



# Inheritance Tax Act 1984

## 1984 CHAPTER 51

### PART VI

#### VALUATION

#### CHAPTER I

#### GENERAL

#### **160 Market value.**

Except as otherwise provided by this Act, the value at any time of any property shall for the purposes of this Act be the price which the property might reasonably be expected to fetch if sold in the open market at that time; but that price shall not be assumed to be reduced on the ground that the whole property is to be placed on the market at one and the same time.

#### **161 Related property.**

- (1) Where the value of any property comprised in a person's estate would be less than the appropriate portion of the value of the aggregate of that and any related property, it shall be the appropriate portion of the value of that aggregate.
- (2) For the purposes of this section, property is related to the property comprised in a person's estate if—
  - (a) it is comprised in the estate of his spouse; or
  - (b) it is or has within the preceding five years been—
    - (i) the property of a charity, or held on trust for charitable purposes only, or
    - (ii) the property of a body mentioned in section 24, [<sup>F1</sup>24A,][<sup>F2</sup>or 25] above,

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and became so on a transfer of value which was made by him or his spouse after 15th April 1976 and was exempt to the extent that the value transferred was attributable to the property.

- (3) The appropriate portion of the value of the aggregate mentioned in subsection (1) above is such portion thereof as would be attributable to the value of the first-mentioned property if the value of that aggregate were equal to the sums of the values of that and any related property, the value of each property being determined as if it did not form part of that aggregate.
- (4) For the purposes of subsection (3) above the proportion which the value of a smaller number of shares of any class bears to the value of a greater number shall be taken to be that which the smaller number bears to the greater; and similarly with stock, debentures and units of any other description of property.
- (5) Shares shall not be treated for the purposes of subsection (4) above as being of the same class unless they are so treated by the practice of a recognised stock exchange or would be so treated if dealt with on such a stock exchange.

#### **Textual Amendments**

- F1** Finance Act 1989 s. 171(4), with effect from 14 March 1989.
- F2** Words in s. 161(2)(b) substituted (31.7.1998 with effect in relation to any property becoming property of a body on a transfer of value made on or after 17.3.1998) by 1998 c. 36, s. 143(6)

## **162 Liabilities.**

- (1) A liability in respect of which there is a right to reimbursement shall be taken into account only to the extent (if any) that reimbursement cannot reasonably be expected to be obtained.
- (2) Subject to subsection (3) below, where a liability falls to be discharged after the time at which it is to be taken into account it shall be valued as at the time at which it is to be taken into account.
- (3) In determining the value of a transferor's estate immediately after a transfer of value, his liability for [<sup>F3</sup>inheritance tax] shall be computed—
  - (a) without making any allowance for the fact that the tax will not be due immediately, and
  - (b) as if any tax recovered otherwise than from the transferor (or a person liable for it under section 203(1) below) were paid in discharge of a liability in respect of which the transferor had a right to reimbursement.
- (4) A liability which is an incumbrance on any property shall, so far as possible, be taken to reduce the value of that property.
- (5) Where a liability taken into account is a liability to a person resident outside the United Kingdom which neither—
  - (a) falls to be discharged in the United Kingdom, nor
  - (b) is an incumbrance on property in the United Kingdom,
 it shall, so far as possible, be taken to reduce the value of property outside the United Kingdom.

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#### **Textual Amendments**

**F3** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.

### **163 Restriction on freedom to dispose.**

- (1) Where, by a contract made at any time, the right to dispose of any property has been excluded or restricted, then, in determining the value of the property for the purpose of the first relevant event happening after that time,—
  - (a) the exclusion or restriction shall be taken into account only to the extent (if any) that consideration in money or money's worth was given for it, but
  - (b) if the contract was a chargeable transfer or was part of associated operations which together were a chargeable transfer, an allowance shall be made for the value transferred thereby (calculated as if no tax had been chargeable on it) or for so much of the value transferred as is attributable to the exclusion or restriction.
- (2) Where the contract was made before 27th March 1974 subsection (1) above applies only if the first relevant event is a transfer made on death.
- (3) In this section “relevant event”, in relation to any property, means—
  - (a) a chargeable transfer in the case of which the whole or part of the value transferred is attributable to the value of the property; and
  - (b) anything which would be such a chargeable transfer but for this section.

### **164 Transferor's expenses.**

In determining the value transferred by a transfer of value, expenses incurred by the transferor in making the transfer (but not his liability for [<sup>F4</sup>inheritance tax])—

- (a) shall, if borne by him, be left out of account;
- (b) shall, if borne by a person benefiting from the transfer, be treated as reducing the value transferred.

#### **Textual Amendments**

**F4** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.

### **165 Tax on capital gains.**

- (1) Where a chargeable transfer is or includes a disposal of an asset and on the disposal a gain accrues to the transferor for the purposes of the [<sup>F5</sup>1992 Act], then if—
  - (a) the whole or part of the gain is a chargeable gain or a development gain, and
  - (b) the whole or part of any capital gains tax or income tax chargeable on the gain is borne by the donee (within the meaning of section [<sup>F5</sup>282] of that Act),the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.

