



Finance Act 1949

1949 CHAPTER 47

PART III

DEATH DUTIES AND CORPORATION DUTY

27 Abolition of duties

- (1) Legacy duty and succession duty shall not be chargeable on a legacy derived from a testator or intestate dying after the commencement of this Part of this Act, or on a succession conferred after that commencement, nor on any other legacy or succession in so far as the duty would apart from this section be payable in connection with any such event as is mentioned in the next following subsection.
- (2) The events referred to in the foregoing subsection are any of the following events happening after the commencement of this Part of this Act, that is to say—
 - (a) the death of any person ;
 - (b) the determination or failure of any charge, estate, interest or trust;
 - (c) the exercise of a power of appointment;
 - (d) the making of any payment or the application of any property, if the duty would apart from this section be chargeable—
 - (i) under section eleven of the Legacy Duty Act, 1796, or under that section as applied by section thirty-two of the Succession Duty Act, 1853 (which deal with benefits of uncertain amount receivable from time to time); or
 - (ii) under section twenty-five of the Succession Duty Act, 1853 (which deals with premiums for the renewal of a lease of the grant of a reversionary lease);
 - (e) any other event which, under the provisions of the, relevant will or disposition or the rules governing the distribution of the intestate's estate, affects the right to the legacy or succession or to the enjoyment thereof or which changes the nature of the property comprised therein or any part of that property.
- (3) The reference in subsection (1) of this section to duty being payable in connection with an event shall, in relation to legacy duty, include its being payable when the legacy

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is paid, delivered, retained, satisfied or discharged in connection with that event, and for the purposes of this section the expression " legacy " includes residue and share of residue.

- (4) Where this section applies to the succession duty on a succession, it shall apply also to any temporary estate duty which would otherwise be chargeable thereon under section six of the Customs and Inland Revenue Act, 1889.

28 Increase in estate duty and modification of provisions related to legacy or succession duty

- (1) In the case of persons dying after the commencement of this Part of this Act, the scale set out in the Seventh Schedule to this Act shall be substituted for the scale set out in Part I of the Tenth Schedule to the Finance Act, 1946, as the scale of rates of estate duty, and the scale in accordance with which estate duty is to be charged on the agricultural value of agricultural property under section twenty-three of the Finance Act, 1925, shall (instead of being that referred to in that section) be the same scale as applies in other cases with a reduction of forty-five per cent. in each of the rates.
- (2) As respects property passing on the death of a person dying after the commencement of this Part of this Act, subsection (2) of section two of the Finance Act, 1894 (which exempts from estate duty property situate abroad and, not chargeable with legacy duty or succession duty), and section twenty-four of the Finance Act, 1936 (which restricts the exemption conferred by the said subsection (2)), shall not have effect; but that property shall be deemed for the purposes of estate duty not to include any property passing on the death which is situate out of Great Britain if it is shown that the proper law regulating the devolution of the property so situate, or the disposition under or by reason of which it passes, is the law neither of England nor of Scotland and that one at least of the following conditions is satisfied, namely.—
- (a) that the deceased did not die domiciled in any part of Great Britain;
 - (b) that the property so situate passes under or by reason of a disposition—
 - (i) made by a person who, at the date at which the disposition took effect, was domiciled elsewhere than in some part of Great Britain; and
 - (ii) not made, directly or indirectly, on behalf of, or at the expense of, or out of funds provided by, a person who at that date was domiciled in some part of Great Britain ;
 - (c) that the property so situate is, by the law of the country in which it is situate, immovable property;
- or if the property so situate passes only by virtue of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as having been the subject of a gift inter vivos and it is shown that one at least of the said conditions is satisfied.
- (3) In the case of persons dying after the commencement of this Part of this Act, the enactments relating to estate duty (including the provisions of section nine of the Finance Act, 1894, as to the charge of duty and the facilities for raising it) shall apply to lands and chattels so settled by Act of Parliament or royal grant that no one of the persons successively in possession thereof is capable of alienating the same as those enactments apply to other settled property, and subsection (5) of section five of the Finance Act, 1894 (which provides that estate duty on lands and chattels so settled shall be leviable on the successor's interest valued as for succession duty), shall accordingly not apply.

