

PROPOSED CHANGES TO INHERITANCE TAX

Inheritance Tax (“IHT”) is a notoriously unpopular tax – it is overly complicated and perceived to be unfair. The current system which includes the spouse exemption, wiping out capital gains on death and no IHT on lifetime gifts (provided the donor lives seven years) can lead to very capricious results depending upon how the order of deaths unfolds. The All-Party Parliamentary Group for Inheritance & Intergenerational Fairness report (published at the end of January 2020) sets out proposals which would change all of that.

OVERVIEW OF THE RECOMMENDATIONS

All gifts over £30,000 would trigger an immediate 10% tax charge

The report proposes a flat rate of tax at 10% on both lifetime gifts and death (although the death rate for estates valued at over £2m would be 20%). It suggests removing all reliefs (other than the spouse and charity exemptions) and replacing these with an annual allowance of £30,000. On death, estates would also have the benefit of something akin to the current nil rate band - i.e. a tax free amount of £325,000 per individual.

This would bring simplicity which is to be encouraged in an environment where we are all too used to governments adding to the complexity of the UK tax system by tinkering around the edges. Bringing in a lower rate of tax would also be welcomed by most. There is also some logical sense in removing the Capital Gains Tax (“CGT”) uplift on death so that CGT and IHT dovetail together in a less “hit and miss” fashion.

However, it is not all good news. The proposals, if implemented, would completely abolish Business Property Relief. For owner-managers wishing to leave their businesses to the next generation this will prove a challenge. When coupled with the rumoured likely changes to (or removal of?) Entrepreneurs’ Relief, this seems like an attack on business owners. It does seem strange that the first Conservative government with a majority in some time is choosing to tighten the approach taken towards the very group that they see as their core demographic.

Trusts are also in the firing line. Getting rid of the nil rate band which replenishes every seven years removes the ability to carry out tried and tested succession planning opportunities. Once again those in politics seem to have forgotten that trusts set up by reputable advisers are not used as some nefarious tax dodge but are useful tools allowing for parents to control the flow of money to their children (sometimes to save them from themselves) and bring capital protection which is a perennial concern for families.

As part of a familiar refrain over the past five years, non-domiciliaries (“non-doms”) do not escape unscathed. The proposals seek to break the connection between domicile and IHT - instead, being UK tax resident for 10 out of the previous 15 years would cause individuals to be subject to UK IHT on their worldwide assets. It is a pity given all of the recent non-dom changes that this has not been aligned with the existing 15 out of 20 year tests for other tax purposes. The misery for non-doms doesn’t stop there - when coupled with the report’s proposed changes to trusts established by non-doms, it is likely to bring many people within the UK tax net for the first time and have a material impact upon planning opportunities.

Overall, although the changes would bring a measure of simplicity and the headline rate of tax would reduce, there is concern that the rate drop is a quid pro quo for culling the current allowances. It would be all too easy for a future government to raise the rates without reinstating the existing valuable allowances.

NEXT STEPS

While the report is not an official publication from the government, it does show a potential direction of travel. Although substantive changes to legislation would likely require a period of consultation, the government could make changes within the Budget on 11 March 2020, and as such, consideration should be given to any steps which should be taken and the timing of potential lifetime giving.

KEY CONTACTS

For further information about any of the issues raised in this guide, please contact:



Stuart Skeffington

Partner, Head of Private Client

T: +44 (0)1483 406952

M: +44 (0)7958 296916

E: stuart.skeffington@stevens-bolton.com



Rosie Todd

Partner

T: +44 (0)1483 406967

M: +44 (0)7557 677046

E: rosie.todd@stevens-bolton.com

STEVENS&BOLTON

Wey House, Farnham Road
Guildford, Surrey, GU1 4YD
Tel: +44 (0)1483 302264
Fax: +44 (0)1483 302254
DX 2423 Guildford 1
www.stevens-bolton.com

The information contained in this guide is intended to be a general introductory summary of the subject matters covered only. It does not purport to be exhaustive, or to provide legal advice, and should not be used as a substitute for such advice.

© Stevens & Bolton LLP 2020.

Stevens & Bolton LLP is a limited liability partnership registered in England with registered number OC306955 and is authorised and regulated by the Solicitors Regulation Authority with SRA number 401245. A list of members’ names is open to inspection at the above address.

14370419v1