) children, widows or widowers [^{F6}or surviving civil partners] of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in subsection (1)(a) above.

(3) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—

- (a) where settled property ceases to be property to which this section applies, and
- (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(4) Tax shall not be charged under this section—

- (a) on a beneficiary's becoming beneficially entitled to, or to an interest in possession in, settled property on or before attaining the specified age, or
- (b) on the death of a beneficiary before attaining the specified age.

(5) Subsections (3) to (8) and (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (3)(b) above for the reference in section 70(4) to section 70(2)(b)).

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- (6) Where the conditions stated in paragraphs (a) and (b) of subsection (1) above were satisfied on 15th April 1976 with respect to property comprised in a settlement which commenced before that day, subsection (2)(a) above shall have effect with the substitution of a reference to that day for the reference to the commencement of the settlement, and the condition stated in subsection (2)(b) above shall be treated as satisfied if—
- (a) it is satisfied in respect of the period beginning with 15th April 1976, or
 - (b) it is satisfied in respect of the period beginning with 1st April 1977 and either there was no beneficiary living on 15th April 1976 or the beneficiaries on 1st April 1977 included a living beneficiary, or
 - (c) there is no power under the terms of the settlement whereby it could have become satisfied in respect of the period beginning with 1st April 1977, and the trusts of the settlement have not been varied at any time after 15th April 1976.
- (7) In subsection (1) above “persons” includes unborn persons; but the conditions stated in that subsection shall be treated as not satisfied unless there is or has been a living beneficiary.
- (8) For the purposes of this section a person’s children shall be taken to include his illegitimate children, his adopted children and his stepchildren.

Textual Amendments

- F2** Words in s. 71(1) substituted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(2\)\(6\)](#)
- F3** Word in s. 71(1)(a) substituted (6.4.2008 in accordance with [Sch. 20 para. 3\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(1\)\(a\)](#)
- F4** Words in s. 71(1)(a) repealed (6.4.2008 in accordance with [Sch. 20 para. 3\(2\)](#) of the amending Act) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(1\)\(b\)](#), [Sch. 26 Pt. 6](#)
- F5** S. 71(1A)(1B) inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(3\)\(6\)](#)
- F6** Words in s. 71(2)(b)(ii) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), [16](#)

Modifications etc. (not altering text)

- C5** S. 71 excluded (19.7.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 3\(3\)](#)
- C6** S. 71 modified (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 2\(5\)\(6\)](#)

[^{F7}71A] Trusts for bereaved minors

- (1) This section applies to settled property (including property settled before 22nd March 2006) if—
- (a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or
 - (b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts,
- but this section does not apply to property in which a disabled person's interest subsists.
- (2) This subsection applies to trusts—
- (a) established under the will of a deceased parent of the bereaved minor, or
 - (b) established under the Criminal Injuries Compensation Scheme,^{[^{F8}} or

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(c) established under the Victims of Overseas Terrorism Compensation Scheme,] which secure that the conditions in subsection (3) below are met.

(3) Those conditions are—

- (a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—
 - (i) the settled property,
 - (ii) any income arising from it, and
 - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
- (b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and
- (c) that, for so long as the bereaved minor is living and under the age of 18, either—
 - (i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
 - [^{F9}(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor.]

(4) Trusts such as are mentioned in paragraph (a) [^{F10}, (b) or (c)] of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—

- [^{F11}(za) the trustees' having powers that enable them to apply otherwise than for the benefit of the bereaved minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,]
- (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
- (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
- (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
- (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
- (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

[For the purposes of this section and section 71B, the “annual limit” is whichever is ^{F12}(4A) the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(4B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(4C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (4)(za) is, or is not, to apply in relation to a trust, and

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- (b) amend the definition of “the annual limit” in subsection (4A).
- (4D) An order under subsection (4C) may—
 - (a) make different provision for different cases, and
 - (b) contain transitional and saving provision.
- (4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]
- (5) In this section “the Criminal Injuries Compensation Scheme” means—
 - (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
 - (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
 - (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.
- (6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before “which” there were inserted the purposes of.

