

THE NEW IHT400 AND ITS SUPPLEMENTAL FORMS

INTRODUCTION

The new IHT400 account and accompanying schedules were introduced on 17 November 2008. Taking effect on 9 June 2009 they replaced the IHT200 to report 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 HM Revenue & Customs (HMRC) but it is clear 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, 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 the 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; any additional information can be provided on pages 15 and 16 of the IHT400. Form 3a for gifts made as part of normal expenditure out of income has been abandoned and the information is now returned on page 6 of schedule IHT403 for gifts and other transfers of value.

NEW SCHEDULES

The new IHT400 has new schedules for information on bank, building society and National Savings & Investments accounts (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 the IHT400 is broadly the same as the 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

- The IHT400 and supplementary forms can now be completed online and a copy saved using Adobe Acrobat 7 standard (or similar software).
- 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 the 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 significant increase in length of the main form from eight pages to sixteen pages. 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 the IHT400 and the supplementary forms; this is contained in one document (running to some 82 pages!).
- There are additional questions about the deceased in the main IHT400. HMRC asks for the date of the deceased's marriage (if relevant), whether the deceased's main residence was owned outright, part-owned or whether he 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 the IHT400 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; a new feature of the main inheritance tax form. The personal representatives are asked, at box 24 of IHT400, whether the 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 the residence was replaced by the current property. In other cases the personal representatives must give details of what happened to the property and provide dates. In box 26 of form 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 the items. These questions put the onus on the personal representatives to make the fullest enquiries into the deceased's personal affairs.

- The way in which instalment option and non-instalment option property are returned is different in the IHT400. Pages 6-10 of the 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 (e.g. bank accounts, cash, deceased's residence) and indicating clearly what tax can be paid by instalments with only one box per asset (except in the case of traded unlisted shares and unlisted shares which should be put either box 65 or 66 if they qualify as instalment option property). HMRC have included separate boxes for bank and building society accounts and National Savings & Investments 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 income tax purposes.

TAX CALCULATION

The way in which the 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, 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 on its website at www.hmrc.gov.uk/tools/inheritancetax/interest-rate-calculator.htm. The way in which the tax calculation is set out on the IHT400 Calculation form is more logical than in its predecessor although this has come at a 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.

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. In the case of 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 tricky to provide detailed information about this.

TRANSFER OF UNUSED NIL-RATE BAND

The transfer of unused nil-rate band 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 the 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 in which 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 asks 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, 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 and have reworked IHT404 dealing with jointly owned assets in an attempt to combat this problem. The IHT404 does not distinguish between the different types of ownership (in a change from the old form D4) in a bid to help personal 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 monies 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 monies 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 also.

HOUSEHOLD AND PERSONAL GOODS

HMRC received feedback that the questions in D10 were unnecessarily detailed and upsetting for personal applicants so they have 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 (i) items of jewellery valued at over £500, (ii) vehicles, boats and aircraft, and (iii) 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 have produced two forms dealing with stocks and shares to separate investments which are potentially eligible for business property relief from those which are not. Form IHT411 which 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 a 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. Whilst 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 a claim can be made. The form asks whether there 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 prior to 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. 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, the 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 (Inheritance Tax Act 1984 s 115(2)).

SETTLED PROPERTY

Form IHT418 dealing with settled property had been changed so that more information about the trust from which the deceased benefitted is requested (more akin to the information requested on the forms IHT100). 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 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 the 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 give values at the date of death. Another section asks the personal representatives to give details about assets previously benefitting 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

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. They 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 the IHT400 and 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 the 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.

This article offers general guidance only. It reflects the law as at February 2010. The circumstances of each case vary and this article should not be relied upon in place of specific legal advice.

For further information, please contact:

[Harriet Atkinson on 020 7863 8575 or harriet.atkinson@forsters.co.uk](mailto:harriet.atkinson@forsters.co.uk)