



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART V

#### MISCELLANEOUS RELIEFS

#### CHAPTER II

#### AGRICULTURAL PROPERTY

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

- C1** See Part II of this volume—Finance Act 1975 Sch. 8—for the transitional relief provisions under Finance Act 1981 s. 96 and Sch. 14.

#### **115 Preliminary.**

- (1) In this Chapter references to a transfer of value include references to an occasion on which tax is chargeable under Chapter III of Part III of this Act (apart from section 79) and—
  - (a) references to the value transferred by a transfer of value include references to the amount on which tax is then chargeable, and
  - (b) references to the transferor include references to the trustees of the settlement concerned.
- (2) In this Chapter “agricultural property” means agricultural land or pasture and includes woodland and any building used in connection with the intensive rearing of livestock or fish if the woodland or building is occupied with agricultural land or pasture and the occupation is ancillary to that of the agricultural land or pasture; and also includes such cottages, farm buildings and farmhouses, together with the land occupied with them, as are of a character appropriate to the property.

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- (3) For the purposes of this Chapter the agricultural value of any agricultural property shall be taken to be the value which would be the value of the property if the property were subject to a perpetual covenant prohibiting its use otherwise than as agricultural property.
- (4) For the purposes of this Chapter the breeding and rearing of horses on a stud farm and the grazing of horses in connection with those activities shall be taken to be agriculture and any buildings used in connection with those activities to be farm buildings.
- (5) This Chapter applies to agricultural property only if it is in the United Kingdom, the Channel Islands or the Isle of Man.

## 116 The relief.

- (1) Where the whole or part of the value transferred by a transfer of value is attributable to the agricultural value of agricultural property, the whole or that part of the value transferred shall be treated as reduced by the appropriate percentage, but subject to the following provisions of this Chapter.
- (2) The appropriate percentage is [<sup>F1</sup>100 per cent]. if <sup>F2</sup>. . .—
  - (a) the interest of the transferor in the property immediately before the transfer carries the right to vacant possession or the right to obtain it within the next twelve months, or
  - (b) the transferor has been beneficially entitled to that interest since before 10th March 1981 and the conditions set out in subsection (3) below are satisfied; [<sup>F3</sup>or
  - <sup>F3</sup>(c) the interest of the transferor in the property immediately before the transfer does not carry either of the rights mentioned in paragraph (a) above because the property is let on a tenancy beginning on or after 1st September 1995;]
 and, subject to subsection (4) below, it is [<sup>F4</sup>50 per cent]. in any other case.
- [<sup>F5</sup>(2A) In the application of this section as respects property in Scotland, the reference in subsection (2)(c) above to a tenancy beginning on or after 1st September 1995 includes a reference to its being acquired on or after that date by right of succession (the date of acquisition being taken to be the date on which the successor gives relevant notice under section 12 of the <sup>M1</sup>Agricultural Holdings (Scotland) Act 1991).]
- (3) The conditions referred to in subsection (2)(b) above are—
  - (a) that if the transferor had disposed of his interest by a transfer of value immediately before 10th March 1981 and duly made a claim under paragraph 1 of Schedule 8 to the <sup>M2</sup>Finance Act 1975, the value transferred would have been computed in accordance with paragraph 2 of that Schedule and relief would have been limited by paragraph 5 of that Schedule (restriction to £250,000 or one thousand acres); and
  - (b) that the transferor's interest did not at any time during the period beginning with 10th March 1981 and ending with the date of the transfer carry a right mentioned in subsection (2)(a) above, and did not fail to do so by reason of any act or deliberate omission of the transferor during that period.
- (4) Where the appropriate percentage would be [<sup>F1</sup>100 per cent]. but for a limitation on relief that would have been imposed (as mentioned in subsection (3)(a) above) by paragraph 5 of Schedule 8 to the Finance Act 1975, the appropriate percentage shall be [<sup>F1</sup>100 per cent]. in relation to a part of the value transferred equal to the amount

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which would have attracted relief under that Schedule and [<sup>F4</sup>50 per cent]. in relation to the remainder.

