

1 Valuation of settled property

- (1) IHTA 1984 is amended in accordance with subsections (2) to (4).
- (2) In section 162 (liabilities), in subsection (4), at the beginning, for “A” substitute “Subject to section 162ZA(3), a”.
- (3) After section 162 insert—

“162ZA Liabilities: valuation of settled property

- (1) This section applies to the determination of the value of settled property at any time (“the relevant time”).
 - (2) Except as otherwise provided for by this Act, a liability that is properly incurred by the trustees when acting on behalf of the settlement shall be taken into account if and to the extent that it is undischarged at the relevant time.
 - (3) No account is to be taken of any right of indemnity of the trustees (or, accordingly, of any incumbrance securing such a right) arising in respect of a liability properly incurred by them when acting on behalf of the settlement.
 - (4) Where—
 - (a) a liability is properly incurred by the trustees when acting on behalf of the settlement,
 - (b) money or money’s worth has, before the relevant time, been paid or applied in or towards the discharge of the liability by a trustee otherwise than out of the settled property, and
 - (c) at the relevant time the amount so discharged has, to any extent, not been reimbursed out of the settled property,the liability is, to that extent, treated for the purposes of this Act as undischarged at the relevant time.
 - (5) Section 162(1) does not prevent a liability from being taken into account under subsection (2) by reason only that the trustees have a right to reimbursement out of the settled property.”
- (4) In section 162B (liabilities attributable to financing certain relievable property), after subsection (9) insert—
- “(9A) Subsection (9B) applies where, at the time of any transfer of value, the transferor is treated under section 49 as beneficially entitled to any settled property.
- (9B) In its application to the determination of the value transferred by the transfer of value, this section has effect in relation to a liability properly incurred by the trustees of the settlement when acting on its behalf as it has effect in relation to a liability of the transferor.”
- (5) FA 1986 is amended in accordance with subsections (6) and (7).

- (6) In section 103 (treatment of certain debts and incumbrances), after subsection (7) insert—

“(8) This section does not apply to the determination of the value of any settled property to which a person is treated as beneficially entitled under section 49 of the 1984 Act immediately before their death (see instead sections 103A and 103B).”

- (7) After section 103 insert—

“103A Treatment of certain debts and incumbrances: settled property

- (1) This section and section 103B apply to the determination of the value of any settled property to which a person (“the deceased”) is treated as beneficially entitled under section 49 of the 1984 Act immediately before their death.
- (2) If, in determining the value of the settled property comprised in the deceased's estate, account would be taken (apart from this section) of a liability consisting of a debt properly incurred by the trustees when acting on behalf of the settlement or an incumbrance created by a disposition properly made by the trustees when acting on behalf of the settlement, the liability is subject to abatement to an extent proportionate to the value of any of the consideration given for the debt or incumbrance which consisted of—
- (a) property derived from the deceased,
 - (b) property to which the deceased was beneficially entitled, or
 - (c) consideration (not being property within paragraph (a) or (b)) given by any person who was at the time entitled to, or amongst whose resources there was at any time included, any property within paragraph (a) or (b).
- (3) If, in a case where the whole or part of the consideration given for a debt or incumbrance consisted of consideration within subsection (2)(c), it is shown that the value of the consideration given, or of that part thereof, as the case may be, exceeded that which could have been rendered available by application of all the property within paragraph (a) or (b) of subsection (2), other than such (if any) of that property—
- (a) as is included in the consideration given, or
 - (b) as to which it is shown that the disposition of which it, or the property which it represented, was the subject matter was not made with reference to, or with a view to enabling or facilitating, the giving of the consideration or the recoupment in any manner of the cost thereof,
- no abatement is to be made under subsection (2) in respect of the excess.
- (4) In this section, “property derived from the deceased” means, subject to subsection (5), any property—
- (a) which was the subject matter of a disposition made by the deceased, either by themselves alone or in concert or by arrangement with any other person, or

- (b) which represented any of the subject matter of such a disposition, whether directly or indirectly, and whether by virtue of one or more intermediate dispositions.
- (5) If the disposition first-mentioned in subsection (4) was not a transfer of value and it is shown that the disposition was not part of associated operations which included—
 - (a) a disposition by the deceased, either alone or in concert or by arrangement with any other person, otherwise than for full consideration in money or money's worth paid to the deceased for their own use or benefit, or
 - (b) a disposition by any other person operating to reduce the value of the property of the deceased,that first-mentioned disposition is to be left out of account for the purposes of subsections (2) to (4).
- (6) Section 103(6) and (7) (which contain transitional provision relating to the introduction of inheritance tax and a definition of “subject matter”) apply for the purposes of this section and section 103B.