Textual Amendments

- F7** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F8** S. 71A(2)(c) and preceding word inserted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2)(b), {Sch. 2 para. 2(2)(a)}
- F9** S. 71A(3)(c)(ii) substituted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(2\)](#)
- F10** Words in s. 71A(4) substituted (8.4.2010) by Crime and Security Act 2010, ss. 48(4), 59(2)(b), {Sch. 2 para. 2(2)(b)}
- F11** S. 71A(4)(za) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(3\)](#)
- F12** Ss. 71A(4A)-(4E) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 2\(4\)](#)

71B Charge to tax on property to which section 71A applies

- (1) Subject to subsections (2) [^{F13}, (2B)] and (3) below, there shall be a charge to tax under this section—
 - (a) where settled property ceases to be property to which section 71A above applies, and
 - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—
 - (a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or
 - (b) the death under that age of the bereaved minor, or
 - (c) being paid or applied for the advancement or benefit of the bereaved minor.

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- [Subsection (2B) applies in a case in which—
- ^{F14}(2A) (a) an amount is paid or applied otherwise than for the benefit of the bereaved minor, and
- (b) the exemptions provided by subsection (2) of this section and subsections (3) and (4) of section 70 do not apply.
- (2B) In such a case, tax is not charged under this section in respect of whichever is the lower of the following amounts—
- (a) the amount paid or applied, and
- (b) the annual limit.]
- (3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—
- (a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,
- (b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,
- (c) as if, for the purposes of section 70(8) above as applied by this subsection, property—
- (i) which is property to which section 71A above applies,
- (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and
- (iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied,
- had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and
- (d) as if, for the purposes of section 70(8) above as applied by this subsection, property—
- (i) which is property to which section 71A above applies,
- (ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and
- (iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion (“the 71D-to-71A occasion”) to be property to which section 71D below applied,
- had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.
- (4) In subsection (3)(d) above—
- (a) “the relevant earlier occasion” means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but
- (b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied without ceasing to be settled property, “the relevant earlier occasion” means the occasion (or last occasion) when the property became property to which section 71 above applied.

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Textual Amendments

- F7** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F13** Word in s. 71B(1) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 3\(2\)](#)
- F14** S. 71B(2A)(2B) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 3\(3\)](#)

71C Sections 71A and 71B: meaning of “bereaved minor”

In sections 71A and 71B above “bereaved minor” means a person—

- (a) who has not yet attained the age of 18, and
- (b) at least one of whose parents has died.

Textual Amendments

- F7** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

71D Age 18-to-25 trusts

- (1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—
 - (a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,
 - (b) at least one of the person's parents has died, and
 - (c) subsection (2) below applies to the trusts.
- (2) This subsection applies to trusts—
 - (a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or
 - (b) established under the Criminal Injuries Compensation Scheme,^{F15} or
 - (c) established under the Victims of Overseas Terrorism Compensation Scheme,] which secure that the conditions in subsection (6) below are met.
- (3) Subsection (4) has effect where—
 - (a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and
 - (b) immediately after the property ceases to be property to which section 71 above applies—
 - (i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and
 - (ii) the trusts secure that the conditions in subsection (6) below are met.
- (4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—

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- (a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and
 - (b) the trusts continue to secure that the conditions in subsection (6) below are met.
- (5) This section does not apply—
- (a) to property to which section 71A above applies,
 - (b) to property to which section 71 above, or section 89 below, applies, or
 - (c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—
 - (i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or
 - (ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.
- (6) Those conditions are—
- (a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above (“B”), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—
 - (i) the settled property,
 - (ii) any income arising from it, and
 - (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,
 - (b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and
 - (c) that, for so long as B is living and under the age of 25, either—
 - (i) B is entitled to all of the income (if there is any) arising from any of the settled property, or
 - [^{F16}(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B.]
- [Where the income arising from the settled property is held on trusts of the kind ^{F17}(6A) described in section 33 of the Trustee Act 1925 (protective trusts), paragraphs (b) and (c) of subsection (6) have effect as if for “living and under the age of 25,” there were substituted “under the age of 25 and the income arising from the settled property is held on trust for B,]
- (7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—
- [^{F18}(za) the trustees' having powers that enable them to apply otherwise than for the benefit of B amounts (whether consisting of income or capital, or both) not exceeding the annual limit,]
 - (a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),
 - (b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,
 - (c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