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- (2) Subsection (1) above shall not apply where the chargeable transfer is made under Part III of this Act and the gain accrues to the trustees of the settlement; but if in such a case any capital gains tax chargeable on the gain is borne by a person who becomes absolutely entitled to the settled property concerned, the amount of the tax so borne shall be treated as reducing the value transferred by the chargeable transfer.
- (3) In any case where—
- (a) payment of an amount of capital gains tax is postponed by virtue of Schedule 14 to the <sup>M1</sup>Finance Act 1984, and
  - (b) any of that capital gains tax becomes payable in accordance with paragraph 11 of that Schedule by reason of the receipt of a capital payment by a close relative of the beneficiary, as mentioned in sub-paragraph (3) of that paragraph, and
  - (c) all or part of the capital gains tax becoming so payable is paid by the close relative,
- the payment by the close relative shall be treated for the purposes of this Act as made in satisfaction of a liability of his.

#### Textual Amendments

- F5** Words in s. 165 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(8)** (with ss. 60, 101(1), 201(3)).

#### Marginal Citations

- M1** 1984 Sch.14 para.16.

## 166 Creditors' rights.

In determining the value of a right to receive a sum due under any obligation it shall be assumed that the obligation will be duly discharged, except if or to the extent that recovery of the sum is impossible or not reasonably practicable and has not become so by any act or omission of the person to whom the sum is due.

## 167 Life policies, etc.

- (1) In determining in connection with a transfer of value the value of a policy of insurance on a person's life or of a contract for an annuity payable on a person's death, that value shall be taken to be not less than—
- (a) the total of the premiums or other consideration which, at any time before the transfer of value, has been paid under the policy or contract or any policy or contract for which it was directly or indirectly substituted, less
  - (b) any sum which, at any time before the transfer of value, has been paid under, or in consideration for the surrender of any right conferred by, the policy or contract or a policy or contract for which it was directly or indirectly substituted.
- (2) Subsection (1) above shall not apply in the case of—
- (a) the transfer of value which a person makes on his death, or

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- (b) any other transfer of value which does not result in the policy or contract ceasing to be part of the transferor's estate,

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(3) Subsection (1) above shall not apply where the policy is one—

- (a) under which the sum assured becomes payable only if the person whose life is insured dies before the expiry of a specified term or both before the expiry of a specified term and during the life of a specified person, and
- (b) which, if that specified term ends, or can, under the policy, be extended so as to end, more than three years after the making of the insurance, satisfies the condition that, if neither the person whose life is insured nor the specified person dies before the expiry of the specified term—

- (i) the premiums are payable during at least two-thirds of that term and at yearly or shorter intervals, and
- (ii) the premiums payable in any one period of twelve months are not more than twice the premiums payable in any other such period.

(4) Where the policy is one under which—

- (a) the benefit secured is expressed in units the value of which is published and subject to fluctuation, and
- (b) the payment of each premium secures the allocation to the policy of a specified number of such units,

then, if the value, at the time of the transfer of value, of the units allocated to the policy on the payment of premiums is less than the aggregate of what the respective values of those units were at the time of allocation, the value to be taken under subsection (1) above as a minimum shall be reduced by the amount of the difference.

(5) References in subsections (1) and (4) above to a transfer of value shall be construed as including references to an event on which there is a charge to tax under Chapter III of Part III of this Act (apart from section 79), other than an event on which tax is chargeable in respect of the policy or contract by reason only that its value (apart from this section) is reduced.

**Textual Amendments**

**F6** *Repealed by Finance Act 1986 s. 114(6) and Sch. 23, Part X, where the donee's transfer is made on or after 18 March 1986.*

**168 Unquoted shares and securities.**

(1) In determining the price which unquoted shares or [F7 unquoted] securities might reasonably be expected to fetch if sold in the open market it shall be assumed that in that market there is available to any prospective purchaser of the shares or securities all the information which a prudent prospective purchaser might reasonably require if he were proposing to purchase them from a willing vendor by private treaty and at arm's length.

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(2) .....

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#### **Textual Amendments**

- F7** Finance Act 1987 Sch. 8, para. 12(1), with effect from 17 March 1987.  
**F8** Repealed by 1987 s. 58(2) and Sch. 8, para. 12(2), with effect from 17 March 1987.

#### **169 Farm cottages.**

- (1) In determining the value of agricultural property which includes cottages occupied by persons employed solely for agricultural purposes in connection with the property, no account shall be taken of any value attributable to the fact that the cottages are suitable for the residential purposes of persons not so employed.
- (2) Expressions used in subsection (1) above and in Chapter II of Part V of this Act have the same meaning in that subsection as in that Chapter.

#### **170 Leases for life, etc.**

Where under section 43(3) above a lease of property is to be treated as a settlement, the value of the lessor's interest in the property shall be taken to be such part of the value of the property as bears to it the same proportion as the value of the consideration, at the time the lease was granted, bore to what would then have been the value of a full consideration in money or money's worth.

## **CHAPTER II**

### **ESTATE ON DEATH**

#### **171 Changes occurring on death.**

- (1) In determining the value of a person's estate immediately before his death changes in the value of his estate which have occurred by reason of the death and fall within subsection (2) below shall be taken into account as if they had occurred before the death.
- (2) A change falls within this subsection if it is an addition to the property comprised in the estate or an increase or decrease of the value of any property so comprised, other than a decrease resulting from such an alteration as is mentioned in section 98(1) above; but the termination on the death of any interest or the passing of any interest by survivorship does not fall within this subsection.

