

# Filling in the gaps

*Harriet Atkinson looks at the merits or otherwise of the new IHT400 and its supplemental forms*



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**T**he new IHT400 account and accompanying schedules were introduced on 17 November 2008. Taking effect on 9 June 2009, they replaced IHT200 for reporting the transfer of an estate on death for inheritance tax (for deaths on or after 18 March 1986) where a full account is required. The new forms are the result of a rebranding exercise by HMRC, but it is clear that they are also designed to assist personal applicants by putting guidance notes, examples and further information about the IHT400 form and schedules in one booklet. Practitioners will, by now, be gaining familiarity with the new forms. However, it is useful to look at how they have changed and what new information is required, and to examine some of the drawbacks of the new version.

## Removed forms

The supplementary forms numbered D1-D21 have been replaced with schedules numbered IHT401 to IHT423, and several forms have been deleted. Form D1 requesting information about the deceased's will has been discontinued, and questions about the deceased's will now appear in the body of IHT400 on pages 3 and 4. The D17 for general additional information has been replaced with a new schedule, IHT406, for providing details about the deceased's bank and building society accounts and National Savings & Investments products. Any additional information can be provided on pages 15 and 16 of IHT400. Form 3a for gifts made as part of normal expenditure out of income has been abandoned, and the information is now on page 6 of schedule IHT403, for gifts and other transfers of value.

## New schedules

IHT400 has new schedules for information on bank and building society accounts and National Savings & Investments products (IHT406), unlisted shares and controlling holdings (which attract business property relief (IHT412)) and assets eligible for conditional exemption for heritage property (IHT420).

## Major changes

The format of IHT400 is broadly the same as IHT200, in that it features a main form with supplementary forms where additional information and valuations are required. There are, however, several significant modifications, as follows.

### Inheritance tax account IHT400

- IHT400 and supplementary forms can now be completed online, and copies can be saved.
- The new forms are black and white and not colour, to improve the quality of the home-printed versions.
- A major difference from the IHT200 forms is that notes, examples and further explanations appear on the face of IHT400. HMRC found that applicants were not reading the separate guidance notes, so were not supplying the necessary information in every case. The inclusion of guidance notes on the forms themselves contributes to the increase in length of the main form from eight pages to sixteen. The main form has been changed to include a return address for HMRC and a checklist of what the personal representatives must send to HMRC, which was previously

included as a separate document. There are additional guidance notes for IHT400 and the supplementary forms; this is contained in one document (running to 82 pages).

- There are additional questions about the deceased in the main IHT400. HMRC asks for the date of

and the personal representatives are required to give information about the deceased's real and personal property mentioned in the will but not owned at the date of death. This is a new feature of the main inheritance tax form. The personal representatives are asked, at box 24 of IHT400, whether the

give details of what happened to the property and provide dates. In box 26 of IHT400 the personal representatives must give details of any items referred to in the will but no longer owned at the deceased's death, and provide information about what has happened to those items. These questions put the onus on the personal representatives to make the fullest enquiries into the deceased's personal affairs.

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the deceased's marriage (if relevant), whether the deceased's main residence was owned outright, part-owned or whether they simply had a right to live there. Where a power of attorney has been granted and used during the deceased's lifetime, the form expressly requests a copy.

- A copy of the will is now requested in all cases at box 24 of IHT400,

deceased's residence is the same as that referred to in the will and, if not, what has happened to that residence. Where the residence mentioned in the will has been sold and all the sale proceeds used to buy another main residence (and this happened more than once) it is sufficient to say that the residence was replaced by the current property. In other cases the personal representatives must

- The way instalment option and non-instalment-option property is returned is different in IHT400. Pages 6-10 of IHT400 record the value of the deceased's estate in two columns: one for non-instalment option property (column A) and one for instalment option property (column B). The deceased's assets are listed in a more logical order, with the most common assets first (for example bank accounts, cash, or the deceased's residence). It is clearly indicated what tax can be paid by instalments, with only one box per asset (except for traded

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unlisted shares and unlisted shares, which should be put in either box 65 or 66 if they qualify as instalment option property). HMRC has included separate boxes for bank and building society accounts and National Savings & Investments products, in a change from the old IHT200, although there is still no separate box or column for accrued interest at the date of death, which would have been useful for income tax purposes.

