



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART IV

#### CLOSE COMPANIES

##### *Transfers by close companies*

#### 94 Charge on participators.

- (1) Subject to the following provisions of this Part of this Act, where a close company makes a transfer of value, tax shall be charged as if each individual to whom an amount is apportioned under this section had made a transfer of value of such amount as after deduction of tax (if any) would be equal to the amount so apportioned, less the amount (if any) by which the value of his estate is more than it would be but for the company's transfer; but for this purpose his estate shall be treated as not including any rights or interests in the company.
- (2) For the purposes of subsection (1) above the value transferred by the company's transfer of value shall be apportioned among the participators according to their respective rights and interests in the company immediately before the transfer, and any amount so apportioned to a close company shall be further apportioned among its participators, and so on; but—
  - (a) so much of that value as is attributable to any payment or transfer of assets to any person which falls to be taken into account in computing that person's profits or gains or losses for the purposes of income tax or corporation tax (or would fall to be so taken into account but for [F1section 1285 of the Corporation Tax Act 2009 (exemption for UK company distributions)]) shall not be apportioned, and
  - (b) if any amount which would otherwise be apportioned to an individual who is domiciled outside the United Kingdom is attributable to the value of any property outside the United Kingdom, that amount shall not be apportioned.
- (3) In determining for the purposes of this section whether a disposition made by a close company is a transfer of value or what value is transferred by such a transfer no account

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shall be taken of the surrender by the company, in pursuance of section [F<sup>2</sup>240 or 402 of the M<sup>1</sup>Taxes Act 1988], of any relief or of the benefit of any amount of advance corporation tax paid by it.

- (4) Where the amount apportioned to a person under this section is 5 per cent. or less of the value transferred by the company's transfer of value then, notwithstanding section 3(4) above, tax chargeable under subsection (1) above shall be left out of account in determining, with respect to any time after the company's transfer, what previous transfers of value he has made.
- (5) References in section 19 above to transfers of value made by a transferor and to the values transferred by them (calculated as there mentioned) shall be treated as including references to apportionments made to a person under this section and to the amounts for the tax on which (if charged) he would be liable.

#### Textual Amendments

- F1** Words in s. 94(2)(a) substituted (1.4.2009 with effect as mentioned in s. 1329(1) of the amending Act) by [Corporation Tax Act 2009 \(c. 4\)](#), s. 1322, [Sch. 1 para. 317](#)
- F2** *Substituted by* [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), [Sch. 29](#), para. 32. *Originally* "258 of the Taxes Act or of section 92 of the Finance Act 1972".

#### Marginal Citations

- M1** [1988 c. 1](#).

## 95 Participator in two companies.

- (1) Where—
- (a) the value of the estate of a company ("the transferee company") is increased as the result of a transfer of value made by a close company ("the transferor company"), and
  - (b) an individual to whom part of the value transferred is apportioned under section 94 above has an interest in the transferee company (or in a company which is a participator of the transferee company or any of its participators, and so on),

subsection (2) below shall apply to the computation, for the purposes of section 94 above, of the amount to be offset, that is to say, the amount by which the value of his estate is more than it would be but for the transfer.

- (2) Where this subsection applies—
- (a) the increase in the value of the transferee company's estate shall be taken to be such part of the value transferred as accounts for the increase, and
  - (b) the increase so computed shall be apportioned among the transferee company's participators according to their respective rights and interests in the company immediately before the transfer (and, where necessary, further apportioned among their participators, and so on),

and the amount so apportioned to the individual shall be taken to be the amount to be offset.

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## 96 Preference shares disregarded.

Where part of a close company's share capital consists of preference shares (within the meaning of [F3 section 1023(5) of the Corporation Tax Act 2010]) and a transfer of value made by that or any other close company has only a small effect on the value of those shares, compared with its effect on the value of other parts of the company's share capital, the preference shares shall be left out of account in determining the respective rights and interests of the participators for the purposes of sections 94 and 95 above.

### Textual Amendments

- F3** Words in s. 96 substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, **Sch. 1 para. 190** (with Sch. 2)

## 97 Transfers within group, etc.

- (1) Where a close company ("the transferor company") is a member, but not the principal [F4 company], of a group and—

[F5(a) there is—

(i) a disposal of an asset by the transferor company, which is a disposal to which section 171(1) of the 1992 Act applies, or

(ii) by virtue of an election under section 171A(2) of that Act, a deemed transfer by the transferor company to another member of the group, [F6F7 . . .

(iii) F7 . . . . .]

(aa) the disposal is also, or [F8 the election] gives rise to, a transfer of value, and]

(b) the transfer of value has only a small effect on the value of the minority participators' rights and interests in that company compared with its effect on the value of the other participators' rights and interests in the company,

the rights and interests of the minority participators shall be left out of account in determining the respective rights and interests of the transferor company's participators for the purpose of apportioning the value transferred under section 94 above.