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- (d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
- (e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

[For the purposes of this section and section 71E, the “annual limit” is whichever is ^{F19}(7A) the lower of the following amounts—

- (a) £3,000, and
- (b) 3% of the amount that is the maximum value of the settled property during the period in question.

(7B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(7C) The Treasury may by order made by statutory instrument—

- (a) specify circumstances in which subsection (7)(za) is, or is not, to apply in relation to a trust, and
- (b) amend the definition of “the annual limit” in subsection (7A).

(7D) An order under subsection (7C) may—

- (a) make different provision for different cases, and
- (b) contain transitional and saving provision.

(7E) A statutory instrument containing an order under subsection (7C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.]

(8) In this section “the Criminal Injuries Compensation Scheme” means—

- (a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
- (b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
- (c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(9) The preceding provisions of this section apply in relation to Scotland—

- (a) as if, in subsection (2) above, before “which” there were inserted the purposes of, and
- (b) as if, in subsections (3)(b)(ii) and (4)(b) above, before “trusts” there were inserted purposes of the.

Textual Amendments

- F7** Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)
- F15** S. 71D(2)(c) and preceding word inserted (8.4.2010) by [Crime and Security Act 2010](#), ss. 48(4), 59(2) (b), {[Sch. 2 para. 2\(3\)](#)}
- F16** S. 71D(6)(c)(ii) substituted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(2\)](#)
- F17** S. 71D(6A) inserted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(3\)](#)
- F18** S. 71D(7)(za) inserted (with effect in accordance with [Sch. 44 para. 9\(1\)](#) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 4\(4\)](#)

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F19 Ss. 71D(7A)-(7E) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by Finance Act 2013 (c. 29), **Sch. 44 para. 4(5)**

71E Charge to tax on property to which section 71D applies

- (1) Subject to subsections (2) to [F²⁰(4A)] below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which section 71D above applies, or
 - (b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of the settled property to which section 71D above applies is less than it would be but for the disposition.
- (2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
- (a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
 - (b) the death, under the age of 18, of B,
 - (c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
 - (d) being paid or applied for the advancement or benefit of B—
 - (i) at a time when B is living and under the age of 18, or
 - (ii) on B's attaining the age of 18.
- (3) Tax is not charged under this section in respect of—
- (a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
 - (b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident,
- or in respect of a liability to make such a payment.
- (4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

[If an amount is paid or applied otherwise than for the benefit of B and the exemptions F²¹(4A) provided by subsections (2) to (4) do not apply, tax is not charged under this section in respect of whichever is the lower of the following amounts—

- (a) the amount paid or applied, and
- (b) the annual limit.]

- (5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

Textual Amendments

F7 Ss. 71A-71H inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, **Sch. 20 para. 1(1)(2)**

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- F20** Word in s. 71E(1) substituted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 5\(2\)](#)
- F21** S. 71E(4A) inserted (with effect in accordance with Sch. 44 para. 9(1) of the amending Act) by [Finance Act 2013 \(c. 29\)](#), [Sch. 44 para. 5\(3\)](#)

71F Calculation of tax charged under section 71E in certain cases

- (1) Where—
- (a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and
 - (b) that event happens after B has attained the age of 18,
- the tax is calculated in accordance with this section.
- (2) Those events are—
- (a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,
 - (b) the death of B, and
 - (c) property being paid or applied for the advancement or benefit of B.
- (3) The amount of the tax is given by—
- $$\text{Chargeable amount} \times \text{Relevant fraction} \times \text{Settlement rate}$$
- (4) For the purposes of subsection (3) above, the “Chargeable amount” is—
- (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
 - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (5) For the purposes of subsection (3) above, the “Relevant fraction” is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—
- (a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and
 - (b) ending with the day before the occasion of the charge.
- (6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in subsection (5) above then, in determining the “Relevant fraction” in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.
- (7) For the purposes of subsection (3) above, the “Settlement rate” is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.
- (8) The chargeable transfer postulated in subsection (7) above is one—
- (a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,
 - (b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the