#### Tax calculation

The way inheritance tax is calculated has changed. In a simple case (where no interest is payable, no tax is to be paid by instalments, lifetime gifts are below the nil-rate band, and there is no double taxation relief on foreign assets or successive charges relief), personal representatives may fill in a basic inheritance tax calculation at boxes 111-117. In all other circumstances the inheritance tax calculation is made on form IHT400 Calculation and, as most estates include instalment option property, there will be relatively few applicants who can use the simple tax calculation. Where interest is payable HMRC provides an interest calculator (available at [www.hmrc.gov.uk/tools/inheritancetax/interest-rate-calculator.htm](http://www.hmrc.gov.uk/tools/inheritancetax/interest-rate-calculator.htm)). The way the tax calculation is set out on the IHT400 Calculation form is more logical than in its predecessor, although this has come at the cost of the calculation worksheet doubling in length (largely due to the inclusion of notes and examples). The taxation of lifetime transfers is significantly clearer than on the IHT200 worksheet, and there is a new option to include instalment option property which has been sold and on which the tax has fallen due. The new IHT400 Calculation falls down, however, due to the omission of a box for gifts with a reservation of benefit. HMRC advises that these gifts should be added to the non-instalment section of the form, but this produces an incorrect tax calculation.

#### Domicile

The supplementary page dealing with domicile is IHT401, and this new-look form has been structured so the personal representatives answer particular questions about the deceased's domicile, rather than

simply providing a general domicile statement. For a female deceased who was married before 1 January 1974 the personal representatives will need to provide information about her husband's birth, nationality, and education and employment history, as she will take her husband's domicile. Where the deceased has been married more than once by 1 January 1974 information about each husband is required. In practice it may be difficult to provide detailed information about this point.

#### Transfer of unused nil-rate band

This is claimed on form IHT402.

The form requires details about the deceased. Personal representatives must supply a copy of the grant of

representation for the estate of the first spouse or civil partner (or death certificate if no grant was taken out), a copy of their will (if applicable) and a copy of any instrument of variation. There is a declaration in IHT400 for the personal representatives to confirm that the deceased and their spouse were married or in a civil partnership on the date of death of the spouse or civil partner (and that there has been no change to the people who inherited the estate of the spouse or civil partner). The form also provides extensive guidance notes on calculating the unused portion of the previous spouse's or civil partner's nil-rate band, which will be of particular use to personal applicants.

#### Lifetime transfers

HMRC reviewed the way chargeable lifetime transfers are included in the tax calculation, and form IHT403 has been designed to show that lifetime transfers use up the nil-rate band first. Form IHT403 asks more detailed questions about pre-owned assets and requests explicit information about the history of the joint assets, which is designed to elicit information about beneficial entitlement and gifts with reservation. Form IHT403 also includes information about gifts made as part of normal expenditure out of income. The

form has been updated to include new categories of income (investments, rents and annuities) and enables applications to demonstrate clearly that the gifts came out of surplus income, in a change from the old form D3a.

#### Joint assets

HMRC found that the supplementary form dealing with joint assets was often incorrectly or incompletely submitted. As such, HMRC would often have to raise enquiries into the deceased's joint assets. Now it has reworked IHT404, dealing with jointly owned assets, in an attempt to combat this problem. IHT404 does not distinguish between the different types of ownership (in a change from the old form D4), in a bid to help personal

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applicants who previously found the differentiation (which doesn't actually matter for the purposes of the IHT calculation) confusing. Assets passing by survivorship are deducted from the deceased's gross estate on the probate summary (form IHT421). The new form IHT404 also gives express guidance about joint assets for which the deceased provided all the purchase money, so their share of the asset will stand at 100% in the account, to fall in line with recent case law. The form also makes the point that where the deceased did provide all the purchase money for the joint assets but the other joint owner has withdrawn funds for their own use this will be treated as the deceased having made gifts, and form IHT403 will need to be completed too.

#### Household and personal goods

HMRC received feedback that the questions in D10 were unnecessarily detailed and upsetting for personal applicants, so it has simplified form IHT407, dealing with household and personal goods, and reduced the information required for low-value chattels. The only items which need to be listed individually are:

- items of jewellery valued at over £500;

- vehicles, boats and aircraft; and
- antiques, works of art and collections.

