
44 Inheritance tax: increased nil-rate band

The Schedule contains provision in connection with the increased nil-rate band provided for by section 8D of IHTA 1984 (extra nil-rate band on death if interest in home goes to descendants etc).

SCHEDULE TO CLAUSE 44

INHERITANCE TAX: INCREASED NIL-RATE BAND

- 1 IHTA 1984 is amended as follows.
- 2 In section 8D(9) (interpretation of section 8D), before the definition of “tax year” insert –
 - ““consumer prices index” means the all items consumer prices index published by the Statistics Board,”.
- 3 - (1) Section 8E is amended as follows.
 - (2) -In subsection (6) (subsections (2) to (5) are subject to subsection (7)), after “(7)” insert “and section 8FC”.
 - (3) -In subsection (7) (modifications of subsections (2) to (5)), for paragraphs (a) and (b) substitute –
 - “(a) the person’s residence nil-rate amount is equal to VT,
 - (b) - where E is less than or equal to TT, an amount, equal to the difference between VT and the person’s default allowance, is available for carry-forward, and
 - (c) - where E is greater than TT, an amount, equal to the difference between VT and the person’s adjusted allowance, is available for carry-forward.”
 - (4) -In subsection (8) (list of other relevant sections), before the entry for section 8H insert –
 - “section -8FC (modifications of this section where there is entitlement to a downsizing addition),”.
- 4 In section 8F(4) (list of other relevant sections), before the entry for section 8H insert –
 - “section 8FD (which applies instead of this section where there is entitlement to a downsizing addition),”.
- 5 After section 8F insert –

“8FA Downsizing addition: entitlement: low-value death interest in home

 - (1) - There is entitlement to a downsizing addition in calculating the person’s residence nil-rate amount if each of conditions A to F is met (see subsection (8) for the amount of the addition).
 - (2) - Condition A is that –
 - (a) - the person’s residence nil-rate amount is given by section 8E(2) or (4), or
 - (b) - the person’s estate immediately before the person’s death includes a qualifying residential interest but none of the interest is closely inherited, and –

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- (i) - where E is less than or equal to TT, so much of VT as is attributable to the person's qualifying residential interest is less than the person's default allowance, or
 - (ii) - where E is greater than TT, so much of VT as is attributable to the person's qualifying residential interest is less than the person's adjusted allowance.

Section 8E(6) and (7) do not apply, and any entitlement to a downsizing addition is to be ignored, when deciding whether paragraph (a) of condition A is met.

- (3) - Condition B is that not all of VT is attributable to the person's qualifying residential interest.
- (4) - Condition C is that the person has a qualifying former residential interest (see section 8H(4A)).
- (5) - Condition D is that the value of the qualifying former residential interest exceeds so much of VT as is attributable to the person's qualifying residential interest.
Section 8FE(2) explains what is meant by the value of the qualifying former residential interest.
- (6) - Condition E is that at least some of the remainder is closely inherited, where "the remainder" means everything included in the person's estate immediately before the person's death other than the person's qualifying residential interest.
- (7) - Condition F is that a claim is made for the addition in accordance with section 8L(1) to (3).
- (8) - Where there is entitlement as a result of this section, the addition –
 - (a) - is equal to the lost relievable amount (see section 8FE) if that amount is less than so much of VT as is attributable to so much of the remainder as is closely inherited, and
 - (b) - otherwise is equal to so much of VT as is attributable to so much of the remainder as is closely inherited.
- (9) - See also –
 - section 8FC (effect of an addition: section 8E case),
 - section 8FD (effect of an addition: section 8F case),
 - section 8H (meaning of "qualifying residential interest" and "qualifying former residential interest"),
 - section 8J (meaning of "inherit"),
 - section 8K (meaning of "closely inherited"), and
 - section 8M (cases involving conditional exemption).

8FB Downsizing addition: entitlement: no residential interest at death

- (1) - There is also entitlement to a downsizing addition in calculating the person's residence nil-rate amount if each of conditions G to K is met (see subsection (7) for the amount of the addition).
- (2) - Condition G is that the person's estate immediately before the person's death ("the estate") does not include a residential property interest.

“Residential property interest” has the same meaning as in section 8H (see section 8H(2)).