- (5) In determining for the purposes of subsections (3)(a) and (4) above whether or to what extent relief under Schedule 8 to the Finance Act 1975 would have been limited by paragraph 5 of that Schedule, that paragraph shall be construed as if references to relief given under that Schedule in respect of previous chargeable transfers included references to—
- (a) relief given under this Chapter by virtue of subsection (2)(b) or (4) above, and
  - (b) relief given under Schedule 14 to the <sup>M3</sup>Finance Act 1981 by virtue of paragraph 2(2)(b) or (4) of that Schedule,
- in respect of previous chargeable transfers made on or after 10th March 1981.
- (6) For the purposes of this Chapter the interest of one of two or more joint tenants or tenants in common (or, in Scotland, joint owners or owners in common) shall be taken to carry a right referred to in subsection (2)(a) above if the interests of all of them together carry that right.
- (7) For the purposes of this section, the value transferred by a transfer of value shall be calculated as a value on which no tax is chargeable.

#### Textual Amendments

- F1** Words in s. 116(2)(4) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 4(a), 8, 9.
- F2** Word in s. 116(2) repealed (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by 1995 c. 4, ss. 155(1)(3), 162, Sch. 29 Pt. XI
- F3** S. 116(2)(c) and preceding “or” inserted (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by 1995 c. 4, s. 155(1)(3)
- F4** Words in s. 116(2)(4) substituted (16.7.1992) by Finance (No. 2) Act 1992 (c. 48), s. 73, Sch. 14 paras. 4(b), 8, 9.
- F5** S. 116(2A) inserted (1.5.1995 with effect in relation to transfers of value made, and other events occurring, on or after 1.9.1995) by 1995 c. 4, s. 155(2)(3)

#### Marginal Citations

- M1** 1991 c. 55.
- M2** 1975 c.7.
- M3** 1981 c.35.

### 117 Minimum period of occupation or ownership.

Subject to the following provisions of this Chapter, section 116 above does not apply to any agricultural property unless—

- (a) it was occupied by the transferor for the purposes of agriculture throughout the period of two years ending with the date of the transfer, or
- (b) it was owned by him throughout the period of seven years ending with that date and was throughout that period occupied (by him or another) for the purposes of agriculture.

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## 118 Replacements.

- (1) Where the agricultural property occupied by the transferor on the date of the transfer replaced other agricultural property, the condition stated in section 117(a) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were occupied by the transferor for the purposes of agriculture for periods which together comprised at least two years falling within the five years ending with that date.
- (2) Where the agricultural property owned by the transferor on the date of the transfer replaced other agricultural property, the condition stated in section 117(b) above shall be treated as satisfied if it, the other property and any agricultural property directly or indirectly replaced by the other property were, for periods which together comprised at least seven years falling within the ten years ending with that date, both owned by the transferor and occupied (by him or another) for the purposes of agriculture.
- (3) In a case falling within subsection (1) or (2) above relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made.
- (4) For the purposes of subsection (3) above changes resulting from the formation, alteration or dissolution of a partnership shall be disregarded.

## 119 Occupation by company or partnership.

- (1) For the purposes of sections 117 and 118 above, occupation by a company which is controlled by the transferor shall be treated as occupation by the transferor.
- (2) For the purposes of sections 117 and 118 above, occupation of any property by a Scottish partnership shall, notwithstanding section 4(2) of the <sup>M4</sup>Partnership Act 1890, be treated as occupation of it by the partners.

### Marginal Citations

M4 1890 c.39.

## 120 Successions.

- (1) For the purposes of section 117 above, where the transferor became entitled to any property on the death another person—
  - (a) he shall be deemed to have owned it (and, if he subsequently occupies it, to have occupied it) from the date of the death, and
  - (b) if that other person was his spouse he shall also be deemed to have occupied it for the purposes of agriculture for any period for which it was so occupied by his spouse, and to have owned it for any period for which his spouse owned it.
- (2) Where the transferor became entitled to his interest on the death of his spouse on or after 10th March 1981—
  - (a) he shall for the purposes of section 116(2)(b) above be deemed to have been beneficially entitled to it for any period for which his spouse was beneficially entitled to it;
  - (b) the condition set out in section 116(3)(a) shall be taken to be satisfied if and only if it is satisfied in relation to his spouse; and

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- (c) the condition set out in section 116(3)(b) shall be taken to be satisfied only if it is satisfied both in relation to him and in relation to his spouse.

