

## **The Office for Tax Simplification (OTS) has recently published its long-awaited recommendations to the Government for amendments to the current rules concerning Inheritance Tax (IHT).**

Although the report focuses on IHT, a taxation regime which is notoriously complex, the report also considers the interaction of Capital Gains Tax (CGT) with IHT.

Currently CGT is rarely paid upon death as assets receive a free uplift for tax purposes wherein the market value of an asset at the date of death is adopted as the new base value, mitigating any taxable gains. Gains which have built up during the lifetime of the deceased are wiped out and CGT is often only payable by the executors if assets in the estate are subsequently sold at a gain which arose after the date of death.

The report noted that, in some instances, no tax may be payable at all upon death owing to the free uplift for CGT purposes and also certain property being exempt from IHT (such as qualifying business property, which can be up to 100% exempt from IHT). As a result, the report suggests, individuals often avoid passing on assets to their children during their lifetime because of the tax reliefs available to their estate when they die.

The report recommends that the Government tackles this distortion to the decision-making process by considering taking away the free CGT uplift where a relief or exemption from IHT already applies. This way the beneficiary of the asset is treated as if they inherit it at the value at which the deceased originally acquired it during their lifetime. It is suggested that such a change would reduce the influence the current rules have on decision making when it comes to passing on assets to the next generation, particularly where businesses or farms are involved.

On the face of it this proposed change would seem likely to result in many more estates paying CGT and having to report gains to HMRC. However, in order to counter this, the report comments that the Government could consider introducing a new form of hold over relief for CGT purposes whereby any tax due upon death only needs to be paid when the beneficiary of the asset eventually disposes of it. This way beneficiaries would not need to pay an immediate tax charge upon the death of the original owner.

The Government will now consider the OTS's recommendations and issue a response.

It is not clear whether the Government will adopt the recommended changes, or a variation of them, but it could signal radical changes in how estates are taxed. What is clear however is an ever-present need for individuals to seek specialist estate planning advice during their lifetime, against the backdrop of a changeable tax landscape.

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