#### **172 Funeral expenses.**

In determining the value of a person's estate immediately before his death, allowance shall be made for reasonable funeral expenses.

#### **173 Expenses incurred abroad.**

In determining the value of a person's estate immediately before his death, an allowance against the value of property situated outside the United Kingdom shall be made for any expense incurred in administering or realising the property which is

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shown to be attributable to the situation of the property, but the allowance shall not exceed 5 per cent of the value of the property.

#### **174 Income tax and unpaid [<sup>F9</sup>inheritance tax.]**

- (1) In determining the value of a person's estate immediately before his death, allowance shall be made for—
  - (a) any liability for income tax in respect of an offshore income gain, within the meaning of Chapter [<sup>F10</sup>V of Part VII of the Taxes Act 1988], arising on a disposal which is deemed to occur on the death by virtue of section [<sup>F11</sup>757(3)] of that Act; and
  - (b) any liability to income tax arising under [<sup>F12</sup>Schedule 13 to the Finance Act 1996 (discounted securities) on a transfer which is treated as taking place by virtue of paragraph 4(2) of that Schedule.]
- (2) Where in determining the value of a person's estate immediately before his death a liability for [<sup>F9</sup>inheritance tax] is taken into account, then, if that tax or any part of it is not in the event paid out of the estate, the value of the estate immediately before his death shall be treated as increased by an amount equal to that tax or so much of it as is not so paid.

#### **Textual Amendments**

- F9** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.
- F10** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32. Originally “VII of Part II of the Finance Act 1984”.
- F11** Income and Corporation Taxes Act 1988 (c. 1, SIF 63:1), **Sch. 29**, para. 32. Originally “92(3)”.
- F12** Words in s. 174(1)(b) substituted (29.4.1996 with effect as mentioned in s. 105, **Sch. 14** para. 2(2) of the amending Act) by 1996 c. 8, s. 104, **Sch. 14** para. 2(1)

#### **175 Liability to make future payments, etc.**

Where in determining the value of a person's estate immediately before his death a liability to make payments or transfer assets under such a disposition as is mentioned in section 262 below is taken into account, the liability shall be computed as if the amount or value of the payments or assets were reduced by the chargeable portion (as defined in that section).

#### **176 Related property etc.—sales.**

- (1) This section has effect where, within three years after the death of any person, there is a qualifying sale of any property (“the property concerned”) comprised in his estate immediately before his death and valued for the purposes of this Act—
  - (a) in accordance with section 161 above, or
  - (b) in conjunction with property which was also comprised in the estate but has not at any time since the death been vested in the vendors.

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- (2) If a claim is made for relief under this section the value of the property concerned immediately before the death shall be taken to be what it would have been if it had not been determined as mentioned in subsection (1) above.
- (3) For the purposes of subsection (1) above a sale is a qualifying sale if—
- (a) the vendors are the persons in whom the property concerned vested immediately after the death or the deceased's personal representatives; and
  - (b) it is at arm's length for a price freely negotiated at the time of the sale and is not made in conjunction with a sale of any of the related property taken into account as mentioned in subsection (1)(a) above or any of the property mentioned in subsection (1)(b) above; and
  - (c) no person concerned as vendor (or as having an interest in the proceeds of sale) is the same as or connected with any person concerned as purchaser (or as having an interest in the purchase); and
  - (d) neither the vendors nor any other person having an interest in the proceeds of sale obtain in connection with the sale a right to acquire the property sold or any interest in or created out of it.
- (4) Subsection (2) above shall not apply unless the price obtained on the sale, with any adjustment needed to take account of any difference in circumstances at the date of the sale and at the date of the death, is less than the value which, apart from this section and apart from Chapter IV of this Part of this Act, would be the value of the property concerned determined as mentioned in subsection (1) above.
- (5) Where the property concerned consists of shares in or securities of a close company, subsection (2) above shall not apply if at any time between the death and the qualifying sale the value of the shares or securities is reduced by more than 5 per cent as a result of an alteration in the company's share or loan capital or in any rights attaching to shares in or securities of the company; and for the purposes of this subsection—
- “alteration” includes extinguishment, and
- “close company” has the same meaning as in Part IV of this Act.

### **177 Scottish agricultural leases.**

- (1) Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant in an unexpired portion of a lease for a fixed term of agricultural property in Scotland then, subject to subsection (3) below, there shall be left out of account in determining that value any value associated with any prospect of renewal of the lease by tacit relocation.
- (2) Where any part of the value of a person's estate immediately before his death is attributable to the interest of a tenant of agricultural property in Scotland, being an interest which is—
- (a) held by virtue of tacit relocation, and
  - (b) acquired on the death by a new tenant,
- then, subject to subsection (3) below, the value of the interest shall be left out of account in determining the value of that estate.
- (3) Subsections (1) and (2) above shall not apply unless the deceased had been tenant of the property in question continuously for a period of at least two years immediately preceding his death or had become tenant by succession.