- (3) - Condition H is that VT is greater than nil.
- (4) - Condition I is that the person has a qualifying former residential interest (see section 8H(4A)).
- (5) - Condition J is that at least some of the estate is closely inherited.
- (6) - Condition K is that a claim is made for the addition in accordance with section 8L(1) to (3).
- (7) - Where there is entitlement as a result of this section, the addition –
 - (a) - is equal to the lost relievable amount (see section 8FE) if that amount is less than so much of VT as is attributable to so much of the estate as is closely inherited, and
 - (b) - otherwise is equal to so much of VT as is attributable to so much of the estate as is closely inherited.
- (8) - See also –
 - section 8FD (effect of an addition: section 8F case),
 - section 8H (meaning of “qualifying residential interest” and “qualifying former residential interest”),
 - section 8J (meaning of “inherit”),
 - section 8K (meaning of “closely inherited”), and
 - section 8M (cases involving conditional exemption).

8FC Downsizing addition: effect: section 8E case

- (1) - Subsection (2) applies if –
 - (a) - as a result of section 8FA, there is entitlement to a downsizing addition in calculating the person’s residence nil-rate amount, and
 - (b) - the person’s residence nil-rate amount is given by section 8E.
- (2) - Section 8E has effect as if, in subsections (2) to (5) of that section, each reference to NV/100 were a reference to the total of –
 - (a) - NV/100, and
 - (b) - the downsizing addition.

8FD Downsizing addition: effect: section 8F case

- (1) - This section applies if –
 - (a) - as a result of section 8FA or 8FB, there is entitlement to a downsizing addition in calculating the person’s residence nil-rate amount, and
 - (b) - apart from this section, the person’s residence nil-rate amount is given by section 8F.
- (2) - This section applies instead of section 8F.
- (3) - The person’s residence nil-rate amount is equal to the downsizing addition.
- (4) - Where –

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- (a) - E is less than or equal to TT, and the downsizing addition is equal to the person's default allowance, or
 - (b) - E is greater than TT, and the downsizing addition is equal to the person's adjusted allowance, -
no amount is available for carry-forward. -
- (5) - Where—
- (a) - E is less than or equal to TT, and
 - (b) - the downsizing addition is less than the person's default allowance,
an amount, equal to the difference between the downsizing addition and the person's default allowance, is available for carry-forward.
- (6) - Where—
- (a) - E is greater than TT, and
 - (b) - the downsizing addition is less than the person's adjusted allowance,
an amount, equal to the difference between the downsizing addition and the person's adjusted allowance, is available for carry-forward.

8FE Calculation of lost relievable amount

- (1) - This section is about how to calculate the person's lost relievable amount for the purposes of sections 8FA(8) and 8FB(7).
- (2) - For the purposes of this section and section 8FA(5), the value of the person's qualifying former residential interest is the value of the interest at the time of completion of the disposal of the interest.
- (3) - In this section, the person's "former allowance" is the total of—
 - (a) - the residential enhancement at the time of completion of the disposal of the qualifying former residential interest,
 - (b) - any brought-forward allowance that the person would have had if the person had died at that time, having regard to the circumstances of the person at that time (see section 8G as applied by subsection (4)), and
 - (c) - if the person's allowance on death includes an amount of brought-forward allowance which is greater than the amount of brought-forward allowance given by paragraph (b), the difference between those two amounts.
- (4) - For the purposes of calculating any brought-forward allowance that the person ("P") would have had as mentioned in subsection (3)(b)—
 - (a) - section 8G (brought-forward allowance) applies, but as if references to the residential enhancement at P's death were references to the residential enhancement at the time of completion of the disposal of the qualifying former residential interest, and
 - (b) - assume that a claim for brought-forward allowance was made in relation to an amount available for carry-forward from a related person's death if, on P's death, a claim was in fact made in relation to the amount.
- (5) - For the purposes of subsection (3)(c), where the person's allowance on death is equal to the person's adjusted allowance, the amount of

brought-forward allowance included in the person's allowance on death is calculated as follows.

Step 1

Express the person's brought-forward allowance as a percentage of the person's default allowance.

Step 2

Multiply –

$$\frac{E - TT}{2}$$

by the percentage given by step 1.

