points of practice

Binding Contract for Sale

No business property relief for inheritance tax is given if the property is subject to a binding contract for sale.

This will be a particular consideration if buy-out arrangements are in place. See Statement of Practice SP 12/80 Business property relief from IHT: 'Buy and Sell' agreements for circumstances in which *IHTA 1984, s113* might apply.

The Revenue view is that mere options to buy and sell (distinguish options from obligations) will not trigger *IHTA 1984, s113*. However, there have been recent signs that the issue may not be completely clear-cut for capital gains tax (as distinct from inheritance tax) purposes: it may be prudent to have successive (and different) exercise periods for the put and call options respectively.

The other area of concern is partnerships and, in companies, shareholder agreements.

The Revenue consider that there is a binding contract for sale where partners or shareholder directors enter into an agreement under which, in the event of death or retirement of one of them, his personal representatives are obliged to sell and the survivors are obliged to purchase the interest of the deceased in the partnership or company.

It is important to review partnership agreements and to structure shareholder agreements in the light of this provison. Note the need to structure life assurance arrangements tax efficiently within the context of shareholder agreements.

JULIE M BUTLER FCA

Professional subscriptions

When preparing tax returns for employees and directors, practitioners should remember to consider the professional bodies to which their clients belong. Many organisations are approved by the Inland Revenue for the purposes of ICTA, section 201 and the full list is available from tax offices for £5. (Unfortunately, that list was last published in 1999 and there is no way (without making a speculative claim) to ascertain whether or not a body has been added to or deleted from the list.) Many of the obvious bodies are on the list – for example the Institutes of Chartered Accountants, the Law Society and the Chartered Institute of Taxation. However, also included are less obvious candidates such as the Institute of Directors and the Royal Society of Arts.

KEITH M GORDON MA (Oxon) ACA ATII

Tax and the Euro

Any tax or national insurance liability may be paid in euros by CHAPS, BACS, cheque (through a euro account) or cash (euro notes only). There are two Euro payment helplines – Cumbernauld (01236 783500) and Shipley (01274 539630). No charges will be passed on to the taxpayer, unless payment is drawn on an overseas bank account. However, the payment will be converted at the current rate of exchange, and the Revenue will not meet the risk of any currency fluctuation. If an overpayment results, repayment will be made in sterling. UK income tax returns must be completed in sterling. However, a UK company may prepare most of its tax computation in euros, but it would have to convert the final figures into sterling to complete its tax return. The exception is the capital gains computation which has to be calculated in sterling. ■

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for agricultural property relief and is the owner's home. It may be used to save inheritance tax (IHT) by removing the value of an individual's home from their taxable estate for IHT purposes, whilst enabling the individual to reside in the property, rent free, without falling foul of the reservation of benefit rules.

In summary, such a scheme can:

- ◆ remove the value of family home from IHT estate;
- ◆ the retired farmer can continue living in property without the need to pay rent;
- ◆ he can retain control of the property;
- ◆ it can be achieved without attracting IHT, CGT and Stamp Duty; and
- ◆ there is an immediate IHT saving.

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Personal pension plans

Another week passes, and two more group personal pension plan (PPP) employee members are discovered. I wonder how many well-paid employees are members of Group PPP schemes, unaware of the 40% tax relief available for all such UK employees!

These employees seem to think they are in a Retirement Benefits Scheme, covered by *ICTA 1988, ss590-612*, instead of a personal pension plan covered by *ICTA 1988, ss630-655*. Are senior directors and payroll staff ignorant of this? It seems that some are. The pension salesman may highlight the extra tax relief available at the point of purchase, but these words are ignored by many taxpayers.

Solution: Challenge all new clients who say that their pension scheme tax relief is covered via the company's payroll; ask to see papers relating to their own pension contributions. This becomes particularly important, as defined-benefit retirement benefit schemes are gradually replaced by stakeholder personal pension schemes, in order to save the employer's cash.

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