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- (4) The value to be left out of account by virtue of subsection (2) above shall not include the value of any rights to compensation in respect of tenant's improvements.

### CHAPTER III

#### SALE OF SHARES ETC. FROM DECEASED'S ESTATE

#### 178 Preliminary.

- (1) In this Chapter—

“the appropriate person”, in relation to any qualifying investments comprised in a person's estate immediately before his death, means the person liable for [<sup>F13</sup>inheritance tax] attributable to the value of those investments or, if there is more than one such person, and one of them is in fact paying the tax, that person;

“the loss on sale” means the amount determined in accordance with section 179(1) below;

“qualifying investments” means (subject to subsection (2) below) shares or securities which [<sup>F14</sup>are quoted at the date of the death in question] holdings in a unit trust which at that date is an authorised unit trust [<sup>F15</sup>, shares in an open-ended investment company]<sup>F16</sup> . . . and shares in any common investment fund established under [<sup>F17</sup>section 42 of the Administration of Justice Act 1982];

“relevant proportion”, in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under section 180 below;

“sale value”, in relation to any qualifying investments, means their value for the purposes of section 179(1)(b) below;

“value on death”, in relation to any qualifying investments, means their value for the purposes of section 179(1)(a) below.

- (2) Shares or securities which are comprised in a person's estate immediately before his death and in respect of which [<sup>F18</sup>listing]on a recognised stock exchange [<sup>F19</sup>or dealing on the Unlisted Securities Market] is suspended at that time shall be qualifying investments for the purposes of this Chapter if they are again [<sup>F20</sup>so listed or dealt in] . . . <sup>F21</sup> when they are sold as mentioned in section 179(1) below or exchanged as mentioned in section 184 below.
- (3) Any reference in this Chapter to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under section 179(1) below in determining the loss on sale.
- (4) For the purposes of this Chapter—
- (a) the personal representatives of the deceased, and
  - (b) the trustees of a settlement,
- shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).
- (5) In any case where, for the purposes of this Chapter, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall

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be taken of expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.

#### Textual Amendments

- F13** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.
- F14** Finance Act 1987 Sch. 8, para. 13(1), with effect from 17 March 1987. Originally “at the date of the death in question are quoted on a recognised stock exchange”.
- F15** Words in s. 178(1) inserted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), s. 186(4)(a)
- F16** Words in s. 178(1) repealed (with effect as stated in the note to Sch. 43 Pt. 4(1) of the amending Act) by Finance Act 2003 (c. 14), s. 216, Sch. 43 Pt. 4(1)
- F17** Words in s. 178(1) substituted (with effect as stated in s. 186(8) of the amending Act) by Finance Act 2003 (c. 14), s. 186(4)(b)
- F18** Words in s. 178(2) substituted (29.4.1996 with effect in relation to investments sold or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, Sch. 38 para. 4(1)(a)(3)
- F19** Finance Act 1987 Sch. 8, para. 13(2)(a), with effect from 17 March 1987.
- F20** Words in s. 178(2) substituted (29.4.1996 with effect in relation to investments sold or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, Sch. 38 para. 4(1)(b)(3)
- F21** Repealed by Finance Act 1987 s. 58(2), Sch. 8, para. 13(2)(b) and Sch. 16, Part IX, with effect from 17 March 1987.

#### 179 The relief.

- (1) On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this Chapter the amount (if any) by which—
  - (a) the aggregate of the values which, apart from this Chapter, would be the values for the purposes of tax of all the qualifying investments comprised in a person's estate immediately before his death which are sold by the appropriate person within the period of twelve months immediately following the date of the death exceeds
  - (b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale.
- (2) Subject to the following provisions of this Chapter, in determining the tax chargeable on the death in question, the value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.
- (3) A claim made by the appropriate person under this Chapter shall specify the capacity in which he makes the claim, and the reference in subsection (1) above to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

#### 180 Effect of purchases.

- (1) If a claim is made under this Chapter and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale made as mentioned in section 179(1)(a) above, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim,

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the loss on sale of the investments to which the claim relates shall be treated for the purposes of section 179(2) above as reduced by the proportion which the aggregate of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in section 179(1)(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).

- (2) If a claim is made under this Chapter by any person in a capacity other than that of personal representative or trustee—
  - (a) subsection (1) above shall have effect in his case as if for the words “in the same capacity as that in which he makes the claim” there were substituted the words “otherwise than in the capacity of personal representative or trustee”, and
  - (b) no account shall be taken under that subsection of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.
- (3) For the purposes of subsection (2) above, two investments, not being investments in an authorised unit trust or common investment fund, shall not be treated as of the same description if they are separately [<sup>F22</sup>listed] on a recognised stock exchange [<sup>F23</sup>or separately dealt in on the Unlisted Securities Market] and an investment in one authorised unit trust or common investment fund shall not be treated as of the same description as an investment in another authorised unit trust or common investment fund.