103B Section 103A: special exceptions and lifetime charge

- (1) Where—
 - (a) apart from this subsection, a liability of the trustees would be abated under section 103A(2), and
 - (b) the liability consists of a debt that is (to any extent) owed to the deceased,the liability is (to that extent) not so abated.
- (2) But subsection (1) does not apply if and to the extent that—
 - (a) the value of the right to the debt comprised in the deceased's estate immediately before their death is reduced by reason of any disposition of the beneficial interest in that right, or
 - (b) the transfer of value that the deceased is treated as making under section 4(1) of the 1984 Act is, so far as attributable to the right to the debt, an exempt transfer.
- (3) Where—
 - (a) apart from this subsection, a liability of the trustees would be abated under section 103A(2), and
 - (b) the liability consists of a debt the right to which was the subject of a disposition made by the deceased that was (to any extent) not a transfer of value,the liability is (to that extent) not so abated.
- (4) But subsection (3) does not apply unless it is shown that the disposition (to the extent that it was not a transfer of value) was not part of associated operations which included—
 - (a) a disposition by the deceased, either alone or in concert or by arrangement with any other person, otherwise than for full

- consideration in money or money's worth paid to the deceased for their own use or benefit, or
- (b) a disposition by any other person operating to reduce the value of the property of the deceased.
- (5) Subsection (8) applies where the following two conditions are met.
- (6) The first condition is that, before the deceased's death, but on or after 28 October 2026, money or money's worth ("the applied property") is paid or applied by the trustees out of the settled property –
- (a) in or towards the discharge of a liability properly incurred by the trustees when acting on behalf of the settlement, or
- (b) to reimburse a trustee in respect of an amount paid or applied in or towards the discharge of such a liability.
- (7) The second condition is that, had the person died immediately before the time of the payment or application, the liability would have been abated under section 103A(2).
- (8) The 1984 Act has effect as if –
- (a) at the time of the payment or application, the deceased's interest in the settled property, to the extent it consisted of the applied property, came to an end,
- (b) the value transferred by the transfer of value which (by virtue of paragraph (a)) is treated as made under section 52(1) of that Act were equal to the value of the applied property, and
- (c) that transfer of value were a potentially exempt transfer.
- (9) Subsection (8)(c) does not apply if and to the extent that the transfer of value is excepted under section 53 of the 1984 Act from being chargeable under section 52 of that Act."
- (8) The amendments made by subsections (1) to (7) have effect in relation to transfers of value made, and occasions on which tax is chargeable, on or after 28 October 2026.
- (9) The Treasury may, by regulations made by statutory instrument –
- (a) amend or repeal any provision inserted into IHTA 1984 or FA 1986 by this section;
- (b) amend or repeal any other provision of those Acts so as to make provision consequential on, or in connection with, any of the amendments made by this section or under paragraph (a).
- (10) Regulations under subsection (9) –
- (a) if they do not increase any person's liability to tax, may have effect in relation to transfers of value made, and occasions on which tax is chargeable, on or after 28 October 2026 (even if they affect settlements made, or debts incurred, before that date);
- (b) if they do increase any person's liability to tax, may have effect in relation to transfers of value made and occasions on which tax is chargeable, on or after the date on which the regulations are made

(even if they affect settlements made, or debts incurred, before that date);

(c) may include transitional or saving provision.

(11) Regulations under subsection (9) –

(a) if they do not increase any person's liability to tax, are subject to annulment in pursuance of a resolution of the House of Commons;

(b) if they do increase any person's liability to tax, may not be made unless a draft of the statutory instrument containing them has been laid before, and approved by a resolution of, the House of Commons.

(12) No regulations under subsection (9) may be made after 31 December 2029.