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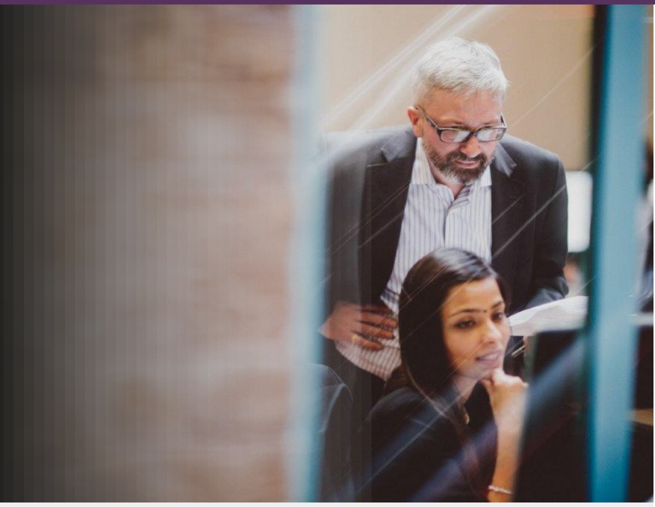
Reform set to cut complexity of inheritance tax



July 2019

Proposed changes could have far-reaching implications for future estate tax planning

Sweeping reform of inheritance tax has been recommended to cut the complexity of the so-called 'death tax' (see our previous article), but experts are warning that individuals will need to review existing planning if the changes go ahead.

Headline recommendations to government from the Office of Tax Simplification (OTS) include changing the rules surrounding gifts of cash, property and other assets made while someone is still alive, and an overhaul of the relationship between IHT and capital gains tax for farm and business assets.

Proposals include a simplification of the lifetime gift exemptions to a single personal gift allowance, with a revised threshold for small gifts and reform of the regular gift out of income exemption. The OTS also recommends that the current seven-year gifting rule for potentially exempt transfers be cut to five years. This is the period which must elapse from the date a lifetime gift is made until the date of death for the gift to be exempt from inheritance tax. This would also see an end to the complicated taper relief by which the tax charged on gifts may be gradually reduced from year three of the current seven-year period.

The OTS also proposes that where IHT is due on lifetime gifts, the rules on who is liable to pay the tax should be simplified, and how the £325,000 threshold is allocated between different recipients.

Head of Private Client, James McMullan, said:

"Wills may need to be re-written to benefit from any tax reform that takes place, as someone who has drawn up their will to reflect the current regime may risk a very different outcome to what was intended if their estate is taxed under the new regime.

That will certainly be the case if the rules change on where liability for tax falls between those receiving lifetime gifts and those who inherit on death, with some of the proposals on the allocation of liability having wider implications that will need to be considered."

Also, in the spotlight for reform, is the relationship between inheritance tax and capital gains tax in the reliefs available for businesses and farms.

James added:

"When it comes to passing on a farm or a business, different tests are applied depending on whether the disposal is following death or during a lifetime, as the rules are different for inheritance tax and capital gains tax. It is very complex and has an impact on decision making because of the different tax outcomes for effectively the same action."

Another factor to consider in any future inheritance planning is the government's pledge to extend civil partnerships to opposite-sex couples, following the Supreme Court ruling that restricting them to same-sex couples was discriminatory. Proposals are currently out for consultation, but the Government Equalities Office has said they hope that the option will be available by the end of 2019. The right to enter into a civil partnership would give opposite-sex couples the same inheritance tax exemptions as those enjoyed by married couples and same-sex civil partners.

The OTS is the independent adviser on simplifying the UK tax system, making recommendations for government to consider and the consultation and subsequent reporting on inheritance tax was undertaken in response to a request from the Chancellor of the Exchequer in January 2018. The first report was published in November 2018, examining the administrative process, while the second report tackles how the tax is currently implemented.

Proposals put forward by the OTS in the first stage of their review of inheritance tax included simplified administration of the process, reducing or removing the requirement to submit forms for smaller or simpler estates, especially where there is no tax to pay, and looking to automate the system by bringing it online.

If you're thinking about organising or reorganising your estate, speak to James McMullan today.

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