#### Textual Amendments

**F22** Word in s. 180(3) substituted (29.4.1996 with effect in relation to any time falling on or after 1.4.1996) by 1996 c. 8, s. 199, Sch. 38 para. 3(1)(2)

**F23** Finance 1987 Sch. 8, para. 14, with effect from 17 March 1987.

## 181 Capital receipts.

- (1) For the purposes of section 179(1)(b) above, if—
  - (a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments comprised in the deceased's estate immediately before his death, and
  - (b) those investments are sold by him within that period,  
the price for which those investments were sold or, as the case may be, the best consideration referred to in section 179(1)(b) shall be taken to be increased by an amount equal to the capital payment or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.
- (2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this section as a capital payment attributable to those investments.

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- (3) In this section “capital payment”, in relation to any investment, does not include the price paid on the sale of the investment but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

## 182 Payment of calls.

For the purposes of section 179(1)(a) above, if—

- (a) at any time after the death in question (whether during or after the period of twelve months immediately following the date of the death) the appropriate person pays an amount in pursuance of a call in respect of any qualifying investments comprised in the deceased's estate immediately before his death, and

(b) those investments are sold by the appropriate person within that period, the value on death of those investments shall be the aggregate of the amount so paid and their value as determined apart from this Chapter.

## 183 Changes in holdings.

- (1) This section applies in any case where, within the period of twelve months immediately following the date of the death in question, there occurs in relation to any qualifying investments comprised in the deceased's estate immediately before his death (in this section referred to as “the original holding”) a transaction to which [F<sup>24</sup>127 of the 1992 Act] applies, that is to say—

- (a) a reorganisation, within the meaning of section [F<sup>25</sup>126(1)] of that Act; or  
 (b) the conversion of securities within the meaning of section [F<sup>25</sup>132] of that Act; or  
 (c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that section [F<sup>25</sup>135] of that Act applies; or  
 (d) the issue by a company of shares or debentures under such an arrangement as is referred to in section [F<sup>25</sup>136] of that Act;

or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which section [F<sup>25</sup>127] of that Act applies by virtue of section [F<sup>25</sup>99] of that Act.

- (2) Where this section applies, the holding of investments which, as the result of the transaction, constitutes a new holding within the meaning of section [F<sup>25</sup>126(1)] shall be treated for the purposes of this Chapter as being the same as the original holding; and references in the following provisions of this section to the new holding shall be construed accordingly.
- (3) If the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of subsection (5) below, the value on death of the new holding shall be treated as the aggregate of—
- (a) the value on death of the original holding, and  
 (b) an amount equal to that consideration,
- and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.

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- (4) For the purposes of subsection (3) above, there shall not be treated as consideration given for the new holding or any part of it—
- (a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
  - (b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.
- (5) If, within the period referred to in subsection (1) above, the appropriate person sells any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{V_s(H - S)}{(V_s + V_r)}$$

where—

$V_s$  is the sale value of the investments,

$V_r$  is the market value at the time of the sale of any investments remaining in the new holding after the sale,

$H$  is the value on death of the new holding, and

$S$  is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

- (6) For the purposes of subsection (5) above the market value of any investments at any time means the value which they would (apart from this Chapter) have for the purposes of this Act if they were comprised in the estate of a person who died at that time.

#### Textual Amendments

**F24** S. 183: "127 of the 1992 Act" substituted (6.3.1992 with effect as mentioned in s. 289(1)(2) of the substituting Act) for "section 78 of the Capital Gains Tax Act 1979" by [Taxation of Chargeable Gains Act 1992 \(c. 12\)](#), ss. 289, 290, **Sch. 10 para. 8(9)** (with ss. 60, 101(1), 201(3)).

**F25** Words in s. 183 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(9)** (with ss. 60, 101(1), 201(3)).

## 184 Exchanges.

(1) If—

- (a) within the period of twelve months immediately following the date of the death in question, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments comprised in the deceased's estate immediately before his death, and
- (b) the market value of those investments is at the date of the exchange greater than their value on death,

then, regardless of the nature of the property taken in exchange, they shall be treated for the purposes of this Chapter as having been sold at the date of the exchange for a price equal to that market value.

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- (2) This section shall not apply in any case where the exchange falls within section 183(1) above; and section 183(6) shall apply for the purposes of subsection (1) above as it applies for the purposes of section 183(5).

**185 Acquisition of like investments.**

- (1) If, at any time within the period of twelve months immediately following the date of the death in question, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—
- (a) investments comprised in the deceased’s estate immediately before his death, and
  - (b) investments acquired by the appropriate person, by purchase or otherwise, after the death but not in the circumstances in which section 183 above applies,
- the investments so sold shall be apportioned for the purposes of this Chapter between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.
- (2) For the purposes of this section, if the appropriate person holds investments of any description in the capacity of personal representative or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.
- (3) Section 180(3) above shall have effect for the purposes of this section as it has effect for the purposes of section 180(2).

**186 Value of part of a fund.**

- (1) In any case where—
- (a) part only of a holding of qualifying investments is comprised in a person’s estate, and
  - (b) investments included in that holding are sold by the appropriate person within the period of twelve months immediately following the date of the death,
- this Chapter shall apply as if the entirety of the holding were comprised in the estate and, if a claim is made in respect of the investments referred to in paragraph (b) above, the taxable fraction of the value of the investments to which the claim relates, as determined under this Chapter, shall be the value of that part of those investments which is comprised in the estate.
- (2) In subsection (1) above, “taxable fraction” means the fraction of which the numerator is the value, as determined apart from this Chapter, of the part of the holding referred to in paragraph (a) of that subsection and the denominator is the value, as so determined, of the entirety of that holding.

