

## SCHEDULES

### SCHEDULE 26

Section 94.

#### CAPITAL TRANSFER TAX : CONDITIONAL EXEMPTION

##### *Principal amendments*

- 1 In section 30(1)(6) of the Capital Transfer Tax Act 1984 there shall be added at the end " or (where the property is an area of land within subsection (1)(d) of that section) with respect to which the requisite undertakings described in that section are given by such person or persons as the Treasury think appropriate in the circumstances of the case. "
- 2 (1) Section 31 of that Act shall be amended as follows.
- (2) For subsection (1)(d) (conditional exemption for land adjoining building) there shall be substituted—
- “(d) any area of land which in the opinion of the Treasury is essential for the protection of the character and amenities of such a building as is mentioned in paragraph (c) above ;”.
- (3) In subsections (2)(b) and (4) for "reasonable steps" there shall be substituted " such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it,".
- (4) The following shall be inserted after subsection (4)—
- “(4A) In the case of an area of land within subsection (1)(d) above (relevant land) there is an additional requisite undertaking, which is that, until the person beneficially entitled to property falling within subsection (4C) below dies, or it is disposed of, whether by sale or gift or otherwise, specified steps will be taken for its maintenance, repair and preservation and for securing reasonable access to the public ; and " specified steps" means such steps as are agreed between the Treasury and the person giving the undertaking, and are set out in it.
- (4B) Where different persons are entitled (either beneficially or otherwise) to different properties falling within subsection (4C) below, subsection (4A) above shall have effect to require separate undertakings as to the maintenance, repair, preservation and access of each of the properties to be given by such persons as the Treasury think appropriate in the circumstances of the case.
- (4C) The following property falls within this subsection—
- (a) the building for the protection of whose character and amenities the relevant land is in the opinion of the Treasury essential;
- (b) any other area (or areas) of land which, in relation to the building, falls (or fall) within subsection (1)(d) above and which either lies (or lie) between the relevant land and the building or is (or are) in

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the opinion of the Treasury physically closely connected with the relevant land or the building.

(4D) Where subsection (4A) above requires an undertaking for the maintenance, repair, preservation and access of property, such an undertaking is required notwithstanding that some other undertaking for its maintenance, repair, preservation and access is effective.

(4E) Any undertaking given in pursuance of subsection (4A) above is for the purposes of this Act given with respect to the relevant land.

(4F) It is for the person seeking the designation of relevant land to secure that any undertaking required under subsection (4A) above is given.”

3 (1) Section 32 of that Act (chargeable events for conditionally exempt property) shall be amended as follows.

(2) After subsection (5) there shall be inserted—

“(5A) This section does not apply where section 32A below applies.”

(3) Subsections (6) and (7) shall be omitted.

4 The following shall be inserted after section 32 of that Act—

**“32A Associated properties.**

(1) For the purposes of this section the following properties are associated with each other, namely, a building falling within section 31(1)(c) above and (to the extent that any of the following exists) an area or areas of land falling within section 31(1)(d) above in relation to the building and an object or objects falling within section 31(1)(e) above in relation to the building; and this section applies where there are such properties, which are referred to as associated properties.

(2) Where there has been a conditionally exempt transfer of any property (or part), tax shall be charged under this section in respect of that property (or part) on the first occurrence after the transfer of an event which under this section is a chargeable event with respect to that property (or part).

(3) If the Treasury are satisfied that at any time an undertaking given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of any of the associated properties has not been observed in a material respect, then (subject to subsection (10) below) the failure to observe the undertaking is a chargeable event with respect to the whole of each of the associated properties of which there has been a conditionally exempt transfer.

(4) If

(a) the person beneficially entitled to property dies, or

(b) property (or part of it) is disposed of, whether by sale or gift or otherwise,

then, if the property is one of the associated properties and an undertaking for its maintenance, repair, preservation, access or keeping has been given under section 30 above or this section, the death or disposal is (subject to subsections (5) to (10) below) a chargeable event with respect to the whole

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of each of the associated properties of which there has been a conditionally exempt transfer.

- (5) Subject to subsection (6) below, the death of a person beneficially entitled to property, or the disposal of property (or part), is not a chargeable event if the personal representatives of the deceased (or, in the case of settled property, the trustees or the person next entitled) within three years of the death make or, as the case may be, the disposal is—
- (a) a disposal of the property (or part) concerned by sale by private treaty to a body mentioned in Schedule 3 to this Act, or to such a body otherwise than by sale, or
  - (b) a disposal of the property (or part) concerned in pursuance of section 230 below.
- (6) Where a disposal mentioned in subsection (5)(a) or (b) above is a part disposal, that subsection does not make the event non-chargeable with respect to property other than that disposed of unless any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case; and in this subsection "part disposal" means a disposal of property which does not consist of or include the whole of each property which is one of the associated properties and of which there has been a conditionally exempt transfer.
- (7) Where, after a relevant disposal (that is, a disposal mentioned in subsection (5)(a) or (b) above made in circumstances where that subsection applies), a person beneficially entitled to the property (or part) concerned dies or the property (or part) concerned is disposed of, the death or disposal is not a chargeable event with respect to the property (or part) concerned unless there has again been a conditionally exempt transfer of the property (or part) concerned after the relevant disposal.
- (8) The death of a person beneficially entitled to property, or the disposal of property (or part) otherwise than by sale, is not a chargeable event if—
- (a) the transfer of value made on the death or the disposal is itself a conditionally exempt transfer of the property (or part) concerned, or
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of anything falling within the associated properties is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case.
- (9) If—
- (a) the whole or part of any property is disposed of by sale, and
  - (b) any undertaking previously given under section 30 above or this section for the maintenance, repair, preservation, access or keeping of the property (or part) concerned is replaced by a corresponding undertaking given by such person as the Treasury think appropriate in the circumstances of the case,