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occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and

- (c) on which tax is charged in accordance with section 7(2) above.
- (9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—
- (a) the value, immediately after the settlement commenced, of the property then comprised in it,
 - (b) the value, immediately after a related settlement commenced, of the property then comprised in it [^{F22}which was property to which section 71D above applied], and
 - (c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised).

Textual Amendments

F7 Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

F22 Words in s. 71F(9)(b) inserted (with effect in accordance with Sch. 1 para. 7 of the amending Act) by [Finance \(No. 2\) Act 2015 \(c. 33\)](#), [Sch. 1 para. 6](#)

71G Calculation of tax charged under section 71E in all other cases

- (1) Where—
- (a) tax is charged under section 71E above, and
 - (b) the tax does not fall to be calculated in accordance with section 71F above, the tax is calculated in accordance with this section.
- (2) The amount on which the tax is charged is—
- (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or
 - (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.
- (3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—
- (a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,
 - (b) if the other references in those subsections to section 70 above were references to section 71E above, and
 - (c) if, for the purposes of section 70(8) above, property—
 - (i) which is property to which section 71D above applies,
 - (ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and

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(iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property, had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.

Textual Amendments

F7 Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

71H Sections 71A to 71G: meaning of “parent”

- (1) In sections 71A to 71G above “parent” includes step-parent.
- (2) For the purposes of sections 71A to 71G above, a deceased individual (“D”) shall be taken to have been a parent of another individual (“Y”) if, immediately before D died, D had—
 - (a) parental responsibility for Y under the law of England and Wales,
 - (b) parental responsibilities in relation to Y under the law of Scotland, or
 - (c) parental responsibility for Y under the law of Northern Ireland.
- (3) In subsection (2)(a) above “parental responsibility” has the same meaning as in the Children Act 1989.
- (4) In subsection (2)(b) above “parental responsibilities” has the meaning given by section 1(3) of the Children (Scotland) Act 1995.
- (5) In subsection (2)(c) above “parental responsibility” has the same meaning as in the Children (Northern Ireland) Order 1995.]

Textual Amendments

F7 Ss. 71A-71H inserted (22.3.2006) by [Finance Act 2006 \(c. 25\)](#), s. 156, [Sch. 20 para. 1\(1\)\(2\)](#)

72 Property leaving employee trusts and newspaper trusts.

- (1) This section applies to settled property to which section 86 below applies [^{F23}if—
 - (a) no interest in possession subsists in it to which an individual is beneficially entitled, and
 - (b) no company-purchased interest in possession subsists in it].
- [^{F24}(1A) For the purposes of subsection (1)(b) above, an interest in possession is “company-purchased” if—
 - (a) a company is beneficially entitled to the interest in possession,
 - (b) the business of the company consists wholly or mainly in the acquisition of interests in settled property, and
 - (c) the company has acquired the interest in possession for full consideration in money or money's worth from an individual who was beneficially entitled to it.