**[<sup>F26</sup>186A Canceled investments.**

- (1) Where any qualifying investments comprised in a person’s estate immediately before his death are—
- (a) cancelled within the period of twelve months immediately following the date of the death without being replaced by other shares or securities, and

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- (b) held, immediately before cancellation, by the appropriate person, they shall be treated for the purposes of this Chapter as having been sold by the appropriate person for a nominal consideration (one pound) immediately before cancellation.
- (2) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from “or” to the end.]

#### Textual Amendments

**F26** Ss. 186A, 186B inserted (27.7.1993: the inserting section having effect in relation to deaths occurring on or after 16.3.1992) by 1993 c. 34, s. 198(1)(2).

### 186B <sup>F27</sup>Suspended investments.

- (1) This section applies to any qualifying investments comprised in a person's estate immediately before his death in respect of which [<sup>F28</sup>listing] on a recognised stock exchange or dealing on the Unlisted Securities Market is suspended at the end of the period of twelve months immediately following the date of the death (“the relevant period”).
- (2) Where—
- (a) any qualifying investments to which this section applies are, at the end of the relevant period, held by the appropriate person, and
- (b) the value on death of those investments exceeds their value at the end of that period,
- they shall be treated for the purposes of this Chapter as having been sold by the appropriate person immediately before the end of that period for a price equal to their value at that time.
- (3) Where any qualifying investments are included in the calculation under section 179(1) above by virtue of this section, paragraph (b) of that subsection shall have effect, so far as relating to those investments, with the omission of the words from “or” to the end.

#### Textual Amendments

**F27** Ss. 186A, 186B inserted (27.7.1993: the inserting section having effect in relation to deaths occurring on or after 16.3.1992) by 1993 c. 34, s. 198(1)(2).

**F28** Word in s. 186B(1) substituted (29.4.1996 with effect in relation to investments sold, or treated as sold, on or after 1.4.1996) by 1996 c. 8, s. 199, Sch. 38 para. 4(2)(3)

### 187 Attribution of values to specific investments.

- (1) This section shall have effect in determining the value for the purposes of this Act (and, accordingly, the market value for the purposes of capital gains tax under section [<sup>F29</sup>274 of the 1992 Act]) of any investment (in this section referred to as a “specific investment”) which is included among the investments to which a claim relates.
- (2) Subject to the following provisions of this section, the value of a specific investment shall be its sale value.

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- (3) Subject to the following provisions of this section, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by section 180 above—
- (a) if the value on death of a specific investment exceeds its sale price, the value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death; and
  - (b) if the sale price of a specific investment exceeds its value on death, the value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.
- (4) For the purposes of subsections (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in section 182 above, shall be reduced by the amount so paid in respect of that investment.
- (5) In a case where, by virtue of subsection (3) of section 183 above, the value on death of the new holding, within the meaning of that section, includes an amount equal to the consideration referred to in that subsection, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of subsections (2) and (3) above, by an amount which bears to that consideration the like proportion as the value on death of the specific investment sold bears to the value on death of the whole of the new holding.
- (6) In subsection (3) above “sale price”, in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale; and section 181 above shall apply for the purposes of this subsection as it applies for the purposes of section 179(1)(b).

#### **Textual Amendments**

- F29** Words in s. 187 substituted (6.3.1992 with effects 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(10)** (with ss. 60, 101(1), 201(3)).

#### **188 Limitation of loss on sale.**

In any case where, apart from this section, the loss on sale of any investments—

- (a) in respect of which an amount has been paid in pursuance of a call as mentioned in section 182 above, or
- (b) which are sold as mentioned in section 183(5) above,

would exceed their value as determined apart from this Chapter, their sale value shall be treated for the purposes of sections 179(2) and 187 above as being of such an amount that the loss on sale would be equal to their value as so determined.

#### **189 Date of sale or purchase.**

- (1) Subject to subsection (2) below, for the purposes of this Chapter where any investments are sold or purchased by the appropriate person the date on which they



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are sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase them.

- (2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of this Chapter, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.

## CHAPTER IV

### SALE OF LAND FROM DECEASED'S ESTATE

#### 190 Preliminary.

- (1) In this Chapter—

“the appropriate person”, in relation to any interest in land comprised in a person's estate immediately before his death, means the person liable for [<sup>F30</sup>inheritance tax] attributable to the value of that interest or, if there is more than one such person and one of them is in fact paying the tax, that person;

“interest in land” does not include any estate, interest or right by way of mortgage or other security;

“sale price”, in relation to any interest in land, means the price for which it is sold or, if greater, the best consideration that could reasonably have been obtained for it at the time of the sale;

“sale value”, in relation to any interest in land, means its sale price as increased or reduced under the following provisions of this Chapter;

“value on death”, in relation to any interest in land comprised in a person's estate immediately before his death, means the value which, apart from this Chapter, (and apart from section 176 above) would be its value as part of that estate for the purposes of this Act.

- (2) Any reference in this Chapter to the interests to which a claim relates is a reference to the interests to which section 191(1) below applies by virtue of the claim.

