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The UK Wealth Tax (and whether it could be avoided)

The Wealth Tax Commission ("WTC), comprised of academics and tax professionals, was established in July 2020 to provide an in-depth analysis of proposals for a UK wealth tax to help address public finance shortfalls arising from the Covid-19 pandemic. Its final report was published on 9 December 2020.

Whether a wealth tax is implemented or not the, albeit unofficial, WTC report recommends major reform of existing taxes on wealth. After reports from the Office of Tax Simplification on inheritance tax and capital gains tax and the All-Party Parliamentary Group for Inheritance and Intergenerational Fairness, this is the 4th one to suggest upheaval in capital taxes regimes in the last 18 months.

Whether a wealth tax, in whatever form, is implemented or not it seems very likely that changes are coming. This is unlikely to be favourable to many taxpayers looking to pass on wealth. Now may then prove to be an auspicious time to look at tax and estate planning options.

A wealth tax?

The WTC found that a wealth tax would be a better way for the Government to raise revenue rather than increasing taxes on work or spending which distorts taxpayers' behaviour.

Other ways to raise £250 billion in tax over five years include:

- Basic rate of income tax to rise by 9p to 29p
- All income tax rates to rise by more than 6p
- All VAT rates to rise by 6p
- Corporation tax to rise by 5p **and** VAT to rise by 4p.

One-off or annual?

The report suggests that a one-off, rather than an annual, wealth tax should be considered. This is on the basis that annual wealth taxes would be costlier to administer, more difficult to collect from asset-rich-cash-poor taxpayers and easier to avoid as taxpayers would have time to change their behaviour.

The view of the WTC is that an annual wealth tax could only be justified if the aim was reduction of inequality by the redistribution of wealth and, instead, it would be better if existing taxes on wealth were subject to major structural reform.

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What tax rate would apply?

Whilst there is no recommendation on rates or thresholds, the report does set out that a one-off wealth tax on all individual wealth above £500,000 and charged at 5% (to be paid at 1% per year over five years) would raise £260 billion; at a threshold of £2 million it would raise £80 billion.

Who would be taxed?

The WTC suggests that all UK residents (wherever they are domiciled) should be taxed on an individual basis.

It would be feasible however to allow couples to be taxed together if it were thought that fairness demanded this approach, for example if the value of assets held by each were not equal.

It is recommended in the report that any gifts from parents to children who are still minors at the assessment date should be aggregated with the wealth of the parent.

Former UK residents would still be treated as UK resident if, for example, they had been UK resident for four out of the last seven years.

Other non-UK residents would only be taxed on UK real estate including that held through foreign companies.

What assets would be taxed?

The report proposes that the tax should be levied on the open market value of worldwide assets of taxpayers including main homes, pension funds, businesses, second homes, land and intangible assets such as intellectual property and legal claims. The only exemption would be for low-value items such as personal possessions worth less than £3,000.

Assets held in trust would be taxed, in the first instance on the trustees, if the person who created the trust or any beneficiary were UK resident.

Although commenting on the challenge of the scale of valuations required, the WTC does perhaps downplay this, and the likelihood of taxpayers being unfairly treated by what could be a broad approach.

How would taxpayers without liquid funds pay?

The report suggests that tax on pension funds should be able to be deferred until the pension is taken or state retirement age. Without detailing the criteria, the WTC suggest that in rare circumstances payment could be deferred beyond the five-year suggested period. This issue also seems to be somewhat downplayed.

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How could the proposed tax be avoided?

Emigrating or moving assets abroad would not, in most cases, avoid the tax as recent UK residents and worldwide assets would be caught.

Gifts to trust would not reduce the tax payable because trust assets would be subject to the wealth tax. Gifts to minor children would be taxed as belonging to the parent who made the gift.

It seems that the only option would be to make outright gifts, completed before the date on which the wealth tax is assessed, to individuals other than minor children. The recipient's assets would then have to be within the 0% band in order for there to be an overall saving. Of course, other taxes – such as capital gains tax - could be a barrier to making such gifts.

The report suggests that any announcement of a wealth tax should be made without notice to reduce the opportunity for taxpayers to avoid it.

One conclusion is that, if taxpayers are concerned that the recommendations of the report could be implemented, they may wish to accelerate their estate succession plans.

Clearly outright gifts do not provide any asset protection. Taxpayers may be concerned about making gifts directly to adult children and using structures other than trusts, such as family investment companies, might be considered. As noted above, other taxes would need to be carefully considered prior to making any gifts.

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Our team at Meridian Private Client LLP comprising an experienced combination of 27 lawyers and tax advisors are uniquely placed to provide high-level tax and estate planning advice.

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