HM Revenue & Customs

Inheritance tax: simplifying charges on trusts and new rules to target avoidance through the use of multiple trusts

Who is likely to be affected?

Individuals settling property into relevant property trusts, trustees and their advisers.

General description of the measure

The measure will simplify the calculation of trust charges by removing the need to include non-relevant property in the calculation. It also introduces new rules about adding property to more than one relevant property trust on the same day to protect inheritance tax revenues from the use of multiple trusts. The measure also includes changes to the relevant property trust legislation to provide more certainty and to ease the effect of the legislation.

Policy objective

This measure will reform IHT for relevant property trusts and make the tax system fairer by removing the advantage under the current rules that enables individuals to create multiple trusts and avoid IHT through the use of multiple nil rate bands.

Background to the measure

Budget 2014 announced that the government would consult on revised proposals for simplifying the calculation of IHT trust charges and dividing the nil rate band for trusts created by the same settlor. A consultation document was published in June 2014 and the consultation closed on 29 August 2014. Following the consultation the government decided not to proceed with the division of the nil rate band. Legislation on the new rules for adding property to more than one relevant property trust on the same day was published at Autumn Statement 2014.

The draft legislation published at Autumn Statement has since been revised in the light of the consultation responses. Details of the changes made are contained within the detailed proposal and proposed revision sections of this document.

This Tax Information and Impact Note (TIIN) updates and replaces the TIIN published on 10 December 2014.

Detailed proposal

Operative date

The part of the measure relating to same day additions will apply to all charges arising on or after the date of Royal Assent in respect of relevant property trusts created on or after the publication of draft legislation on 10 December 2014. To prevent forestalling, it will also apply to relevant property trusts created before 10 December 2014 where there are additions made on or after 10 December 2014 to more than one relevant property trust on the same day. The new rules which ignore non relevant property in the calculation of the rate of charge on a 10 year anniversary will apply to all charges arising on or after the date of Royal Assent regardless of when the trust was created.

The new rule about same day additions to trusts created before 10 December 2014 will not apply to a will executed before 10 December 2014 but this exclusion will be limited to deaths before 6 April 2017. This will prevent unwanted tax consequences arising where minor or unrelated changes to the will are made in the excluded period.

With regard to the changes being made to other areas of the relevant property trust legislation, the amendments will apply to charges arising under section 79 (IHTA) on or after the date that Finance Bill 2015 receives Royal Assent and after the date of Royal Assent for charges arising under s.80 (IHTA). The amendment relating to appointments for the benefit of the deceased's surviving partner (section 144 of the Inheritance Tax Act 1984 (IHTA)) will apply to all deaths on or after 10 December 2014.

Current law

The current law is contained in sections 62 and 66 to 69, section 71F, section 79, 80 and 144 of IHTA 1984.

Proposed revisions

<u>Simplification of trust charges</u>

Legislation will be introduced in Summer Finance Bill 2015 to remove the requirement to include non-relevant property in the calculation of the rate of tax under section 66 (the ten year anniversary charge) and sections 68 and 69 (exit charges) for rate where appropriate for both the section 66 ten year and section 68 and section 69 exit charges.

<u>Introduction of the new rules to target IHT avoidance</u>

New section 62A introduces a rule to ensure that where property is added to two or more relevant property settlements on the same day and after the commencement of those settlements, the value added to the settlement together with the value of property settled at the date of commencement (that is not already in a related settlement) will be brought into account in calculating the rate of tax for the purposes of ten year charges under section 66, for exit charges before the first ten-year anniversary under section 68 and for exit charges between anniversaries under section 69.

<u>Claims for conditional exemption</u>

Section 79 is amended so that the requirement that a claim must be made and the property designated before the ten year charge is removed and will instead allow trustees to make a claim for exemption within two years of the ten year charge arising.

<u>Settlements created by individuals before March 2006 giving themselves an interest in possession or to their spouse/widow/civil partner/surviving civil partner.</u>

Section 80 is amended so that "a qualifying interest in possession" is substituted for "an interest in possession" in each place that it appears. This will mean that where one party to a couple succeeds to a life interest to which their spouse or civil partner was previously entitled during the latter's lifetime and that interest is not a transitional serial interest section

80 will apply at that time (because neither spouse would then have a qualifying interest in possession) with the result that the settled property would be treated as being comprised in a settlement and therefore subject to the relevant property charges.

Appointments for the benefit of the deceased’s surviving partner

Section 144 is amended so that the provisions of section 65(4), which prevent a charge to tax arising in the first three months after the settlement commenced, or within a ten-year anniversary, shall not apply to appointments out of property settled by Will. This will ensure that where an appointment is made within three months of the date of death in favour of the deceased’s surviving spouse or civil partner, it can be read back into the will and exemption under section 18 can be given.

Summary of impacts

Exchequer impact (£m)	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
	negligible	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer					
Economic impact	This measure is not expected to have any significant economic impacts					
Impact on individuals, households and families	Individuals will no longer have the advantage of multiple nil rate bands by creating multiple trusts but they will be able to settle property up to the value of the nil rate band into trust every seven years.					
Equalities impacts	The government has no evidence to suggest that the measure will have any adverse equalities impacts.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses and civil society organisations. Removing the requirement to include non-relevant property for the calculation of the rate for ten year anniversary and exit charges will result in a small reduction in the on-going administrative burden for trustees for under 1,000 trusts per year. It is estimated that the reduction in their administrative burdens will be negligible due to the relatively small number of trusts affected per year.					
Operational impact (£m) (HMRC or other)	There will be no significant operational impact on HMRC because the problem of IHT avoidance is addressed through the rules on how property added to trusts on the same day is treated. There will be some costs for changes to HMRC’s IT systems but these are not expected to be significant.					

Other impacts	Small and micro business assessment: the measure will not affect small business in general but it will benefit trust administrators who run small businesses due to the reduction in complexity and administration burdens. Other impacts have been considered and none have been identified.

Monitoring and evaluation

The measure will be kept under review through regular communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact Tony Zagara on 03000 585265 (email: antonio.zagara@hmrc.gsi.gov.uk).