HM Revenue & Customs

Inheritance tax: liabilities and foreign currency bank accounts

Who is likely to be affected?

Participators in arrangements which use foreign currency bank accounts to sidestep new rules restricting how liabilities are deducted from the value of an estate for inheritance tax (IHT) purposes.

General description of the measure

The measure will amend the new rules introduced in Finance Act 2013 dealing with liabilities so that foreign currency accounts in UK banks are treated in a similar way as excluded property for the purposes of restricting the deduction of a liability.

Policy objective

This measure will close a loophole that would otherwise allow the new rules to be sidestepped and a deduction for a liability to be allowed where the borrowed funds are deposited in a foreign currency account in a UK bank, which is disregarded for IHT purposes. The measure supports the Government's anti-avoidance strategy and fairness agenda.

Background to the measure

This measure has not been previously announced. There has been no consultation on the measure.

Detailed proposal

Operative date

This measure will apply to liabilities incurred at any time but only where the death has occurred on or after the date of Royal Assent to Finance Bill 2014.

Current law

IHT is charged on the net value of a deceased person's estate after taking into account any liabilities outstanding at the date of death (section 5(3) Inheritance Tax Act 1984,(IHTA)) and after deducting any reliefs, exemptions and the nil-rate band or IHT threshold.

Property which is situated outside the UK and which belongs to, or was settled by, a non-UK domiciled individual is 'excluded property' and does not form part of a person's estate (section 6(1) IHTA). It is not chargeable to IHT.

Legislation introduced by Schedule 36 of Finance Act 2013 allows a deduction for a liability only if it has not been used directly or indirectly to acquire excluded property, or to maintain or enhance the value of such property, except in a few specified circumstances (section 162A(1) IHTA).

Deposits in a UK bank account which is denominated in a currency other than sterling are left out of account in determining the value of a person's estate if the depositor is non-UK domiciled and non-UK resident immediately before their death (section 157 IHTA). The balance in the account is not excluded property but is nonetheless not chargeable to IHT.

Proposed revisions

Legislation will be introduced in Finance Bill 2014 to treat funds in a foreign currency bank account in a similar way to how excluded property is treated under section 162A IHTA. A liability will be disallowed as a deduction from the value of an estate where the borrowed funds have been put into a foreign currency bank account, either directly or indirectly, so that the funds are not in chargeable to IHT at death. Additional rules will determine the treatment if the liability is partially repaid before or after death.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact. This measure supports the Exchequer in its commitment to protect revenue.				
Economic impact	This measure is not expected to have any significant economic impacts				
Impact on individuals and households	This measure will only affect individuals who are non-UK domiciled and non-UK resident at date of death who have deposited borrowed sums in UK bank accounts denominated in a foreign currency. The base of estates that fall within the charge to IHT is fairly small (in 2013-14 we forecast that there will be approximately 26,000 estates left on death paying IHT (around 5 per cent of the total). Of these, we estimate around 75 estates per year could potentially be affected by this measure. The administrative impact of this measure is on those acting as executors or administrators of the estate. Personal representatives will need to check whether the deceased had any borrowed funds deposited in a foreign currency account.				
Equalities impacts	The measure is not expected to adversely or disproportionately impact on any equality group (gender, ethnicity, disability, caring responsibilities, religion or belief and sexual orientation).				
Impact on business	This measure is expected to have no impact on businesses or civil society organisations as they are not within the scope of inheritance tax.				
Operational impact (£m)	The operational impact on HM Revenue & Customs will be insignificant.				
Other impacts	Other impacts have been considered and none have been identified.				

Monitoring and evaluation

The measure will be monitored through monitoring of disclosures of new avoidance schemes to circumvent the measure and through regular communication with taxpayers and practitioners affected by this measure.

Further advice

If you have any questions about this change, please contact Danka Wigley on 03000 585277 (email: danka.wigley@hmrc.gsi.gov.uk).