Reference

# Inheritance Tax Report

HIBERNIAN

## A) Important

This guide is based on information supplied and on our understanding of current legislation and Revenue practice.

You are recommended to seek independent professional advice before acting on the basis of this guide.

# b) Inheritance Tax

## Inheritance Tax

Inheritance Tax is a tax levied on the value of any benefit taken by a person on the death of another person. The tax is payable by the person who inherits, and not by the deceased's estate.

While benefits taken on death by a legal spouse of the deceased are exempt from Inheritance Tax, children and others are not exempt and may have to pay substantial levels of Inheritance Tax.

## How Inheritance Tax is calculated

The tax is levied on the total value of benefits received on a death. Account is also taken of any previous gifts or inheritances received by that beneficiary from any source since the 2nd December 1988.

A certain amount, called the threshold, is free of tax, with the balance of the inheritance subject to Inheritance Tax as follows:

| Amount £ | Tax Rate % |
|---|---|
| Threshold | 0 |
| Balance | 20 |

The threshold varies according to the relationship between the beneficiary and the deceased, from whom they take the inheritance.

The thresholds applying currently are:

**IR £316,800**
Where the beneficiary is a child, or grandchild where the child's parent has died, of the deceased. Adopted children, stepchildren, and foster children (in certain cases) also qualify for this threshold.

**IR £31,680**
Where the beneficiary is a brother or sister, or child of a brother or sister, or other blood descendant or ancestor of the deceased.

**IR £15,840**
All other cases.

## The Impact of the Tax

Inheritance Tax can take away a substantial part of a child's inheritance*, as these diagrams show:

Inheritance: IR £500,000
Inheritance Tax: IR £36,640

Inheritance: IR £750,000
Inheritance Tax: IR £86,640

Inheritance: IR £1,000,000
Inheritance Tax: IR £136,640

* Assumes child is entitled to full £316,800 tax free threshold.

# Inheritance Tax Reliefs

There are a number of reliefs, which can reduce or eliminate potential Inheritance Tax liabilities. These are summarised below.

## Dwelling House relief

Gifts and inheritances of a dwelling house (including up to one acre) taken on or after 1st December 1999 are exempt from CAT provided the following conditions are met :

(a) the beneficiary must have occupied the dwelling-house continuously as his or her only or main residence for a period of 3 years prior to the date of the gift or inheritance.

(b) the beneficiary must not, at the date of the gift or inheritance, be beneficially entitled to any other dwelling-house or to any interest in any other dwelling-house, and

(c) the beneficiary must continue, except where aged 55 years or over at the date of the gift or inheritance, to occupy that dwelling-house as his or her only or main residence for a period of 6 years commencing on the date of the gift or inheritance, i.e. the relevant period.

The exemption is withdrawn if the beneficiary sells the dwelling-house within the relevant period. However the relief is not withdrawn if the sale is as a result of the beneficiary requiring long term medical care in a hospital, nursing home or convalescent home.

## Business Relief

Certain qualifying business assets, used in the course of a trade, are reduced in value by 90% for Inheritance Tax purposes, subject to certain conditions.

Relief may be withdrawn if the assets are not retained for at least 6 yrs after the inheritance.

## Agricultural Relief

Agricultural land, buildings, livestock and machinery are reduced in value by 90% for Inheritance Tax purposes, when inherited by a farmer. Certain conditions apply. The relief may be withdrawn if the assets are disposed of within 6 years after the inheritance. However the relief is not clawed back if the land is sold under a Compulsory Purchase Order and the proceeds reinvested in agricultural property within 4 years.

To qualify as a farmer at least 80% of a beneficiary's gross assets must be agricultural assets, after taking the inheritance, and the beneficiary must be domiciled in the State at the date of the inheritance. There are other conditions also applying.

## Favourite Nephew/Niece relief

This relief can be availed of by a child of a brother or sister of the deceased, when inheriting certain business or agricultural assets, where that nephew or niece has worked substantially on a full time basis in the business or farm. The relief is subject to certain conditions.

The relief involves the nephew or niece being entitled to the threshold applicable to a child, in respect of the business or agricultural assets.

## Gifting Assets

It might seem that Inheritance Tax could be avoided by simply making a lifetime gift of assets to an intended beneficiary. However there is a Gift Tax payable on the value of such gifts, on the same basis as Inheritance Tax.

A lifetime transfer of assets would be treated as a disposal of those assets and a Capital Gains Tax liability could arise in the hands of the person making the gift. Any Capital Gains Tax payable can be offset against the Gift Tax liability of the beneficiary. A lifetime transfer of assets will involve the permanent loss of those assets to the person making the gift, which could involve them becoming permanently financially dependent on the beneficiary.

# c) Providing for the Tax exposure

## The Options

The options are to :

Do nothing, or

Plan ahead and make advance provision for this tax liability.

## The 'Do nothing' Option

Inheritance Tax becomes due and payable on the valuation date of the inheritance, which is likely to be shortly after death.

Unpaid taxes attract interest at a rate of 1% per month, and the interest is not tax deductible. Therefore if you do not make advance provision for these tax liabilities, their dependants will be forced with a difficult choice:

Sell part of their inheritance to raise the cash necessary to pay the Inheritance Tax due. This may involve attempting to sell part or all of the family business or farm, or

Borrow funds to pay the Inheritance Tax. In this case your dependants will have to make substantial repayments and the interest on such borrowings will not be tax deductible. For example, borrowing IR£100,000 over 5 years at an interest rate of 9% pa, would require monthly repayments of £2,059, which would have to come from capital and/or after tax income.

## Making advance provision

Under this option you can make advance provision for the tax exposure likely to arise on the death of the survivor of them by effecting an Hibernian Life and Pensions Guaranteed Whole of Life Plan on their joint lives, to provide tax free funds on death of the second to die, to be used to pay Inheritance Tax arising at that stage.

Any excess funds not used to pay taxes will revert to your estate or dependants.
In this way your estate will be protected from Inheritance Tax on death, and their dependants will not be forced to sell part of their inheritance or borrow substantial funds.

## Section 60 Relief

The policy would be arranged under the provisions of Section 60, Finance Act 1985, so that the proceeds of the policy on death would be exempt from Inheritance Tax to the extent that the proceeds are used to pay Inheritance Tax arising on the death of the life assured, under a disposition made by that life.

In order to benefit fully from this relief, the inheritance giving rise to the Inheritance Tax paid by the Section 60 policy, must be taken within one year of the date of death of the life assured.
If therefore assets are held within a discretionary trust for a period longer than the one year allowed, the benefit of the Section 60 relief could be lost.

## Issue of the policy under Trust

The most effective way to arrange the Section 60 policy, is under a Declaration of Trust , which instructs Hibernian Life & Pensions to issue the policy to nominated trustees.
The advantages of arranging the policy this way are :

- It ensures that the policy proceeds are used in the first instance to pay Inheritance Tax. Any surplus may revert to dependants.
- The proceeds are payable immediately to the Trustees on death. The proceeds do not go into the deceased's estate on death.
- The trust gives maximum flexibility to the trustees to determine which dependant's tax liabilities should be discharged and in what priority.

The policy can be arranged under trust very simply by completing a Declaration of Trust form along with the Hibernian Life & Pensions proposal for life cover.