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The IPPR wants the extra tax raised to be spent on the Child Trust Fund, a recent initiative that currently invests £250 for all children at birth and an additional £250 for those from low-income backgrounds, in accounts for children born from September 2002 onwards.

Invested over 18 years, the new funds could provide an extra £662 for children from the poorest third of families and £331 for the rest, says the IPPR.

The government response to the IPPR document was simply to say that all taxes were constantly under review, but IHT was not the focus of any special review.

Marriage gifts of up to £5000 can be given IHT-free.



EXEMPTIONS FROM IHT

- Gifts including lifetime transfers of property between spouses
- Gifts to UK charities
- Gifts with a public benefit, for example land to housing associations
- Annual exemption for transfers during donor's lifetime, £3,000 in each tax year, but can be carried forward a year
- Small gifts – £250 each tax year to any single beneficiary
- Marriage gifts – up to £5000 depending on donor's relationship to bride and groom
- Normal gifts bought with income (The Inland Revenue has a view on what is "normal")
- Heritage property - special rules apply to certain artefacts, antiques, art and manuscripts, also certain types of land and building with a heritage interest. Tests by the Inland Revenue must be met for exemption to be granted in these cases, and is usually linked to an agreement by the owner to maintain the property and to allow reasonable public access

“Decisions made without good advice can land families in a tax trap”

Farmer had to go into nursing home? Make sure that those using the farmhouse are doing so for the purpose of continuing the farm business.

Tips that will help you avoid the IHT tax trap

IHT planning must take into account not only tax, but family circumstances and pressures too. This means that sometimes, decisions made without good advice can land farming families in a tax trap. Julie Butler of Hampshire accountant Butler & Co outlines some of the common problems and solutions

IHT pitfalls

1 ACTION TAKEN:

Gifting the land but not the farmhouse

Problem caused: The farmhouse is likely to fail to get IHT relief because it is no longer part of a farming unit.

2 ACTION TAKEN:

Owners of the farmhouse, building and land (say, mother and father) lease the farm via FBT to the partnership of parents and sons with a five-year term.

Problem caused: IHT relief will not be achieved on the farming assets because vacant possession cannot be achieved by the owners within one year.

3 ACTION TAKEN:

Farm assets are owned outside the farming partnership but used in the partnership's farming business.

Problem caused: Only 50% IHT relief is available unless a current FBT is in place that allows vacant possession within one year, then 100% relief applies.

4 ACTION TAKEN:

The farm has changed from a trading farm business to one where the most income comes from let assets and investment.

Problem caused: IHT relief could not be claimed because the farm is wholly or mainly holding investments.

5 ACTION TAKEN:

Farmer moves to nursing home and leaves farmhouse.

Problem caused: IHT relief could be lost on the farmhouse unless arrangements are put in place to show that those continuing to occupy or use the farmhouse are doing so on the wishes or instructions of the owner and for the purposes of continuing the farming business. A brief legal document should be used to show this authorisation because it will help to fulfil the Revenue's occupation test.

6 ACTION TAKEN:

Non-compliant contract farming arrangements.

Problem caused: Inland Revenue could attack the right to IHT reliefs unless contract farming





arrangements are such that the owner is taking a risk in the venture and that the terms of the agreement are being complied with.

Family circumstances and pressures need to be taken into account too.

7 ACTION TAKEN:

Large house, small holding of land. **Problem caused:** Inland Revenue attacks large houses such as in the Antrobus case in order to deny IHT relief on the farmhouse. The main test for this is that the house must be of a character appropriate to the land area, although the Revenue also uses other criteria

8 ACTION TAKEN:

Pre-owned assets (also known as POTs). **Problem caused:** Assets transferred to the next generation since 1986 but still being enjoyed (used) by the giver will have a POT asset charge from 6 April 2005. This will be calculated on the market value of the benefit and taxed in the same way as a benefit in kind, and charged as income tax. This could just be something as simple as retaining shooting rights, but a POT charge could jeopardise IHT reliefs on other assets, so it will be very important to get this right.

9 ACTION TAKEN:

Retaining a benefit in a gifted farm asset. **Problem caused:** Assets not caught by POT could be caught by gifts with reservation of benefit. If you use or continue to have enjoyment of something you have given away, that asset will be treated as part of your estate unless you pay a fair market rent or charge for the use or enjoyment of that asset.

“It will be very important to get this right”
- JULIE BUTLER

Good planning points

1 RECOMMENDED ACTION:

Ensure farm assets are all included in the balance sheet instead of being owned “privately”. **Result:** Helps protect IHT relief on farm assets.

2 RECOMMENDED ACTION:

Ensure all letting income and assets are included in the balance sheet and profit and loss account. **Result:** Helps protect the IHT relief on the let cottages.

3 RECOMMENDED ACTION:

Ensure there is an up-to-date will with planning. **Result:** Helps overall IHT planning, eg making use of the nil rate band, and the fact that transfers between surviving spouses are tax free.

4 RECOMMENDED ACTION:

Use deed of variation to protect faults in the will. **Result:** A variation can be made to a will within two years of death provided all beneficiaries agree to the change. This can improve the tax efficiency of up-to-date changes.

5 RECOMMENDED ACTION:

Use high values on death if subsequent disposal is anticipated, especially where relief is available - for example, a high transfer value on death will reduce the size of the capital gain if that asset is subsequently sold. **Result:** 100% IHT reliefs mean

BUSINESS PROPERTY RELIEF

- Available at either 100% or 50% depending on the asset and the conditions of transfer
- Business must qualify – it should be a trading concern, not simply an investment vehicle
- Asset must belong to the business and be used in it
- Must have been owned for two years
- Unincorporated businesses, unquoted and AIM shares qualify for 100% relief
- 50% relief for land, buildings and certain other assets owned by an individual but used in a farming business (partnership or company)

future capital gains can be sheltered with high values.

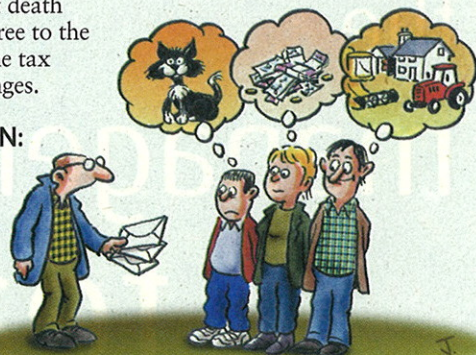
6 RECOMMENDED ACTION:

Use replacement property rules to maximise IHT relief. **Result:** If farm assets are sold, the resulting cash does not attract IHT relief but replacement property does, so it is usually better to reinvest than have the cash hanging around after a sale.

7 RECOMMENDED ACTION:

Consider putting potential development land in trust. **Result:** “Hope value” development land should achieve 100% IHT relief. Move potential development land into a trust to achieve the uplift in value to the next generation and reduce any future CGT charge. However, any cash already paid or monies owed by a developer could be subject to a nasty IHT bill. ■

■ The second edition of Julie Butler’s book, *Tax Planning for Farm and Land Diversification*, has recently been published by Tottel Publishing, 01444-416119 or info@tottelpublishing.com



Assets transferred to the next generation but still enjoyed may incur a POT charge.



Julie Butler also publishes a farm and diversification tax guide