- (2) For the purposes of subsection (1) above—

(a) [F9 Section [F10 170 of the 1992 Act] (groups of companies: definitions) applies as for the purposes of sections [F10 171 to 181] of that Act], and

(b) a minority participator is a participator of the transferor company who is not, and is not a person connected with, a participator of the principal [F11 company] of the group or of any of the principal [F11 company's] participators;

F12

### Textual Amendments

- F4** Finance Act 1989 s. 138(6)(a), with effect from 14 March 1989. Originally "member".

- F5** S. 97(1)(a)(aa) substituted for para. (a) (11.5.2001 with effect as mentioned in s. 106(3) of the amending Act) by 2001 c. 9, s. 106

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- F6** S. 97(1)(a)(iii) and preceding word inserted (24.7.2002 with application as mentioned in s. 42(4) of the amending Act) by 2002 c. 23, s. 42(3)(a)
- F7** S. 97(1)(a)(iii) and preceding word repealed (with effect as mentioned in Sch. 10 para. 9 of the amending Act) by Finance Act 2011 (c. 11), s. 65, Sch. 10 para. 8(a)
- F8** Words in s. 97(1)(aa) substituted (24.7.2002 with application as mentioned in s. 42(4) of the amending Act) by 2002 c. 23, s. 42(3)(b)
- F9** Finance Act 1989 s. 138(6)(b), with effect from 14 March 1989. Originally “the principal member of a group is the member of which all the other members are 75 per cent subsidiaries”.
- F10** Words in s. 97 substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, Sch. 10 para. 8(4)(b) (with ss. 60, 101(1), 201(3)).
- F11** Finance Act 1989 s. 138(6)(a), with effect from 14 March 1989. Originally “member”  
and  
“member’s”  
respectively.
- F12** Repealed by Finance Act 1989 s. 138(6)(c) and Sch. 17 Part VII, with effect from 14 March 1989.

**Modifications etc. (not altering text)**

- C1** S. 97 amended (28.7.2000 with effect on or after 1.4.2000) by 2000 c. 17, s. 102, Sch. 29 paras. 1, 14

*Alterations of capital, etc.*

**98 Effect of alterations of capital, etc**

- (1) Where there is at any time—
- (a) an alteration in so much of a close company’s share or loan capital as does not consist of [<sup>F13</sup>quoted shares or quoted securities]
  - (b) an alteration in any rights attaching to [<sup>F14</sup>unquoted shares in or unquoted debentures of a close company],

the alteration shall be treated as having been made by a disposition made at that time by the participators, whether or not it would fall to be so treated apart from this section, and shall not be taken to have affected the value immediately before that time of the [<sup>F15</sup>unquoted shares or unquoted debentures].

- (2) In this section “alteration” includes extinguishment.

- [<sup>F16</sup>(3) The disposition referred to in subsection (1) above shall be taken to be one which is not a potentially exempt transfer]

**Textual Amendments**

- F13** Finance Act 1987 Sch. 8 para. 2(a), with effect from 17 March 1987. Originally “shares or securities quoted on a recognised stock exchange”.
- F14** Finance Act 1987 Sch. 8 para. 2(b), with effect from 17 March 1987. Originally “shares in or debentures of a close company which are not so quoted”.
- F15** Finance Act 1987 Sch. 8 para. 2(c), with effect from 17 March 1987. Originally “shares or debentures not so quoted”.
- F16** Finance Act 1986 Sch. 19 para. 20, with effect from 18 March 1986.

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### *Settled property*

#### **99 Transfers where participators are trustees.**

- (1) Subsection (1) of section 94 above shall not apply in relation to a person who is a participator in his capacity as trustee of a settlement, but—
  - (a) the reference in subsection (2) of that section to sub-section (1) shall have effect as including a reference to subsection (2) of this section, and
  - (b) in relation to tax chargeable by virtue of subsection (2) of this section, sections 94(4) and 95 above shall apply with the necessary modifications.
- (2) Where any part of the value transferred by a close company's transfer of value is apportioned to a trustee of a settlement under section 94 above, then—
  - (a) if a qualifying interest in possession subsists in the settled property, a part of that interest corresponding to such part of the property as is of a value equal to the part so apportioned less the amount specified in subsection (3) below shall be treated for the purposes of Chapter II of Part III of this Act as having come to an end on the making of the transfer, and
  - (b) if no qualifying interest in possession subsists in the settled property, Chapter III of Part III of this Act shall have effect as if on the making of the transfer the trustee had made a disposition as a result of which the value of the settled property had been reduced by an amount equal to the part so apportioned less the amount specified in subsection (3) below;and where a qualifying interest in possession subsists in part only of the settled property paragraphs (a) and (b) above shall apply with the necessary adjustments of the values and amounts referred to there.
- (3) The amount referred to in paragraphs (a) and (b) of subsection (2) above is the amount (if any) by which the value of the settled property is more than it would be apart from the company's transfer, leaving out of account the value of any rights or interests in the company.