## **121 Successive transfers.**

### (1) Where—

- (a) the whole or part of the value transferred by a transfer of value (in this section referred to as the earlier transfer) was eligible for relief under this Chapter (or would have been so eligible if such relief had been capable of being given in respect of transfers of value made at that time), and
- (b) the whole or part of the property which, in relation to the earlier transfer, was or would have been eligible for relief became, through the earlier transfer, the property of the person (or of the spouse of the person) who is the transferor in relation to a subsequent transfer of value and is at the time of the subsequent transfer occupied for the purposes of agriculture either by that person or by the personal representative of the transferor in relation to the earlier transfer, and
- (c) that property or part or any property directly or indirectly replacing it would (apart from section 117 above) have been eligible for relief in relation to the subsequent transfer of value, and
- (d) either the earlier transfer was, or the subsequent transfer of value is, a transfer made on the death of the transferor,

the property which would have been eligible for relief but for section 117 above shall be eligible for relief notwithstanding that section.

- (2) Where the property which, by virtue of subsection (1) above, is eligible for relief replaced the property or part referred to in paragraph (c) of that subsection, relief under this Chapter shall not exceed what it would have been had the replacement or any one or more of the replacements not been made, but section 118(4) above shall apply for the purposes of this subsection as it applies for the purposes of section 118(3).
- (3) Where, under the earlier transfer the amount of the value transferred which was attributable to the property or part referred to in subsection (1)(c) above was part only of its value, a like part only of the value which (apart from this subsection) would fall to be reduced under this Chapter by virtue of this section shall be so reduced.

## **122 Agricultural property of companies.**

- (1) Where the whole or part of the value transferred is attributable to the value of shares in or securities of a company it shall be taken for the purposes of this Chapter to be attributable (so far as appropriate) to the agricultural value of agricultural property if and only if—
  - (a) the agricultural property forms part of the company's assets and part of the value of the shares or securities can be attributed to the agricultural value of the agricultural property, and
  - (b) the shares or securities gave the transferor control of the company immediately before the transfer.
- (2) Shares or securities shall not be regarded for the purposes of subsection (1)(b) above as giving the transferor control of a company if—
  - (a) they would not have been sufficient, without other property, to give him control of the company immediately before the transfer, and

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- (b) their value is taken by virtue of section 176 below to be less than the value previously determined.
- (3) Where subsection (1) above applies—
  - (a) the references in section 116(2)(a) and (3)(b) above to the transferor's interest shall be construed as references to the company's interest, and
  - (b) section 123(1) below shall apply instead of section 117 above.

### **123 Provisions supplementary to section 122.**

- (1) Section 116 above shall not apply by virtue of section 122(1) above unless—
  - (a) the agricultural property—
    - (i) was occupied by the company for the purposes of agriculture throughout the period of two years ending with the date of the transfer, or
    - (ii) was owned by the company throughout the period of seven years ending with that date and was throughout that period occupied (by the company or another) for the purposes of agriculture, and
  - (b) the shares or securities were owned by the transferor—
    - (i) in a case within paragraph (a)(i) above, throughout the period there mentioned, or
    - (ii) in a case within paragraph (a)(ii) above, throughout the period there mentioned.
- (2) Subsections (1) and (2) of section 118 above shall apply in relation to the conditions stated in subsection (1)(a) above as they apply in relation to the conditions stated in section 117 taking references to the transferor as references to the company.
- (3) Where the shares or securities owned by the transferor on the date of the transfer replaced other eligible property (that is to say, agricultural property or shares or securities the value of which is wholly or partly attributable to the value of such property) the condition stated in subsection (1)(b) above shall be treated as satisfied if the shares or securities, the other eligible property which they replaced and any eligible property directly or indirectly replaced by the other eligible property were owned by the transferor for periods which together comprised—
  - (a) in a case within subsection (1)(a)(i) above, at least two years falling within the five years ending with that date, or
  - (b) in a case within subsection (1)(a)(ii) above, at least seven years falling within the ten years ending with that date.
- (4) Subsections (3) and (4) of section 118 above shall have effect in relation to a case falling within subsections (2) and (3) above as they have effect in relation to a case falling within subsections (1) and (2) of that section.
- (5) For the purposes of subsection (1) above, a company shall be treated as having occupied the agricultural property at any time when it was occupied by a person who subsequently controls the company.

### **124 Contracts for sale.**

- (1) Section 116 above shall not apply to agricultural property if at the time of the transfer the transferor has entered into a binding contract for its sale, except where the sale is

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to a company and is made wholly or mainly in consideration of shares in or securities of the company which will give the transferor control of the company.

