

## Death and Taxes – examining the impact of the pre-budget report

---

Burying your head in the sand and simply hoping that the issues raised by the Pre-Budget Report and the minefield that is the cost of care will never affect you leaves too much to chance. Although we cannot control what decisions are made in relation to the tax regime and paying for the cost of care, Sarah Cash and Eleanor Dix of Hugh James Solicitors show we can all take steps to minimise its impact on us and our families.

### Taxes – How will the Pre-Budget Report affect you?

Last week's Pre-Budget Report was the product of a Government in the midst of the longest recession since records began in 1955, and anticipating a general election. As such, although the impact of the measures introduced may not immediately appear to be drastic, the issues are likely to be far reaching.

#### Inheritance Tax (IHT)

The Government	Conservatives	Liberal Democrats
Introduced a transferable inheritance tax free amount for married couples and those in civil partnerships in their Pre-Budget Report of October 2007	Propose taking the family home out of the equation for inheritance tax by increasing the tax free threshold to £1 million, but make no promises as to when this might be a realistic proposition	Suggest a "mansion tax", an annual levy to be charged upon properties worth over £2 million

IHT is payable at a rate of 40% on the value of your estate that exceeds the IHT threshold, unless certain reliefs apply. The IHT threshold is unchanged by the Pre-Budget Report, remaining at £325,000. Married couples and those in civil partnerships retain the ability to "transfer" the tax-free allowance between them. One possible reason for this freeze on the threshold is the recent drastic reduction (by 25% this year) in IHT receipts, which might be explained by the introduction of the transferable tax free allowance in 2007. However, even bearing in mind slow investment growth and falling house prices, a large section of the population still own a family home worth more than the single tax-free allowance, making IHT a concern for more than just the wealthy minority.

#### Capital Gains Tax (CGT)

CGT is payable on any gain you make on the sale of certain assets (such as a second home). The rate of CGT has been frozen at a flat rate of 18%. Although the amount raised by CGT is far less than income tax, VAT or corporation tax receipts, CGT still raised £5.3bn in 2007/2008 and so is still a concern for many individuals.

## Tax on trusts

Following the 2006 Budget, the majority of trusts now fall within what is known as the Relevant Property Charging Regime for tax purposes. This means that there could be a charge to IHT not only when the trust is set up, but also on ten yearly anniversaries and when assets leave the trust.

Income tax will be payable at the top rate of 40%, increasing to 50% as from April 2010.

It is important for you to obtain suitable advice before setting up a trust, as the tax implications can be wide reaching.

## **Other changes which may affect you**

Recessionary measures, to include the VAT rate of 15% and stamp duty land tax (SDLT) "holiday" for properties worth up to £175,000 have been reversed and will not apply from 1<sup>st</sup> January 2010, hitting consumers and first time buyers. It has been rumoured that a further increase in VAT to 20% may be in the pipeline, although the Chancellor has made no such announcement. The Conservatives propose to abolish SDLT for first time buyers up to £250,000.

**Hugh James Solicitors are able to provide you with tax planning advice and Independent Financial Advice if you are concerned either about CGT on the disposal of an asset, or saddling your nearest and dearest with a large IHT bill on your death.**

- Make a will

A recent survey by Consumer Group 'Which?' found that 56% of those surveyed did not have a will in place. Advice should be taken on the way IHT is charged on the estates of married couples and civil partners so as to make your will as IHT efficient as possible.

- Obtain financial advice

Your liability to tax can be reduced with some easy, straightforward planning. An independent financial adviser may be able to help you reduce your tax liability but retain control over your assets. Specialist advice tailored to your own circumstances needs to be taken.

- Do you need all your assets?

Can you afford to give away some of your assets?

If you survive for seven years after making a gift to someone, the gift is generally exempt from IHT, no matter what the value.

However, there are situations where rather than leaving money to someone outright, you may wish to use a trust arrangement. This means that another person (a trustee) would look after the money for them. Trust arrangements may be useful in a variety of circumstances, for example, where there are vulnerable beneficiaries, where there are concerns about potential third party claims against assets, or for tax planning purposes

## **Cost of care**

The cost of residential care is now £35,000 per annum on average, and it is estimated that around 45,000 people are forced to sell their homes each year to fund care.

The Department of Health published its long-awaited Green Paper on the future funding of adult social care in England on the 14<sup>th</sup> July 2009, with the Welsh Assembly Government publishing their proposals on 14<sup>th</sup> November 2009. The options proposed are:

- a partnership between the state and individuals, with the state paying a larger proportion of care costs for the less well off
- an insurance scheme
- a compulsory scheme for all

The Conservative party is offering a voluntary one-off fee of £8,000 at age 65 to waive residential fees for life. The scheme would be operated by existing insurers using branded products, with the government setting out basic rules and safeguards to ensure it remained financially viable over the long term.

Until any new proposals are implemented, the existing rules will apply, under which there are three main ways in which care can be funded:

- NHS Continuing Healthcare where an individual has a physical or mental health need
- From an individual's income and savings
- Local Authority funding

### **Hugh James is able to provide sympathetic and practical advice upon the sensitive issue of paying for care.**

When long-term care is merely a possibility, we can assist with the following:

- Advising upon the protection of assets, including the viability of gifting property to the next generation or setting up trust arrangements.
- Preparing a Power of Attorney, enabling you to nominate someone who you trust to make certain decisions on your behalf. Without a Power of Attorney, if you become unable to manage your own affairs, your family will need to make an expensive and time consuming application to the Court in order to make decisions on your behalf.
- Comprehensively reviewing existing Wills or drafting new Wills to ensure that assets pass to the beneficiaries that are ultimately intended to benefit.
- Reviewing your investments. With the changing financial market it has never been more important to take financial advice on the placement of your funds to ensure that you are in the best position to ride out these turbulent times.

We are also experienced in providing the specialist advice required after care has become a necessity, to include:

- Providing practical advice upon the often impenetrable rules concerning the assets that may be taken into account in a financial assessment.
- Assisting with registration of powers of attorney and applications to the Court of Protection where an individual has lost capacity.

**For further information contact**

**Sarah Cash**

Associate

E [sarah.cash@hughjames.com](mailto:sarah.cash@hughjames.com)

T 029 2022 4871

or

**Eleanor Dix**

Solicitor

E [eleanor.dix@hughjames.com](mailto:eleanor.dix@hughjames.com)

T 029 2022 4871