

Exclusion of value of excepted assets. FA 1994 s134 100.—(1) In determining for the purposes of this Chapter what part of the taxable value of a gift or inheritance is attributable to the value of relevant business property, so much of the last-mentioned value as is attributable to—

(a) any excepted assets within the meaning of subsection (2), or

(b) any excluded property within the meaning of subsection (7),

is disregarded.

(2) An asset is an excepted asset in relation to any relevant business property if it was not used wholly or mainly for the purposes of the business concerned throughout the whole or the last 2 years of the relevant period; but where the business concerned is carried on by a company which is a member of a group, the use of an asset for the purposes of a business carried on by another company which at the time of the use and immediately prior to the gift or inheritance was also a member of that group is treated as use for the purposes of the business concerned, unless that other company's membership of the group is to be disregarded under section 99.

(3) The use of an asset for the purposes of a business to which section 93 (3) relates is not treated as use for the purposes of the business concerned.

(4) Subsection (2) shall not apply in relation to an asset which is relevant business property by virtue only of section 93 (1)(e), and an asset is not relevant business property by virtue only of that provision unless either—

(a) it was used in the manner referred to in that provision—

(i) in the case where the disponent's interest in the business or the shares in or securities of the company carrying on the business are comprised in an inheritance taken on the date of death of the disponent, throughout the 2 years immediately preceding the date of the inheritance, or

(ii) in any other case, throughout the 5 years immediately preceding the date of the gift or inheritance,

or

(b) it replaced another asset so used and it and the other asset and any asset directly or indirectly replaced by that other asset were so used for periods which together comprised—

(i) in the case referred to at paragraph (a)(i), at least 2 years falling within the 3 years immediately preceding the date of the inheritance, or

(ii) in any other case, at least 5 years falling within the 6 years immediately preceding the date of

the gift or inheritance,

but where section 97 applies paragraphs (a) and (b) are deemed to be complied with if the asset, or that asset and the asset or assets replaced by it, was or were so used throughout the period between the earlier and the subsequent benefit mentioned in that section, or throughout the part of that period during which it or they were in the beneficial ownership of the disposer or the disposer's spouse.

(5) Where part but not the whole of any land or building is used exclusively for the purposes of any business and the land or building would, but for this subsection, be an excepted asset, or, as the case may be, prevented by subsection (4) from being relevant business property, the part so used and the remainder are for the purposes of this section treated as separate assets, and the value of the part so used shall (if it would otherwise be less) be taken to be such proportion of the value of the whole as may be just.

(6) For the purposes of this section the relevant period, in relation to any asset, is the period immediately preceding the gift or inheritance during which the asset or, if the relevant business property is an interest in a business, a corresponding interest in the asset, was comprised in the disposition ) or, if the business concerned is that of a company, was beneficially owned by that company or any other company which immediately before the gift or inheritance was a member of the same group.

(7) For the purposes of this section an asset is deemed not to have been used wholly or mainly for the purposes of the business concerned at any time when it was used wholly or mainly for the personal benefit of the disposer or of a relative of the disposer.

(8) Where, in relation to a gift or an inheritance—

(a) relevant business property consisting of shares in or securities of a company are comprised in the gift or inheritance on the valuation date, and

(b) property consisting of a business, or interest in a business, not falling within section 93 (3) (in this section referred to as “company business property”) is on that date beneficially owned by that company or, where that company is a holding company of one or more companies within the same group, by any company within that group,

that company business property shall, for the purposes of subsection (1), be excluded property in relation to those shares or securities unless it would have been relevant business property if—

(i) it had been the subject matter of that gift or inheritance, and

(ii) it had been comprised in the disposition for the periods during which it was in the beneficial ownership of that first-mentioned company or of any member of that group, while being such a member, or actually comprised in the disposition.

(9) In ascertaining whether or not company business property complies with paragraphs (i) and (ii) of subsection (7), section 95 shall, with any necessary modifications, apply to that company business property as to a case to which subsection (1) of section 95 relates.