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- (1B) Section 59(3) and (4) above apply for the purposes of subsection (1A)(c) above as for those of section 59(2)(b) above, but as if the references to the condition set out in section 59(2)(a) above were to the condition set out in subsection (1A)(b) above.]
- (2) Subject to subsections [F25(3A),] (4) [F26, (4A)] and (5) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property, and
 - (b) where a payment is made out of settled property to which this section applies for the benefit of a person within subsection (3) below, or a person connected with such a person, and
 - (c) in a case which paragraphs (a) and (b) above do not apply, where the trustees make a disposition (otherwise than by way of a payment out of the settled property) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) A person is within this subsection if—
- (a) he has directly or indirectly provided any of the settled property otherwise than by additions not exceeding in value £1,000 in any one year; or
 - (b) in a case where the employment in question is employment by a close company, he is a participator in relation to that company and either—
 - (i) is beneficially entitled to, or to rights entitling him to acquire, not less than 5 per cent. of, or of any class of the shares comprised in, its issued share capital, or
 - (ii) would, on a winding-up of the company, be entitled to not less than 5 per cent. of its assets; or
 - (c) he has acquired an interest in the settled property for a consideration in money or money's worth.
- [F27(3A) Where settled property ceases to be property to which this section applies because paragraph (d) of section 86(3) no longer applies, tax is not chargeable under this section by virtue of subsection (2)(a) if the only reason that paragraph no longer applies is that one or both of the trading requirement and the controlling interest requirement mentioned in that paragraph are no longer met with respect to the company so mentioned.]
- (4) If the trusts are those of a profit sharing scheme approved in accordance with Schedule 9 to the [F28Taxes Act 1988], tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares in pursuance of the scheme.
- [F29(4A) If the trusts are those of [F30a share incentive plan approved under Schedule 2 to the Income Tax (Earnings and Pensions) Act 2003], tax shall not be chargeable under this section by virtue of subsection (3)(b) above on an appropriation of shares to, or acquisition of shares on behalf of, an individual under the plan.]
- (5) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (2)(c) above for the reference in section 70(4) to section 70(2)(b)).
- (6) In this section—
- (a) “close company” and “participator” have the same meanings as in Part IV of this Act; and

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- (b) “year” means the period beginning with 26th March 1974 and ending with 5th April 1974, and any subsequent period of twelve months ending with 5th April;

and a person shall be treated for the purposes of this section as acquiring an interest for a consideration in money or money’s worth if he becomes entitled to it as a result of transactions which include a disposition for such consideration (whether to him or another) of that interest or of other property.

Textual Amendments

- F23** Words in s. 72(1) substituted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **21(2)**
- F24** S. 71(1A)(1B) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, **21(3)**
- F25** Word in s. 72(2) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 37 para. 13(2)(4)**
- F26** Word in s. 72(2) inserted (28.7.2000) by 2000 c. 17, s. **138(3)(a)**
- F27** S. 72(3A) inserted (6.4.2014) by Finance Act 2014 (c. 26), **Sch. 37 para. 13(3)(4)**
- F28** *Substituted by* Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32. *Originally* “Finance Act 1978”.
- F29** S. 72(4A) inserted (28.7.2000) by 2000 c. 17, s. **138(3)(b)**
- F30** Words in s. 72(4A) substituted (with effect as mentioned in s. 723(1)(a)(b) (subject to Sch. 7) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), ss. 722, 723(1), **Sch. 6 para. 151(1)(b)(2)**

73 Pre-1978 protective trusts.

- (1) This section applies to settled property which is held on trusts to the like effect as those specified in section 33(1)(ii) of the ^{M2}Trustee Act 1925 and which became held on those trusts on the failure or determination before 12th April 1978 of trusts to the like effect as those specified in section 33(1)(i).
- (2) Subject to subsection (3) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit of the principal beneficiary within the meaning of section 33 of the Trustee Act 1925, and
 - (b) in a case which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.

Marginal Citations

- M2** 1925 c.19.

74 Pre-1981 trusts for disabled persons.

- (1) This section applies to settled property transferred into settlement before 10th March 1981 and held on trusts under which, during the life of a disabled person, no interest

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in possession in the settled property subsists, and which secure that any of the settled property which is applied during his life is applied only or mainly for his benefit.

