



# Finance Act 2004

## 2004 CHAPTER 12

### PART 6

#### OTHER TAXES

##### *Inheritance tax*

#### **293 Delivery of accounts etc**

- (1) Section 256 of the Inheritance Tax Act 1984 (c. 51) (regulations about information to be furnished to the Board) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), after “specified in” insert “ or determined under ”;
  - (b) after paragraph (a) insert—
    - “(aa) requiring persons who by virtue of regulations under paragraph (a) above are not required to deliver accounts under section 216 above to produce to the Board, in such manner as may be specified in or determined under the regulations, such information or documents as may be so specified or determined”;
  - (c) in paragraph (b), after “so specified” insert “ or determined ”;
  - (d) paragraph (c) shall cease to have effect.
- (3) After subsection (1) insert—
- “(1A) Regulations under subsection (1)(aa) may in particular—
    - (a) provide that information or documents must be produced to the Board by producing it or them to—
      - (i) a probate registry in England and Wales;
      - (ii) the sheriff in Scotland;
      - (iii) the Probate and Matrimonial Office in Northern Ireland;

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- (b) provide that information or documents produced as specified in paragraph (a) is or are to be treated for any or all purposes of this Act as produced to the Board;
  - (c) provide for the further transmission to the Board of information or documents produced as specified in paragraph (a).”
- (4) Subsection (2) shall cease to have effect.
- (5) In subsection (3), at the end insert “ and may make different provision for different cases ”.
- (6) After subsection (3) insert—
- “(3A) Regulations under this section may only be made—
- (a) in relation to England and Wales or Northern Ireland, after consulting the Lord Chancellor;
  - (b) in relation to Scotland, after consulting the Scottish Ministers.”

## 294 Grant of probate

- (1) In section 109 of the Supreme Court Act 1981 (c. 54) (refusal of grant of probate where inheritance tax unpaid)—
- (a) for subsection (1) substitute—
 

“(1) No grant shall be made, and no grant made outside the United Kingdom shall be resealed, except—

    - (a) on the production of information or documents under regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (excepted estates); or
    - (b) on the production of an account prepared in pursuance of that Act showing by means of such receipt or certification as may be prescribed by the Commissioners either—
      - (i) that the inheritance tax payable on the delivery of the account has been paid; or
      - (ii) that no such tax is so payable.”;
  - (b) in subsection (2), for “this section” substitute “ subsection (1)(b) ”;
  - (c) after subsection (2) insert—
 

“(2A) In this section and the following section, “the Commissioners” means the Commissioners of Inland Revenue”;
  - (d) subsection (3) shall cease to have effect.
- (2) In section 42 of the Probate and Legacy Duties Act 1808 (c. 149) (grant of confirmation)—
- (a) the existing text shall become subsection (1) of that section;
  - (b) at the beginning of that subsection, for “And” substitute “ Subject to subsection (2) below, ”; and
  - (c) after that subsection insert—
 

“(2) In a case to which regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (c. 51) apply (excepted estates), it shall not be lawful to grant confirmation such as is mentioned in subsection (1)

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above except on the production of information or documents in accordance with those regulations.”

(3) In Article 20 of the Administration of Estates (Northern Ireland) Order 1979 (S.I.1979/1575 (N.I.14)) (inheritance tax accounts)—

(a) for paragraph (1) substitute—

“(1) The High Court shall not make any grant, or reseal any grant made outside the United Kingdom, except—

(a) on the production of information or documents under regulations under section 256(1)(aa) of the Inheritance Tax Act 1984 (excepted estates); or

(b) on the production of an account prepared in pursuance of that Act showing by means of such receipt or certification as may be prescribed by the Commissioners of Inland Revenue either—

(i) that the inheritance tax payable on the delivery of the account has been paid; or

(ii) that no such tax is so payable.”;

(b) in paragraph (2) of that Article, for “this Article” substitute “ paragraph (1) (b) ”.

(4) Subsection (1) shall come into force on such day as the Treasury may after consulting the Lord Chancellor by order made by statutory instrument appoint.

