

Changes to legislation: There are currently no known outstanding effects for the Finance Act 1986, Cross Heading: Exclusion of benefit. (See end of Document for details)

SCHEDULE 20

GIFTS WITH RESERVATION

Exclusion of benefit

- 6 (1) In determining whether any property which is disposed of by way of gift is enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of any benefit to him by contract or otherwise—
- (a) in the case of property which is an interest in land or a chattel, retention or assumption by the donor of actual occupation of the land or actual enjoyment of an incorporeal right over the land, or actual possession of the chattel shall be disregarded if it is for full consideration in money or money's worth;
 - (b) in the case of property which is an interest in land, any occupation by the donor of the whole or any part of the land shall be disregarded if—
 - (i) it results from a change in circumstances of the donor since the time of the gift, being a change which was unforeseen at the time and was not brought about by the donor to receive the benefit of this provision; and
 - (ii) it occurs at a time when the donor has become unable to maintain himself through old age, infirmity or otherwise; and
 - (iii) it represents a reasonable provision by the donee for the care and maintenance of the donor; and
 - (iv) the donee is a relative of the donor or his spouse [^{F1}or civil partner];
 - (c) a benefit which the donor obtained by virtue of any associated operations (as defined in section 268 of the 1984 Act) of which the disposal by way of gift is one shall be treated as a benefit to him by contract or otherwise.
- (2) Any question whether any property comprised in a gift was at any time enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor and of the benefit to him shall (so far as that question depends upon the identity of the property) be determined by reference to the property which is at that time treated as property comprised in the gift.
- (3) In the application of this paragraph to Scotland, references to a chattel shall be construed as references to a corporeal moveable.

Textual Amendments

- F1** Words in Sch. 20 para. 6(1)(b)(iv) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 46

- 7 (1) Where arrangements are entered into under which—
- (a) there is a disposal by way of gift which consists of or includes, or is made in connection with, a policy of insurance on the life of the donor or his spouse [^{F2}or civil partner] or on their joint lives, and
 - (b) the benefits which will or may accrue to the donee as a result of the gift vary by reference to benefits accruing to the donor or his spouse [^{F2}or civil partner] (or both of them) under that policy or under another policy (whether issued before, at the same time as or after that referred to in paragraph (a) above),

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the property comprised in the gift shall be treated for the purposes of the principal section as not enjoyed to the entire exclusion, or virtually to the entire exclusion, of the donor.

- (2) In sub-paragraph (1) above—
- (a) the reference in paragraph (a) to a policy on the joint lives of the donor and his spouse [^{F3}or civil partner] includes a reference to a policy on their joint lives and on the life of the survivor; and
 - (b) the reference in paragraph (b) to the benefits accruing to the donor or his spouse [^{F3}or civil partner] (or both of them) includes a reference to benefits which accrue by virtue of the exercise of rights conferred on either or both of them.

Textual Amendments

- F2** Words in Sch. 20 para. 7(1) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 46
- F3** Words in Sch. 20 para. 7(2) inserted (5.12.2005) by [The Tax and Civil Partnership Regulations 2005 \(S.I. 2005/3229\)](#), regs. 1(1), 46

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