- (2) Section 116 above shall not apply by virtue of section 122(1) above if at the time of the transfer the transferor has entered into a binding contract for the sale of the shares or securities concerned, except where the sale is made for the purpose of reconstruction or amalgamation.

**[<sup>F6</sup>124A Transfers within seven years before death of transferor.**

- (1) Where any part of the value transferred by a potentially exempt transfer which proves to be a chargeable transfer would (apart from this section) be reduced in accordance with the preceding provisions of this Chapter, it shall not be so reduced unless the conditions in subsection (3) below are satisfied.
- (2) Where—
- (a) any part of the value transferred by any chargeable transfer, other than a potentially exempt transfer, is reduced in accordance with the preceding provisions of this Chapter, and
  - (b) the transfer is made within seven years of the death of the transferor,
- then, unless the conditions in subsection (3) below are satisfied, the additional tax chargeable by reason of the death shall be calculated as if the value transferred had not been so reduced.
- (3) The conditions referred to in subsections (1) and (2) above are—
- (a) that the original property was owned by the transferee throughout the period beginning with the date of the chargeable transfer and ending with the death of the transferor (in this subsection referred to as “the relevant period”) and it is not at the time of the death subject to a binding contract for sale; and
  - (b) except in a case falling within paragraph (c) below, that the original property is agricultural property immediately before the death and has been occupied (by the transferee or another) for the purposes of agriculture throughout the relevant period; and
  - (c) where the original property consists of shares in or securities of a company, that throughout the relevant period the agricultural property to which section 116 above applied by virtue of section 122(1) above on the chargeable transfer was owned by the company and occupied (by the company or another) for the purposes of agriculture.
- (4) If the transferee has died before the transferor, the reference in subsection (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.
- (5) If the conditions in subsection (3) above are satisfied only with respect to part of the original property, then,—
- (a) in a case falling within subsection (1) above, only a proportionate part of so much of the value transferred as is attributable to the original property shall be reduced in accordance with the preceding provisions of this Chapter, and
  - (b) in a case falling within subsection (2) above, the additional tax shall be calculated as if only a proportionate part of so much of the value transferred as was attributable to the original property had been so reduced.
- (6) Where any shares owned by the transferee immediately before the death in question—

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- (a) would under any of the provisions of sections [F7 126 to 136 of the 1992 Act] be identified with the original property (or part of it), or
- (b) were issued to him in consideration of the transfer of agricultural property consisting of the original property (or part of it),

[F8 his period of ownership of the original property shall be treated as including his period of ownership of the shares.]

(7) This section has effect subject to section 124B below.

(8) In this section—

“the original property” means the property which, in relation to the chargeable transfer referred to in subsection (1) or subsection (2) above, was either agricultural property to which section 116 above applied or shares or securities of a company owning agricultural property to which that section applied by virtue of section 122(1) above; and

“the transferee” means the person whose property the original property became on that chargeable transfer or, where on the transfer the original property became or remained settled property in which no qualifying interest in possession (within the meaning of Chapter III of Part III of this Act) subsists, the trustees of the settlement.]

#### Textual Amendments

- F6** Finance Act 1986 Sch. 19, para. 22, *with respect to transfers of value made, and other events occurring, on or after 18 March 1986.*
- F7** Words in s. 124A(6) 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(5)** (with ss. 60, 101(1), 201(3)).
- F8** Finance Act 1987 Sch. 8, para. 9, *with effect from 17 March 1987. Originally* “they shall be treated for the purposes of this section as if they were the original property (or that part of it)”.

#### [F9 124B Application of section 124A to replacement property.

(1) Subject to subsection (2) below, this section applies where—

- (a) the transferee has disposed of all or part of the original property before the death of the transferor; and
- (b) the whole of the consideration received by him for the disposal has been applied by him in acquiring other property (in this section referred to as “the replacement property”).

(2) This section does not apply unless—

- (a) the replacement property is acquired, or a binding contract for its acquisition is entered into, within [F10 the allowed period] after the disposal of the original property (or, as the case may be, the part concerned); and
- (b) the disposal and acquisition are both made in transactions at arm’s length or on terms such as might be expected to be included in a transaction at arm’s length.