#### **100 Alterations of capital, etc. where participators are trustees.**

- (1) This section applies where, by virtue of section 98 above, an alteration in a close company's share or loan capital or of any rights attaching to shares in or debentures of a close company is treated as a disposition made by the participators, and—
  - (a) a person is a participator in his capacity as trustee of a settlement, and
  - (b) the disposition would, if the trustee were beneficially entitled to the settled property, be a transfer of value made by him, and
  - (c) at the time of the alteration an individual is beneficially entitled to an interest in possession in the whole or part of so much of the settled property as consists of [<sup>F17</sup>unquoted shares in or unquoted securities of the close company].

[<sup>F18</sup>(1A) Where the interest in possession is one to which the individual became beneficially entitled on or after 22nd March 2006, this section applies only if the interest in possession is—

- (a) an immediate post-death interest,
- (b) a disabled person's interest, or
- (c) a transitional serial interest,

[<sup>F19</sup>or falls within section 5(1B) above.]]

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- (2) Where this section applies, such part of the individual's interest shall be treated for the purposes of Chapter II of Part III of this Act as having come to an end at the time of the alteration as corresponds to the relevant decrease of the value of the property in which the interest subsists, that is to say the decrease caused by the alteration.

#### Textual Amendments

- F17** Finance Act 1987 Sch. 8 para. 3, with effect from 17 March 1987. Originally “shares in or securities of the close company which are not quoted on a recognised stock exchange”.
- F18** S. 100(1A) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 25
- F19** Words in s. 100(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), s. 53(6)

### 101 Companies interests in settled property.

- (1) Where a close company is entitled to an interest in possession in settled property the persons who are participators in relation to the company shall be treated for the purposes of this Act (except section 55) as being the persons entitled to that interest according to their respective rights and interests in the company.
- [<sup>F20</sup>(1A) Where the interest in possession mentioned in subsection (1) above is one to which the company became entitled on or after 22nd March 2006 (whether or not the company was a close company when it became entitled to the interest), subsection (1) above applies in relation to the interest only if it is—
- (a) an immediate post-death interest, or
  - (b) a transitional serial interest,
- [<sup>F21</sup>or falls within section 5(1B) above.]
- (1B) Subsection (1C) below applies where any of the participators mentioned in subsection (1) above (“the prior participator”) disposes of rights and interests of his in the company to another person (“the later participator”).
- (1C) If and so far as the later participator is a participator in the company by virtue of having any of the rights and interests disposed of, subsection (1) above is to be applied to him only as a participator in his own right (in particular, he is not to be treated by virtue of that subsection as having entitlement to the interest in possession as a result of disposal to him of entitlement that the prior participator was treated as having by virtue of that subsection, but this is without prejudice to the application of this Act in relation to the prior participator as the person making the disposal).]
- (2) Where—
- (a) the participators mentioned in subsection (1) above include the trustees of a settlement, and
  - (b) a person is beneficially entitled to an interest in possession in the whole or part of the settled property by virtue of which the trustees are participators,
- that person shall be treated for the said purposes as beneficially entitled to the whole or corresponding part of the interest to which the trustees would otherwise be treated as entitled under that subsection.

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#### Textual Amendments

- F20** S. 101(1A)-(1C) inserted (22.3.2006) by Finance Act 2006 (c. 25), s. 156, Sch. 20 paras. 7, 26
- F21** Words in s. 101(1A) inserted (with effect as mentioned in s. 53(10) of the amending Act) by Finance Act 2010 (c. 13), s. 53(7)

### General

## 102 Interpretation.

(1) In this Part of this Act—

“close company” means a company within the meaning of the Corporation Tax Acts which is (or would be if resident in the United Kingdom) a close company for the purposes of those Acts;

“participator”, in relation to any company, means any person who is (or would be if the company were resident in the United Kingdom) a participator in relation to that company [<sup>F22</sup>within the meaning given by section 454 of the Corporation Tax Act 2010], other than a person who would be such a participator by reason only of being a loan creditor;

“qualifying interest in possession” has the meaning given by section 59 above.

(2) References in this Part of this Act to a person’s rights and interests in a company include references to rights and interests in the assets of the company available for distribution among the participators in the event of a winding up or in any other circumstances.

#### Textual Amendments

- F22** S. 102(1): words in definition of "participator" substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184, Sch. 1 para. 191 (with Sch. 2)

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