- (3) For the purposes of this Chapter—

- (a) the personal representatives of the deceased, and  
(b) the trustees of a settlement,

shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the personal representatives or trustees).

- (4) In any case where, for the purposes of this Chapter, it is necessary to determine the price at which any interest was purchased or sold or the best consideration that could reasonably have been obtained on the sale of any interest, no account shall be taken of expenses (whether by way of commission, stamp duty [<sup>F31</sup>or stamp duty land tax] or otherwise) which are incidental to the sale or purchase.

#### Textual Amendments

**F30** See Finance Act 1986 s. 100(1) and (2)—for any liability to tax arising on and after 25 July 1986 any reference in the legislation to capital transfer tax has effect as a reference to inheritance tax.

**F31** Words in s. 190(4) inserted (10.7.2003) by Finance Act 2003 (c. 14), s. 123, Sch. 18 para. 2

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## **191 The relief.**

(1) Where—

- (a) an interest in land is comprised in a person's estate immediately before his death and is sold by the appropriate person within the period of three years immediately following the date of the death, and
- (b) the appropriate person makes a claim under this Chapter stating the capacity in which he makes it,

the value for the purposes of this Act of that interest and of any other interest in land comprised in that estate and sold within that period by the person making the claim acting in the same capacity shall, subject to the following provisions of this Chapter, be its sale value.

(2) Subsection (1) above shall not apply to an interest if its sale value would differ from its value on death by less than the lower of—

- (a) £1,000, and
- (b) 5 per cent of its value on death.

(3) Subsection (1) above shall not apply to an interest if its sale is—

- (a) a sale by a personal representative or trustee to—
  - (i) a person who, at any time between the death and the sale, has been beneficially entitled to, or to an interest in possession in, property comprising the interest sold, or
  - (ii) the spouse or a child or remoter descendant of a person within sub-paragraph (i) above, or
  - (iii) trustees of a settlement under which a person within sub-paragraph (i) or (ii) above has an interest in possession in property comprising the interest sold; or
- (b) a sale in connection with which the vendor or any person within sub-paragraph (i), (ii) or (iii) of paragraph (a) above obtains a right to acquire the interest sold or any other interest in the same land;

and for the purposes of this subsection a person shall be treated as having in the property comprised in an unadministered estate (within the meaning of section 91(2) above) the same interest as he would have if the administration of the estate had been completed.

## **192 Effect of purchases.**

(1) This section applies where a claim is made under this Chapter and, at any time during the period beginning on the date of the death and ending four months after the last of the sales referred to in section 191(1) above, the person making the claim purchases any interests in land in the same capacity as that in which he makes the claim.

(2) If the aggregate of the purchase prices of all the interests purchased as mentioned in subsection (1) above equals or exceeds the aggregate of the sale prices (as adjusted under sections 193 to 195 below) of all the interests to which the claim relates, this Chapter shall not apply in relation to the claim; but otherwise subsection (3) below shall have effect, and in that subsection “the appropriate fraction” means the fraction of which—

- (a) the numerator is the aggregate of the said purchase prices, and
- (b) the denominator is the aggregate of the said sale prices.

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- (3) Subject to subsection (4) below, where this subsection has effect an addition shall be made to the sale price of every interest to which the claim relates; and the amount of the addition shall be equal to the appropriate fraction of the difference between the value on death of the interest and its sale price (as adjusted under sections 193 to 196 below).
- (4) Where the value on death of an interest is less than its sale price (as adjusted under sections 193 to 196 below) subsection (3) above shall apply as if it provided for a reduction instead of an increase in the sale price.

### **193 Changes between death and sale.**

- (1) Where the conditions mentioned in subsection (2) below are not satisfied in relation to any interest to which the claim relates then, subject to subsections (3) and (4) below, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the difference between—
  - (a) the value on death of the interest, and
  - (b) what that value would have been if the circumstances prevailing at the date of the sale and by reason of which the conditions are not satisfied had prevailed immediately before the death.
- (2) The conditions referred to in subsection (1) above are—
  - (a) that the interest was the same in all respects and with the same incidents at the date of the death and at the date of the sale; and
  - (b) that the land in which the interest subsists was in the same state and with the same incidents at the date of the death and at the date of the sale.
- (3) If after the date of the death but before the date of the sale compensation becomes payable under any enactment to the appropriate person or any other person liable for tax attributable to the value of the interest—
  - (a) because of the imposition of a restriction on the use or development of the land in which the interest subsists, or
  - (b) because the value of the interest is reduced for any other reason,the imposition of the restriction or the other cause of the reduction in value shall be ignored for the purposes of subsections (1) and (2) above, but there shall be added to the sale price of the interest an amount equal to the amount of compensation.
- (4) Where the value on death of an interest is less than it would have been as mentioned in subsection (1) above, that subsection shall apply as if, instead of providing for an addition to be made to the sale price, it provided for that price to be reduced to what it would have been if the change in circumstances by reason of which the conditions mentioned in subsection (2) above are not satisfied had not occurred.