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29 Allowance for, or repayment of, legacy or succession duty paid on capital of settled fund

- (1) Where—
- (a) legacy duty or succession duty in respect of interests under a settlement has been satisfied by the payment (whether before or after the commencement of this Part of this Act) of the duty on the capital value of the settled property; and
 - (b) estate duty becomes leviable on that property or any part thereof (hereafter in this section referred to as " the property passing ") by reason of its passing under the settlement on the death after that commencement of a person not competent to dispose of the property passing; and
 - (c) the property passing has not previously passed as aforesaid;
- then, subject to the provisions of this section, the estate duty on the property passing shall be payable at the reduced rate obtained by deducting from the rate at which it would be payable apart from this section the rate at which the legacy or succession duty was paid, or if the second of the two last mentioned rates is the higher shall be treated as satisfied.
- (2) Where by virtue of the foregoing subsection the estate duty which would otherwise be payable on the property passing is treated as satisfied, and the amount of that duty is less than the amount of the legacy or succession duty paid on the property passing, then subject to the following provisions of this section the Commissioners shall on a claim being made and on production of such evidence as they may require of the title of the claimant repay the difference between those amounts.
- (3) Any sums falling to be repaid under the last foregoing subsection shall be deemed to be an accretion, as at the date at which they become payable, to the fund out of which the legacy or succession duty was paid, and the persons entitled to the repayment shall be determined accordingly:
- Provided that where that fund has been vested in a person or persons beneficially entitled thereto the repayment may be made to, or to the executors of, that person or (as the case may be) any of those persons for the benefit of those entitled to the repayment.
- (4) Where the property passing includes part only of the property on the capital value of which the legacy or succession duty was paid, the duty shall be apportioned for the purposes of subsection (2) of this section in such manner as the Commissioners think just.
- (5) Where on a death any of the property on the capital value of which the legacy or succession duty was paid is deemed to pass to a limited extent, the foregoing subsections shall apply (whether on that or a subsequent death) as if a proportionate part of that property had passed on the first mentioned death.
- (6) Any reference in this section to the rate at which the estate duty on the property passing would be payable apart from this section shall be taken as a reference to the rate per cent. representing the proportion which the amount of the duty (after allowing for any reduction or relief under any other enactment) bears to the principal value of the property passing ; and any reference in this section to the rate at which legacy or succession duty was paid shall be taken as a reference to the rate per cent. representing the proportion which the total duty paid bore to the value on which it was paid.

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30 Corporation duty (modification of provisions related to legacy or succession duty)

- (1) Section eleven of the Customs and Inland Revenue Act, 1885 (which imposes corporation duty on certain bodies whose property does not become liable to death duties), shall have effect as respects property acquired by a body corporate or unincorporate after the commencement of this Part of this Act with the substitution, for the exemption in paragraph (7) thereof for certain property on the acquisition of which legacy or succession duty was paid, of the following exemption:—

“(7) Property acquired by any body corporate or un-incorporate within a period of thirty years immediately preceding, if it was acquired under a testamentary gift (including a donatio mortis causa) or under a settlement within the meaning of Part I of the Finance Act, 1894, or otherwise in such circumstances that it passed or was deemed to pass on a death for purposes of estate duty.”

- (2) In the following provisions of the Customs and Inland Revenue Act, 1885, that is to say, paragraph (5) of the said section eleven, section twelve, section thirteen and section seventeen, for any reference to legacy duty or succession duty or to succession duty there shall be substituted a reference to estate duty, and in section nineteen of that Act (which applies for the purposes of corporation duty certain enactments relating to succession duty) for the words " in relation to succession duty under the law now in force " there shall be substituted the words " in relation to estate duty under the law for the time being in force ".

31 Exemption from estate duty of maintenance funds given to National Trust

- (1) Any exemption from estate duty conferred by section thirty-one of the Finance Act, 1937, in relation to an estate or interest in land given, devised or bequeathed by any person to the National Trust shall, in the case of duty leviable on or with reference to a death occurring after the commencement of this Part of this Act, be granted also, and to the like extent, to any other property given, devised or bequeathed by him with that estate or interest as a source of income for the upkeep of the land.