(3) Where this section applies, the conditions in section 124A(3) above shall be taken to be satisfied in relation to the original property (or, as the case may be, the part concerned) if—



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- (a) the replacement property is owned by the transferee immediately before the death of the transferor and is not at that time subject to a binding contract for sale; and
  - (b) throughout the period beginning with the date of the chargeable transfer and ending with the disposal, the original property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and
  - (c) throughout the period beginning with the date when the transferee acquired the replacement property and ending with the death, the replacement property was owned by the transferee and occupied (by the transferee or another) for the purposes of agriculture; and
  - (d) the replacement property is agricultural property immediately before the death.
- (4) If the transferee has died before the transferor, any reference in subsections (1) to (3) above to the death of the transferor shall have effect as a reference to the death of the transferee.
- (5) In any case where—
- (a) all or part of the original property has been disposed of before the death of the transferor or is subject to a binding contract for sale at the time of the death, and
  - (b) the replacement property is acquired, or a binding contract for its acquisition is entered into, after the death of the transferor but within [<sup>F10</sup>the allowed period] after the disposal of the original property or part, and
  - (c) the transferor dies before the transferee,
- subsection (3) above shall have effect with the omission of paragraphs (a) and (c), and as if any reference to a time immediately before the death of the transferor were a reference to the time when the replacement property is acquired.
- (6) Section 124A(6) above shall have effect in relation to the replacement property as it has effect in relation to the original property.
- (7) Where a binding contract for the disposal of any property is entered into at any time before the disposal of the property, the disposal shall be regarded for the purposes of subsections (2)(a) and (5)(b) above as taking place at that time.
- (8) In this section “the original property” and “the transferee” have the same meaning as in section 124A above [<sup>F11</sup>and “allowed period” means the period of three years or such longer period as the Board may allow].]

#### Textual Amendments

- F9** Finance Act 1986 Sch. 19, para. 22, *with respect to transfers of value made, and other events occurring, on or after 18 March 1986.*
- F10** Words in s. 124B(2)(a)(5)(b) substituted (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, s. 247(2)(a)(3)
- F11** Words in s. 124B(8) added (3.5.1994 with effect in relation to transfers of value made, and other events occurring, on or after 30.11.1993) by 1994 c. 9, s. 247(2)(b)(3)

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**[<sup>F12</sup>124C] Land in habitat schemes.**

- (1) For the purposes of this Chapter, where any land is in a habitat scheme—
  - (a) the land shall be regarded as agricultural land;
  - (b) the management of the land in accordance with the requirements of the scheme shall be regarded as agriculture; and
  - (c) buildings used in connection with such management shall be regarded as farm buildings.
- (2) For the purposes of this section land is in a habitat scheme at any time if—
  - (a) an application for aid under one of the enactments listed in subsection (3) below has been accepted in respect of the land; and
  - (b) the undertakings to which the acceptance relates have neither been terminated by the expiry of the period to which they relate nor been treated as terminated.
- (3) Those enactments are—
  - (a) regulation 3(1) of the <sup>M5</sup>Habitat (Water Fringe) Regulations 1994;
  - (b) the <sup>M6</sup>Habitat (Former Set-Aside Land) Regulations 1994;
  - (c) the <sup>M7</sup>Habitat (Salt-Marsh) Regulations 1994;
  - (d) the <sup>M8</sup>Habitats (Scotland) Regulations 1994, if undertakings in respect of the land have been given under regulation 3(2)(a) of those Regulations;
  - (e) the <sup>M9</sup>Habitat Improvement Regulations (Northern Ireland) 1995, if an undertaking in respect of the land has been given under regulation 3(1)(a) of those Regulations.
- (4) The Treasury may by order made by statutory instrument amend the list of enactments in subsection (3) above.
- (5) The power to make an order under subsection (4) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (6) This section has effect—
  - (a) in relation to any transfer of value made on or after 26th November 1996; and
  - (b) in relation to transfers of value made before that date, for the purposes of any charge to tax, or to extra tax, which arises by reason of an event occurring on or after 26th November 1996.]

**Textual Amendments**

**F12** S. 124C inserted (19.3.1997) by 1997 c. 16, s. 94

**Marginal Citations**

**M5** S.I. 1994/1291.

**M6** S.I. 1994/1292.

**M7** S.I. 1994/1293.

**M8** S.I. 1994/2710 (S.138).

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**M9** S.R. (N.I.) 1995 No.134.

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