# INHERITANCE TAX SIMPLIFICATION AND LIFETIME GIFTS

## COMMENTARY BY EMILY CAMPBELL, 9 AUGUST 2019

A survey of the history of taxation shows a range of taxes aimed at gifts and inheritance, such as probate duty (introduced in 1694) and estate duty (introduced in 1884). Capital transfer tax was introduced as a generalised tax on gifts so as to replace estate duty by the Finance Act 1975 and was subsequently consolidated into the Capital Transfer Tax Act 1984.

It was not until the Finance Act 1986 – some seven years after the election of a Conservative government – that inheritance tax was created by way of the amendment to and the renaming of the 1984 Act, which thenceforth was known as the Inheritance Tax Act 1984. The Finance Act 1986 therefore introduced the regime of potentially exempt transfers (with its "seven-year" rule) and the anti-avoidance provisions known as the gift with reservation or GWR rules. The rates of the original inheritance tax were 0% or 30%-60%, depending on value. The latter was replaced with a flat rate of 40% by the Finance Act 1988.

The Office of Tax Simplification's Inheritance Tax review, second report ("Simplifying the design of Inheritance Tax") contains three Chapters on lifetime gifts.

Chapter 1 considers the various exemptions applicable to lifetime gifts and begins with the comment that inheritance tax was designed with a view to encourage lifetime giving. One wonders whether that policy objective remains in 2019, against the backdrop of government debt as well as billions of pounds worth of housing assets in the hands of a large number of individuals who are (as a result of property price inflation) potentially within the inheritance tax net.

The report's summary of exemptions and thresholds available for lifetime giving mention the nil rate band, the small gifts' exemption (£250 per recipient per year), the annual exemption (£3,000 per year plus one year carry forward), gifts in consideration of marriage, normal expenditure out of income, gifts to political parties and charities, gifts for family maintenance, gifts relating to the assets of foreign armed forces, gifts for national purposes, gifts of land to housing association and the spouse exemption.

The report comments that the rules for lifetime gifts are complex, and recommends that the government should, as a package:-

1) Replace the annual gift exemption and the exemption for gifts in consideration of marriage or civil partnership with an overall personal gifts allowance;
2) Consider the level of this new consolidated allowance and reconsider (and possibly raise) the level of the small gifts exemption; and
3) Reform the exemption for normal expenditure out of income or replace it with a higher personal gift allowance.

Chapter 2 considers time limits and taper relief. The report recommends reducing the 7-year period to 5 years and abolishing taper relief (which at present operates in the case of survival between 3 and 7 years). It also recommends removing the need to take into account gifts made outside of 7 (or 5) years – under the so-called "14-year" rule, because of the way that the nil rate band is taken into account on lifetime gifts, transfers within 14 years of death may currently be relevant.

Chapter 3 considers lifetime gifts, the burden of tax and the nil rate band. As this is a topic worthy of separate treatment, I will consider it in my next piece. Watch this space!

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