All other household and personal goods valued under £500 each should be totalled and included at box 4. IHT408 replaces the old form D10a for household and personal items which are donated to charity. The form, like the old D10a, operates as an instrument of variation to enable the personal representatives to claim charity exemption for items donated to charity.

#### Stocks and shares

HMRC has produced two forms dealing with stocks and shares to separate investments which are

any planning consents on the property which have not been implemented so that any 'hope' value can be included in the valuation of the land. The applicant is also required to provide detailed information about the day-to-day farming activities, extending to information about the crops grown and types of livestock grazed, including the number of animals and the acreage used by each type of animal or crop. IHT414 also requires details about the extent of the deceased's involvement in the farming activities throughout the two years before the date of transfer, including details of the actual work undertaken and how many hours per week the deceased spent on these tasks. In some circumstances, particularly in the case of a sole farmer, it may be difficult to complete this section.

instalments) in the first section. Any other assets in the trust follow in the second section. IHT418 invites the personal representatives to answer specific questions on reversionary interests and interests in expectancy, and detailed guidance notes provide further information and examples to help personal applicants understand these concepts.

#### Heritage assets

Schedule IHT420 has been included at the request of HMRC's heritage department and covers heritage assets, conditional exemption and offers in lieu of tax. The form asks the personal representatives to list the assets on which conditional exemption is being claimed, and to give values at the date of death. Another section asks the personal representatives to give details about assets previously benefiting from conditional exemption, including the date on which the deceased received the asset and the earlier HMRC reference numbers. The form finishes with a section inviting the personal representatives to give details of assets offered in lieu of tax.

#### Conclusion for trusts and estates practitioners

Since the introduction of the new IHT400 suite of inheritance tax forms, professionals have been swift to criticise the length and detail required, as well as the omissions in the forms. The new forms are aimed at reducing the need for HMRC to ask for more information, thereby reducing costs and workloads for practitioners and HMRC. There is no doubt that the forms are more user-friendly and will be more accessible for the layman, at the same time as producing a fuller account for HMRC. The inclusion of notes, examples and further explanations on the face of IHT400 and the schedules is a useful feature and reduces cross-referring between the guidance notes and the forms themselves. Some of the more complicated forms, for example IHT414 and IHT420, will still, in most cases, require the applicant to refer to the guidance notes, but the bulk of the more commonly used ones will not. Certainly life will be made a little easier for the unrepresented taxpayer. ■

## *The form dealing with settled property has been changed so that more information is requested about the trust from which the deceased benefited.*

potentially eligible for business property relief from those which are not. Form IHT411 deals with listed stocks and shares (including UK government and municipal securities) and the new IHT412 deals with unlisted, traded unlisted and controlling holdings of stocks and shares. Stocks and shares which are eligible for business property relief should be included on form IHT412 and not on IHT413 (business and partnerships interests and assets).

#### Agricultural property relief

Form IHT414 deals with agricultural property relief (APR) and is another area where HMRC have included more detailed, direct questions to determine whether an acceptable claim can be made. Applicants are encouraged to read the supplementary notes on IHT414 before completing the form and in the notes are advised to submit a plan of the farmland in question. While the old D13 relied on the applicant to supply general information to support an APR claim, the new IHT414 asks specific questions designed to elicit the information HMRC needs to consider whether an acceptable claim can be made. The form asks whether there are

Questions 5 and 6 are designed to ascertain whether the farming activity will be eligible for APR or whether the farmer was a 'hobby' or 'lifestyle' farmer. Finally, IHT414 asks questions about the occupation of the farmhouse, cottages and farm buildings to enable HMRC to determine whether the farmhouse or cottage were occupied for the purposes of agriculture and whether a residence or building is of a 'character appropriate to the property' for the purposes of being eligible for the relief (s115(2) of the Inheritance Tax Act 1984).

#### Settled property

Form IHT418, dealing with settled property, has been changed so that more information is requested about the trust from which the deceased benefited (more akin to the information requested on the IHT100 forms). The personal representatives are not required to differentiate between instalment and non-instalment option assets: instead the form refers to specific assets, beginning with houses, land and buildings, businesses or interests in businesses, and controlling shareholdings (on which tax will potentially be due by