### **194 Leases.**

- (1) Where the claim relates to an interest which is the interest of a lessee under a lease the duration of which at the date of the death does not exceed fifty years, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the appropriate fraction of the value on death of the interest.
- (2) In subsection (1) above, “the appropriate fraction” means the fraction—

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$$\frac{P(1) - P(2)}{P(1)}$$

where—

P(1) is the percentage that would be derived from the Table in paragraph 1 of Schedule [F328 to the 1992 Act] for the duration of the lease at the date of the death, and

P(2) is the percentage that would be so derived for the duration of the lease at the date of the sale.

#### **Textual Amendments**

**F32** Words in s. 194 substituted (6.3.1992 with effects 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\(11\)](#) (with ss. 60, 101(1), 201(3)).

### **195 Valuation by reference to other interests.**

If in determining the value on death of any interest to which the claim relates, any other interests, whether in the same or other land, were taken into account, an addition shall be made to the sale price of the interest; and the amount of the addition shall be equal to the difference between the value on death of the interest and the value which would have been the value on death if no other interests had been taken into account.

### **196 Sales to beneficiaries etc. and exchanges.**

- (1) This section applies where a person who makes a claim under this Chapter, acting in the same capacity as that in which he makes the claim—
  - (a) sells an interest to which section 191(1) would apply but for section 191(3), or
  - (b) within the period of three years immediately following the date of the death exchanges (with or without any payment by way of equality of exchange) any interest in land which was comprised in the deceased's estate immediately before his death.

and the sale price of the interest, or in the case of an exchange its market value at the date of the exchange, exceeds its value on death.
- (2) Where this section applies, an addition shall be made to the sale price of any interest to which the claim relates; and the amount of the addition—
  - (a) if the claim relates to one interest only, shall be equal to the excess referred to in subsection (1) above, and
  - (b) if the claim relates to more than one interest, shall be equal to the appropriate fraction of that excess.
- (3) In subsection (2) above “the appropriate fraction” in relation to any interest to which the claim relates is the fraction of which—
  - (a) the numerator is the difference between the value on death of that interest and its sale price (as adjusted under sections 193 to 195 above) and
  - (b) the denominator is the aggregate of that difference and the corresponding differences for all the other interests to which the claim relates;

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and the aggregate referred to in paragraph (b) above shall be calculated without regard to which is the greater, in the case of any particular interest, of its value on death and its sale price.

### **197 Compulsory acquisition more than three years after death.**

- (1) If after the end of the period of three years immediately following the date of the death an interest in land is acquired from the appropriate person in pursuance of a notice to treat served before the death or within that period by an authority possessing powers of compulsory acquisition, this Chapter shall apply in relation to the interest as it applies in relation to interests sold within that period.
- (2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.
- (3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.

### **[<sup>F33</sup>197A Sales in fourth year after death.**

- (1) Where an interest in land—
  - (a) is comprised in a person's estate immediately before his death, and
  - (b) is sold by the appropriate person in the fourth year immediately following the date of the death, otherwise than in circumstances in which section 197(1) above has effect,the interest shall be treated, for the purposes of section 191(1) above, as having been sold within the period of three years immediately following the date of the death.
- (2) Subsection (1) above shall not have effect in relation to an interest if its sale value would exceed its value on death.
- (3) In determining the period referred to in section 192(1) above, no account shall be taken of the sale of an interest in relation to which subsection (1) above has effect; and if the claim relates only to such interests, section 192 shall not apply in relation to the claim.
- (4) In applying section 196(1) above, no account shall be taken, for the purposes of paragraph (a) of that subsection, of an interest in relation to which subsection (1) above has effect.]

#### **Textual Amendments**

**F33** S. 197A inserted (27.7.1993: the inserting section having effect in relation to deaths occurring on or after 16.3.1990) by 1993 c. 34, s. 199(1)(2).

### **198 Date of sale or purchase.**

- (1) Subject to the following subsections, the date on which an interest in land is sold or purchased by the appropriate person shall for the purposes of this Chapter be taken to be the date on which he enters into a contract to sell or purchase it.
- (2) If the sale or purchase of any interest by the appropriate person results from the exercise (whether by him or by any other person) of an opinion granted not more than

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six months earlier, the date on which the interest is sold or purchased shall be taken to be the date on which the option was granted.

(3) If an interest is acquired from the appropriate person in pursuance of a notice to treat served by an authority possessing powers of compulsory acquisition, the date on which the interest is sold shall, subject to subsection (4) below, be taken to be the date on which compensation for the acquisition is agreed or otherwise determined (variations on appeal being disregarded for this purpose) or, if earlier, the date when the authority enter on the land in pursuance of their powers.

(4) If an interest in land is acquired from the appropriate person—

(a) in England, Scotland or Wales by virtue of a general vesting declaration within the meaning of the <sup>M2</sup>Compulsory Purchase (Vesting Declarations) Act 1981 or, in Scotland, Schedule 24 to the <sup>M3</sup>Town and Country Planning (Scotland) Act 1972, or

(b) in Northern Ireland, by way of a vesting order,

the date on which it is sold by the appropriate person shall be taken to be the last day of the period specified in the declaration or, in Northern Ireland, the date on which the vesting order becomes operative.

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**Marginal Citations**

**M2** 1981 c. 66.

**M3** 1972 c. 52.

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