Step 3

Reduce the person's brought-forward allowance by the amount given by step 2. -

The result is the amount of brought-forward allowance included in the person's allowance on death. -

(6) - If completion of the disposal of the qualifying former residential interest occurs before 6 April 2017 –

(a) - for the purposes of subsection (3)(a), the residential enhancement at the time of completion of the disposal is treated as being £100,000, and

(b) - for the purposes of subsection (3)(b), the amount of brought-forward allowance that the person would have had at that time is treated as being nil.

(7) - In this section, the person's "allowance on death" means –

(a) - where E is less than or equal to TT, the person's default allowance, or

(b) - where E is greater than TT, the person's adjusted allowance.

(8) - For the purposes of this section, "completion" of the disposal of a residential property interest occurs at the time of the disposal or, if the disposal is under a contract which is completed by a conveyance, at the time when the interest is conveyed.

(9) - Where, as a result of section 8FA, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, take the following steps to calculate the person's lost relievable amount.

Step 1

Express the value of the person's qualifying former residential interest as a percentage of the person's former allowance, but take that percentage to be 100% if it would otherwise be higher.

Step 2

Express QRI as a percentage of the person's allowance on death, where QRI is so much of VT as is attributable to the person's qualifying residential interest, but take that percentage to be 100% if it would otherwise be higher.

Step 3

Subtract the percentage given by step 2 from the percentage given by step 1, but take the result to be 0% if it would otherwise be negative. The result is P%.

Step 4

The person's lost relievable amount is equal to P% of the person's allowance on death.

- (10) - Where, as a result of section 8FB, there is entitlement to a downsizing addition in calculating the person's residence nil-rate amount, take the following steps to calculate the person's lost relievable amount.

Step 1

Express the value of the person's qualifying former residential interest as a percentage of the person's former allowance, but take that percentage to be 100% if it would otherwise be higher.

Step 2

Calculate that percentage of the person's allowance on death.

The result is the person's lost relievable amount."

- 6 - In section 8G (meaning of "brought-forward allowance"), in subsection (3)(a), for "and 8F" substitute ", 8F and 8FD".
- 7 (1) -Section 8H (meaning of "qualifying residential interest") is amended as follows.
- (2) -In the heading, at the end insert "and "qualifying former residential interest"".
- (3) -In subsection (1), for "and 8F" substitute "to 8FE".
- (4) -After subsection (4) insert –
- “(4A) Subsection (4B) or (4C) applies where –
- (a) - a person disposes of a residential property interest in a dwelling-house on or after 8 July 2015 (and before the person dies), and
- (b) - the person's personal representatives nominate –
- (i) - where there is only one such dwelling-house, that dwelling-house, or
- (ii) - where there are two or more such dwelling-houses, one (and only one) of those dwelling-houses.
- (4B) - Where the person disposes of just one residential property interest in the nominated dwelling-house at a post-occupation time (and before the person dies), that interest is a qualifying former residential interest in relation to the person.
- (4C) - Where –
- (a) - the person disposes of two or more residential property interests in the nominated dwelling-house at post-occupation times (and before the person dies), and
- (b) - the person's personal representatives nominate one (and only one) of those interests,
- the nominated interest in the nominated dwelling-house is a qualifying former residential interest in relation to the person.
- (4D) - In subsections (4B) and (4C) "post-occupation time" means a time –
- (a) - on or after 8 July 2015, and
- (b) - after the nominated dwelling-house first became the person's residence.

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- (4E) - For the purposes of subsections (4A) to (4C), if the disposal is under a contract which is completed by a conveyance, the disposal occurs at the time when the interest is conveyed.”
- 8 - In section 8J (meaning of “inherited”), in subsection (1), for “and 8F” substitute “, 8F, 8FA and 8FB”.
- 9 - In section 8K (meaning of “closely inherited”), in subsection (1), for “and 8F” substitute “, 8F, 8FA and 8FB”.
- 10 - In section 8L (claims for brought-forward allowance) –
- (a) - in the heading, at the end insert “and downsizing addition”, and
 - (b) - in subsection (1), after “(see section 8G)” insert “or for a downsizing addition for a person (see sections 8FA to 8FD)”.