

Case summary

Issue(s)

This appeal is principally about whether the pension scheme transfer by the late Mrs Staveley, and her omission to take income benefits which were then payable, constituted, or are to be treated as constituting, for the purposes of the Inheritance Tax 1984 ("IHTA 1984") a "disposition" which is a "transfer of value" in favour of her sons, who were to be the beneficiaries of the death benefit. The relevant statutory provisions are section 3(1) IHTA 1984, read with section 10(1), and section 3(3) IHTA 1984.

Facts

The appeal arises out of the estate of Mrs Rachel Staveley who died of cancer on 18 December 2006. The Appellants are the personal representatives of Mrs Staveley's estate. Shortly before her death Mrs Staveley transferred her pension fund from a pension under section 32 of the Finance Act 1981 to an AXA personal pension plan. If the pension had remained in the company scheme, on her death a sum would have been payable to her estate and chargeable to inheritance tax.

Under the AXA personal pension plan, the deceased's two sons were her beneficiaries in relation to death benefit. The deceased did not take any retirement benefit during her lifetime. Section 10(1) of the 1984 Act removed from the charge to inheritance tax a disposition which was not made with the intention of conferring a gratuitous benefit on any person, and which met further conditions, by providing that it was not a transfer of value. The effect in this case was that if section 10(1) applied, the sons would receive the death benefit free of inheritance tax.

The First-tier Tribunal found that the deceased's sole motive for the transfer was to avoid any part of her pension fund reverting to the company, and thus to her former husband and partner in the company. The transfer was therefore not intended to confer a gratuitous benefit on her sons. However, it found that the omission to take any income benefits did constitute a transfer of value. This decision was upheld by the Upper Tribunal regarding the pension fund transfer, however the Upper Tribunal reversed the decision concerning the omission to take income benefits. HMRC appealed to the Court of Appeal and the appeal was allowed.