- (2) Property shall not be deemed for the purposes of this section to be given, devised or bequeathed with an estate or interest in land if either is subject to an interest or power of appointment created by the gift, devise or bequest to which the other is not subject:

Provided that for the purposes of this subsection any trust to apply income of the property for the upkeep of the land or in meeting liabilities or expenses accruing in respect of the land or the property (including a trust to accumulate income for any such purpose) shall be treated as creating the like interests in the property as may from time to time subsist in the land.

- (3) Where property given, devised or bequeathed with an estate or interest in land is in the opinion of the Commissioners more than enough to provide (with a reasonable margin) for the upkeep of the land out of the income of the property, so much only as is in their opinion enough for that purpose shall be deemed to be given, devised or bequeathed as mentioned in subsection (1) of this section.
- (4) In this section the expression " National Trust " means the National Trust for Places of Historic Interest or Natural Beauty or, in relation to Scotland, the National Trust for Scotland for Places of Historic Interest or Natural Beauty.

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32 Extension of relief on compulsory acquisitions

- (1) Where an interest in land is acquired as mentioned in subsection (1) of section fifty-seven of the Finance (No. 2) Act, 1945 (which gives partial relief from death duties on land subsequently acquired by government departments, local authorities, etc.), and the date of acquisition falls after the end of the period so mentioned but before the first day of January, nineteen hundred and fifty-four (being the terminal date for the provisions enacted in section fifty-two of the Planning Act to eliminate values attributable to vacant possession), then, subject to subsection (3) of this section, the said section fifty-seven shall apply as if the date of acquisition had fallen within the period mentioned in subsection (1) thereof.
- (2) Subject as aforesaid, the said section fifty-seven (hereafter in this section referred to as "the principal section") shall apply also in relation to acquisitions by any persons to whom the Acquisition of Land (Assessment of Compensation) Act, 1919, is extended by subsection (1) of section fifty-seven of the Planning Act, as if those persons were a local or public authority within the meaning of the said Act of 1919, and shall so apply notwithstanding that the date of acquisition fell before the commencement of this Part of this Act, if it did not fall before the passing of the Planning Act.
- (3) Where either of the foregoing subsections applies to an acquisition, any reduction supposed by subsection (2) of the principal section to be made in the principal value for purposes of duty of the interest acquired shall be limited so as not to exceed the amount by which, in the opinion of the Commissioners, the compensation or price paid for the purchase of the interest would have been increased if section fifty-two of the Planning Act had not been passed; and subsections (3) and (4) of the principal section shall have effect accordingly.
- (4) In this section the expression "the date of acquisition" has the same meaning as in the principal section, and the expression "the Planning Act" means the Town and Country Planning Act, 1947.
- (5) In the application of this section to Scotland, for references to the Town and Country Planning Act, 1947, and to sections fifty-two and fifty-seven thereof there shall respectively be substituted references to the Town and Country Planning (Scotland) Act, 1947, and to sections forty-nine and fifty-four thereof.

33 Extension of exemption for small gifts inter vivos

- (1) So much of paragraph (c) of subsection (1) of section two of the Finance Act, 1894, as makes gifts inter vivos property which is deemed to pass on the death of the deceased shall not apply to gifts which, in the case of any donee, do not exceed in the aggregate five hundred pounds in value or amount, if it is shown to the satisfaction of the Commissioners—
 - (a) that the property taken by the donee did not include any interest in settled property; and
 - (b) that bona fide possession or enjoyment of the property so taken was assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise.
- (2) Where the foregoing subsection would apply in the case of any donee except that the Commissioners are satisfied of the facts mentioned in paragraphs (a) and (b) thereof

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as respects some only of the gifts to him, it shall apply to any of the gifts as respects which they are so satisfied.

- (3) This section shall not be taken as affecting the relief given by subsection (2) of section fifty-nine of the Finance (1909-10) Act, 1910, where in the case of any donee the gifts do not exceed one hundred pounds in value or amount.