- (2) Subject to subsection (3) below, there shall be a charge to tax under this section—
- (a) where settled property ceases to be property to which this section applies, otherwise than by virtue of a payment out of the settled property for the benefit of the person mentioned in subsection (1) above, and
 - (b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by way of such a payment) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.
- (3) Subsections (3) to (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section.
- (4) In this section “disabled person” means a person who—
- (a) is by reason of mental disorder (within the meaning of the ^{M3}Mental Health Act 1983) incapable of administering his property or managing his affairs, or
 - (b) is in receipt of an attendance allowance under section ^[F31]64 of the Social Security Contributions and Benefits Act 1992 or ^[F32]section 64 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992].
- ^[F33], or
- (c) is in receipt of a disability living allowance under section ^[F31]71 of the Social Security Contributions and Benefits Act 1992 ^[F34]or ^[F32]section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 ^[F34]by virtue of entitlement to the care component at the highest or middle rate.]

Textual Amendments

- F31** Words in s. 74(4)(b)(c) substituted (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\), ss. 4, 7\(2\), Sch. 2 para. 66\(1\)\(2\)](#).
- F32** Words in s. 74(4)(b)(c) substituted (1.7.1992) by virtue of [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\), ss. 4, 7\(2\), Sch. 2 para. 29 \(1\)\(2\)](#).
- F33** S. 74(4)(c) and 'or' preceding it inserted (3.2.1992 for certain purposes and 6.4.1992) by [Disability Living Allowance and Disability Working Allowance Act 1991 \(c. 21, SIF 113:1\), s. 4\(2\), Sch. 2 para. 14\(1\); S.I. 1991/2617, art. 2\(c\)\(f\)](#).
- F34** Words in s. 74(4)(c) inserted (6.4.1992) by [S.I. 1991/2874, art. 4\(2\); S.R. 1992/94, art. 2](#).

Marginal Citations

- M3** [1983 c.20](#).

^[F35]74A Arrangements involving acquisition of interest in settled property etc

- (1) This section applies where—
- (a) one or more persons enter into arrangements,
 - (b) in the course of the arrangements—
 - (i) an individual (“the individual”) domiciled in the United Kingdom acquires or becomes able to acquire (directly or indirectly) an interest in property comprised in a settlement (“the relevant settled property”), and

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- (ii) consideration in money or money's worth is given by one or more of the persons mentioned in paragraph (a) (whether or not in connection with the acquisition of that interest or the individual becoming able to acquire it),
 - (c) there is a relevant reduction in the value of the individual's estate, and
 - (d) condition A or condition B is met.
- (2) Condition A is that—
- (a) the settlor was not domiciled in the United Kingdom at the time the [^{F36}relevant settled property became comprised in the settlement], and
 - (b) the relevant settled property is situated outside the United Kingdom at any time during the course of the arrangements.
- (3) Condition B is that—
- (a) the settlor was not an individual or a close company at the time the [^{F37}relevant settled property became comprised in the settlement], and
 - (b) condition A is not met.
- (4) Subsection (6) applies if all or a part of a relevant reduction (“amount A”) is attributable to the value of the individual's section 49(1) property being less than it would have been in the absence of the arrangements.
- (5) “The individual's section 49(1) property” means settled property to which the individual is treated as beneficially entitled under section 49(1) by reason of the individual being beneficially entitled to an interest in possession in the property.
- (6) Where this subsection applies—
- (a) a part of that interest in possession is deemed, for the purposes of section 52, to come to an end at the relevant time, and
 - (b) that section applies in relation to the coming to an end of that part as if the reference in subsection (4)(a) of that section to a corresponding part of the whole value of the property in which the interest in possession subsists were a reference to amount A.
- (7) Subsection (8) applies to so much (if any) of a relevant reduction as is not amount A (“amount B”).
- (8) Tax is to be charged as if the individual had made a transfer of value at the relevant time and the value transferred by it had been equal to amount B.

Textual Amendments

- F35** Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 210\(3\)](#)
- F36** Words in s. 74A(2)(a) substituted (with effect in accordance with s. 73(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 73\(7\)\(a\)](#)
- F37** Words in s. 74A(3)(a) substituted (with effect in accordance with s. 73(11) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 73\(7\)\(b\)](#)

74B Section 74A: supplementary provision

- (1) A transfer of value arising by virtue of section 74A is to be taken to be a transfer which is not a potentially exempt transfer.

