

the Budget changes, a lifetime settlement is chargeable to inheritance tax, a report should be made on Form IHT 100.

As regards transfers on death, the newsletter re-emphasises the importance of disclosing the existence of personal and household effects on Forms IHT 200 (including the contents of holiday homes and even garden sheds), even if the personal representatives consider such effects are valueless. It also announces a change of practice: henceforth HMRC Capital Taxes will not release the received Form D18 (in Scotland, the Inventory) – the certificate which allows the personal representatives to obtain probate or confirmation – until **all** the information required by the Form IHT 200 has been provided, together with **all** the required 'D' pages and attachments.

Finally the Newsletter advises us that it is no longer possible to pay inheritance tax 'over the counter' and receive a receipted Form D18 in return. Following the closure of the Stamp Office counter at Bush House, there are no plans to offer this facility elsewhere.

Deeds of Variation

HMRC Capital Taxes have also published a revised (12/05) edition of Form IOV2 *Instrument of Variation Checklist*. This asks a series of questions to determine whether a Deed of Variation will be effective for Inheritance Tax and Capital Gains Tax purposes. HMRC recommend that the form be completed **before** a proposed variation is signed, to ensure that it will take effect as intended. The form is downloadable from www.hmrc.gov.uk/cto/iov.pdf.

Value Added Tax

The May 2006 edition of *Working Together* states that HMRC will query an application to register for VAT where the applicant has not completed the section of Form VAT1 which asks for details of his business bank or building society account. Where the applicant has not yet opened such an account, it will avoid delaying his registration if he includes a letter explaining the circumstances and also any supporting documentation (such as a photocopy of an account opening form submitted to a bank).

HMRC have also published:

Update 3 (May 2006) to Notice 700 *The VAT Guide*. This amends paragraph 27.4.3 (Criminal proceedings).

A new (May 2006) edition of Notice 700/64 *Motoring Expenses*. This includes the new rules for reclaiming VAT on petrol bought by employees, where the cost is reimbursed by their employers.

A new (May 2006) edition of Notice 701/21A *Investment Gold Coins*. This lists the qualifying gold coins for 2006.

A new (May 2006) edition of Notice 702 *Imports*. This clarifies the rules for valuing imported goods for VAT purposes, reflects the further enlargement of the European Union and omits material now contained in Notice 702/9 *Imports: Customs Procedures with Economic Impact, End Use Relief and Free Zones*.

Copies of all VAT Notices can be downloaded from www.hmrc.gov.uk, but unfortunately the URLs are too long to quote.

Compulsory Purchase

But is the tax advantage also compulsory?

Many landowners have been heartened by the idea that the money they receive from a compulsory purchase by a Local Authority is 'tax free' (section 243, *Taxation of Chargeable Gains Act 1992*). This means that the proceeds are deducted from the overall base cost for Capital Gains Tax (CGT) purposes, so that there is no charge at the compulsory purchase date. Death is not a chargeable event for CGT and so, unless a sale is anticipated, deferral seems as good as exemption, but is it always the best route to take? The claiming of relief is by elections, so the landowner has a choice.

Firstly there are conditions that must be met. The consideration must be small, 5% or less in comparison to the market value of the whole asset at the time of disposal (HMRC *Capital Gains Manual*, paragraphs CG 57836 and CG 72201). In addition the transferor must not have taken steps to advertise the land for sale, or have made known his willingness to dispose of the land to the Authority.

Then the choice of other tax reliefs must be looked at if a sale is planned, for example annual exemptions of £8,800 for each owner and Business Asset Taper Relief (BATR), which reduces the effective rate of tax to only 10%.

For example if a married couple received £40,000 for the compulsory purchase of a piece of land that was valued at £10,000 at March 1982, the calculation of CGT payable (assuming the couple are both 40% taxpayers) would be as follows:

	£	£
Sale proceeds		40,000
Less: March 1982 value	10,000	
Indexation (fraction 1.047)	<u>10,470</u>	
	20,470	
		19,530
Less: Annual exemptions (2 @ £8,800)	17,600	
		<u>1,930</u>
Tax at 10% (after 75% BATR)		<u>193.00</u>

This small tax payment would protect the base cost, with only £10,000 being deducted as opposed to £40,000 being used if section 243 relief is claimed.

Consideration should also be given to any capital losses carried forward. This gives a clear example of where tax planning must be tailor-made to fit the client **and** the client must become involved in the decision-making process.

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