(5) Subsection (2) shall come into force on such day as the Treasury may after consulting the Scottish Ministers by order made by statutory instrument appoint.

(6) Subsection (3) shall come into force on such day as the Treasury may after consulting the Lord Chancellor by order made by statutory instrument appoint.

#### **Commencement Information**

**I1** S. 294(1)-(3) in force at 1.11.2004 by [S.I. 2004/2571](#), [art. 2](#)

**I2** S. 294(4)-(6) in force at Royal Assent, see s. 294(4)-(6)

## **295 Amendments to penalty regime**

(1) The Inheritance Tax Act 1984 (c. 51) is amended as specified in subsections (2) to (4).

(2) In section 245 (failure to deliver accounts)—

(a) in subsections (2)(a) and (3), for “not exceeding” substitute “ of ”;

(b) after subsection (4) insert—

“(4A) Without prejudice to any penalties under subsections (2) and (3) above, if—

(a) the failure by the taxpayer to deliver the account continues after the anniversary of the end of the period given by section 216(6) or (7) (whichever is applicable), and

(b) there would have been a liability to tax shown in the account, the taxpayer shall be liable to a penalty of an amount not exceeding £3,000.”

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- (3) In section 245A (failure to provide information etc)—
- (a) after subsection (1A) insert—
- “(1B) Without prejudice to any penalties under subsection (1A) above, if a person continues to fail to comply with the requirements of section 218A after the anniversary of the end of the period of six months referred to in section 218A(1), he shall be liable to a penalty of an amount not exceeding £3,000.”;
- (b) in subsection (5)—
- (i) after “failing to make a return” insert “, to comply with the requirements of section 218A ”;
- (ii) after “fails to make the return” insert “, to comply with the requirements of section 218A ”.
- (4) In section 247 (provision of incorrect information)—
- (a) in subsection (1), for the words from “, in the case of fraud” to the end substitute “ to a penalty not exceeding the difference mentioned in subsection (2) below ”;
- (b) in subsection (3), for the words from “, in the case of fraud” to the end substitute “ to a penalty not exceeding £3,000 ”.
- (5) Subsection (2)(a) above has effect in relation to a failure by any person to deliver an account under section 216 or 217 of the Inheritance Tax Act 1984 (c. 51) where the period under section 216(6) or (7) or 217 of that Act (whichever is applicable) within which the person is required to deliver the account expires after six months from the day on which this Act is passed.
- (6) Subsection (2)(b) above has effect—
- (a) in relation to a failure by any person to deliver an account under section 216 of the Inheritance Tax Act 1984 where the period under section 216(6) or (7) of that Act (whichever is applicable) within which the person is required to deliver the account expires after the day on which this Act is passed; and
- (b) in relation to such a failure to deliver such an account where that period expires on or before the day on which this Act is passed, as if, in the subsection (4A) inserted in section 245 of that Act by subsection (2)(b) above, for the words “anniversary of the end of the period given by section 216(6) or (7) (whichever is applicable)” there were substituted “ end of the period of twelve months beginning with the day on which the Finance Act 2004 is passed ”.
- (7) Subsection (3)(a) above has effect—
- (a) in relation to a failure to comply with the requirements of section 218A of the Inheritance Tax Act 1984 where the period of six months referred to in subsection (1) of that section expires after the day on which this Act is passed; and
- (b) in relation to such a failure to comply with those requirements where that period expires on or before the day on which this Act is passed, as if, in the subsection (1B) inserted in section 245A of that Act by subsection (3) (a) above, for the words “anniversary of the end of the period of six months referred to in section 218A(1)” there were substituted “ end of the period of twelve months beginning with the day on which the Finance Act 2004 is passed ”.

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- (8) Subsection (3)(b) above has effect in relation to a failure to comply with the requirements of section 218A of the Inheritance Tax Act 1984 where the period of six months referred to in subsection (1) of that section expires after the day on which this Act is passed.
- (9) Subsection (4) above has effect in relation to incorrect accounts, information or documents delivered, furnished or produced after the day on which this Act is passed.

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