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- (2) For the purposes of section 74A—
- (a) when determining the value transferred by a transfer of value arising by virtue of that section, no account is to be taken of section 3(2),
 - (b) nothing in section 10(1) applies to prevent such a transfer, and
 - (c) nothing in sections 102 to 102C of the Finance Act 1986 applies in relation to such a transfer.
- (3) Where, ignoring this subsection, a transfer of value would arise by virtue of section 74A (“the current transfer”), the value transferred by a relevant related transfer is to be treated as reducing the value transferred by the current transfer.

But this subsection does not apply if and to the extent that the relevant related transfer has already been applied to reduce another transfer of value arising by virtue of that section.

- (4) “Relevant related transfer” means—
- (a) where the arrangements consist of a series of operations, any transfer of value constituted by one or more of those operations which occur before or at the same time as the current transfer, other than a transfer of value arising by virtue of section 74A, and
 - (b) where the arrangements consist of a single operation, any transfer of value which arises from that operation, other than a transfer of value arising by virtue of section 74A.
- (5) Section 268(3) does not apply to a transfer of value arising by virtue of section 74A.
- (6) Where—
- (a) a transfer of value has arisen by virtue of section 74A,
 - (b) in the course of the arrangements the individual acquires an interest in possession in settled property, and
 - (c) section 5(1B) applies to the interest in possession so that it forms part of the individual's estate,
- this Act has effect as if that transfer of value had never arisen.

Textual Amendments

F35 Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by [Finance Act 2012 \(c. 14\), s. 210\(3\)](#)

74C Interpretation of sections 74A and 74B

- (1) Subsections (2) to (4) have effect for the purposes of sections 74A and 74B.
- (2) An individual has an interest in property comprised in a settlement if—
- (a) the property, or any derived property, is or will or may become payable to, or applicable for the benefit of—
 - (i) the individual,
 - (ii) the individual's spouse or civil partner, or
 - (iii) a close company in relation to which the individual or the individual's spouse or civil partner is a participator or a company which is a 51% subsidiary of such a close company,

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- in any circumstances whatsoever, or
- (b) a person within sub-paragraph (i), (ii) or (iii) of paragraph (a) enjoys a benefit deriving (directly or indirectly) from the property or any derived property.
- (3) A “relevant reduction” in the value of the individual's estate occurs—
- (a) if and when the value of the individual's estate first becomes less than it would have been in the absence of the arrangements, and
- (b) on each subsequent occasion when the value of that estate becomes less than it would have been in the absence of the arrangements and that difference in value is greater than the sum of any previous relevant reductions.
- (4) The amount of a relevant reduction is—
- (a) in the case of a reduction within subsection (3)(a), the difference between the value of the estate and its value in the absence of the arrangements, and
- (b) in the case of a reduction within subsection (3)(b), the amount by which the difference in value mentioned in that provision exceeds the sum of any previous relevant reductions.
- (5) In sections 74A and 74B and this section—
- “arrangements” includes any scheme, transaction or series of transactions, agreement or understanding, whether or not legally enforceable, and any associated operations;
- “close company” has the meaning given in section 102;
- “derived property”, in relation to any property, means—
- (a) income from that property,
- (b) property directly or indirectly representing—
- (i) proceeds of that property, or
- (ii) proceeds of income from that property, or
- (c) income from property which is derived property by virtue of paragraph (b);
- “operation” includes an omission;
- “participator” has the meaning given in section 102;
- “the relevant time” means—
- (a) the time the relevant reduction occurs, or
- (b) if later, the time section 74A first applied;
- “51% subsidiary” has the same meaning as in the Corporation Tax Acts (see Chapter 3 of Part 24 of the Corporation Tax Act 2010).]

Textual Amendments

F35 Ss. 74A-74C inserted (20.6.2012 and with effect in accordance with s. 210(5) of the amending Act) by Finance Act 2012 (c. 14), s. 210(3)

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