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the disposal is a chargeable event only with respect to the whole or part actually disposed of (if it is a chargeable event with respect to such whole or part apart from this subsection).

(10) If—

- (a) the Treasury are satisfied that there has been a failure to observe, as to one of the associated properties or part of it, an undertaking for the property's maintenance, repair, preservation, access or keeping, or
- (b) there is a disposal of one of the associated properties or part of it, and it appears to the Treasury that the entity consisting of the associated properties has not been materially affected by the failure or disposal, they may direct that it shall be a chargeable event only with respect to the property or part as to which there has been a failure or disposal (if it is a chargeable event with respect to that property or part apart from this subsection)."

#### *Consequential amendments*

5 In sections 33(1), 34(1) and 221(6)(a) of that Act, and in paragraph 5 of Schedule 2 to that Act, after " 32 " there shall be inserted " or 32A".

6 In sections 33(6) and 34(4) of that Act, at the end there shall be added " or, where the property has been disposed of as mentioned in section 32A(5) above, before any event which apart from section 32A(5) would have been such a chargeable event. "

7 For section 35(2)(a) and (b) of that Act there shall be substituted—

- “(a) if there has been no conditionally exempt transfer of the property on death, tax shall be chargeable either—
  - (i) under section 32 or 32A above (as the case may be), or
  - (ii) under Schedule 5 to this Act, as the Board may elect;
- (b) if there has been such a conditionally exempt transfer, tax shall be chargeable under section 32 or 32A above (as the case may be) and not under that Schedule.”

8 In section 78 of that Act—

- (a) in subsection (1)(b) there shall be added at the end " or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section are given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case.";
- (b) in subsection (3) after " sections 32," there shall be inserted " 32A, " and after " section 32 " there shall be inserted " or 32A".

9 In section 79(3)(b) of that Act after "given" there shall be inserted " with respect to the property " and after "case" there shall be inserted " or (where the property is an area of land within subsection (1)(d) of that section) the requisite undertakings described in that section have been given with respect to the property by such person or persons as the Treasury think appropriate in the circumstances of the case".

10 After section 207(2) of that Act there shall be inserted—

- “(2A) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (3) or subsection (4)(a) of that section, the person liable for the tax is the person who, if the property were sold—

- (a) in a case within subsection (3) of that section, at the time the tax becomes chargeable, and
- (b) in a case within subsection (4)(a), immediately after the death,
- would be entitled to receive (whether for his benefit or not) the proceeds of sale or any income arising from them.
- (2B) Where tax is chargeable under section 32A above on the occurrence of an event which is a chargeable event with respect to any property by virtue of subsection (4)(b) of that section, the person liable for the tax is the person by whom or for whose benefit the property is disposed of.”
- 11 In sections 216(7), 226(4) and 233(1)(c) of that Act, after " 32." there shall be inserted " 32A,".
- 12 In paragraph 3 of Schedule 4 to that Act—
- (a) in sub-paragraph (2)(b) after " 32(5)(b)" there shall be inserted " , 32A(6), (8)(b) or (9)(b) " ;
- (b) in sub-paragraph (2)(c) after " 32" there shall be inserted " , 32A";
- (c) in sub-paragraph (3) after " (4) " there shall be inserted " , or (as the case may be) undertakings such as are described in subsections (4) and (4A)," , after "the undertaking" (in both places) there shall be inserted " or undertakings", and after " 32 " there shall be inserted " or 32A".
- 13 In paragraph 4(2) of Schedule 6 to that Act, for paragraphs (a) and (b) there shall be substituted—
- “(a) if there has been no conditionally exempt transfer of the property on death, either—
- (i) tax shall be chargeable under section 32 or 32A of this Act (as the case may be), or
- (ii) estate duty shall be chargeable under those provisions, as the Board may elect, and
- (b) if there has been such a conditionally exempt transfer, there shall be a charge under section 32 or 32A of this Act (as the case may be) and not under those provisions ;”
- 14 In Schedule 6 to the Value Added Tax Act 1983, in item 3 of Group 11, after " 32(4)". there shall be inserted " or 32A(5) or (7)".