



HM Revenue  
& Customs

# Inheritance Tax: exemption for emergency service personnel

## **Consultation document**

Publication date: 23 July 2014

Closing date for comments: 15 October 2014

<b>Subject of this consultation:</b>	The Government wishes to extend the Inheritance Tax exemption for armed forces personnel who die on active service to all emergency service personnel who die in the line of duty, or whose death is hastened by injury incurred in the line of duty.
<b>Scope of this consultation:</b>	This consultation explores the possible options for introducing that exemption; who should be included; what the exemption should cover; and how the exemption should be administered.
<b>Who should read this:</b>	The consultation will be of interest to people in the armed forces, police, fire brigade and ambulance service and to personnel in other 'first response' organisations.
<b>Duration:</b>	23 July 2014 to 15 October 2014
<b>Lead official:</b>	Tracy Gribble, HMRC
<b>How to respond or enquire about this consultation:</b>	<p>Responses or enquiries should be made:</p> <ul style="list-style-type: none"> <li>• By post to: Tracy Gribble, HMRC, Room G/48, 100 Parliament Street, London SW1A 2BQ</li> <li>• By e-mail to: <a href="mailto:ihtandtrustsconsult.car@hmrc.gsi.gov.uk">ihtandtrustsconsult.car@hmrc.gsi.gov.uk</a></li> </ul> <p>Representative groups may wish to give a summary of the people and organisations they represent and, where relevant, how they consulted in reaching their conclusions. You may wish to include contact details for follow-up (e.g. name, phone number, email address).</p>
<b>Additional ways to be involved:</b>	Any organisation that would like to discuss this document should contact Tracy Gribble (details above) who will arrange a meeting.
<b>After the consultation:</b>	Following the period of consultation, HMRC will publish a summary of the responses to the consultation. Draft legislation will be published at Autumn Statement 2014 and will be introduced in Finance Bill 2015.
<b>Getting to this stage:</b>	The consultation follows an announcement at Budget 2014 that the Government intended to explore ways of exempting emergency service personnel who die in the line of duty from Inheritance Tax.
<b>Previous engagement:</b>	This is the first consultation on this topic.

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**On request this document can be produced in Welsh and alternate formats including large print, audio and Braille format**

# 1. Foreword

Successive Governments have recognised the supreme sacrifice of the courageous men and women in our armed forces by waiving inheritance tax for those who give their lives to keep us free. Thankfully, there are very few claims made for this exemption but when the circumstances arise it is right that the Government supports the families of these brave individuals by ensuring they are not faced with an inheritance tax bill on any estate left behind.

Now, this Government wants to go further and also recognise the sacrifice of emergency services personnel who are killed in service or by an injury sustained on duty when responding to a 'blue light' situation. We want to give them parity with the armed forces by introducing an exemption from inheritance tax for those who serve their communities, sometimes voluntarily, in the police force, fire service, ambulance, and search and rescue services.

This consultation is seeking views on how we can best achieve these aims and ensure the inheritance tax system recognises all those who risk their lives in responding to emergency circumstances. It is not right that those risking their lives protecting us pay inheritance tax and I look forward to recognising this in law.



Financial Secretary to the Treasury

July 2014

## 2. Introduction

In his Budget Speech on 19 March 2014, the Chancellor announced that the government would consult on extending the existing Inheritance Tax (IHT) exemption for members of the armed forces whose death is caused or hastened by injury while on active service to members of the emergency services.

Inheritance Tax (IHT) rules already grant an exemption to the estates of members of the armed forces whose death can be attributed to, or is hastened by, injury or illness suffered whilst on active service. The legislation is at section 154 of Inheritance Tax Act 1984 (IHTA) (see [Annex A](#)). This provides an exemption from IHT for assets that pass on the death of a current or former member of the armed forces who dies as a result of a wound, accident or disease inflicted when they were on active service or other service of a warlike nature.

An Extra Statutory Concession (see [Annex B](#)) extends the relief from IHT under section 154 IHTA 1984 to the estates of members of the Police Service of Northern Ireland who die from injuries caused in Northern Ireland by terrorist activity.

This consultation explores the options for extending the exemption from IHT for death on active service for members of the armed forces to all UK emergency service personnel.

We will also use this opportunity to look at the scope of the exemption at section 154 IHTA as it applies to the armed forces to ensure it is fit for purpose.

### **Introduction of the changes**

Legislation to give effect to the changes is planned for Finance Bill 2015.

The revised legislation would be effective for all deaths on or after the Chancellor's announcement on 19 March 2014.

### 3. How does IHT work?

IHT is normally payable

- on all of a person's estate on death
- on certain lifetime transfers, mainly those into most types of trusts
- on gifts made within seven years of death

where the total value of the estate or transfer is more than the nil-rate band which is currently £325,000. On death, this can be up to £650,000 as an individual's unused nil-rate band can be transferred to the estate of their surviving spouse or civil partner. Combined with available exemptions and reliefs, this means that only around 5 per cent of deaths in 2013/14 are estimated to have resulted in inheritance tax being due.

A person's estate includes all of their property, assets and money for example, land and property; bank and building society accounts and National Savings and Investments; personal and household goods including cars, antiques, jewellery; life insurance policies; pensions; stocks and shares; debts owed to the estate.

The tax is generally charged at 40% on the net value of assets in an estate above the nil rate band after deducting any liabilities, reliefs and exemptions, and at 20% on certain lifetime transfers, for example, assets transferred to a trust.

There are a number of specific reliefs and exemptions which enable a person to reduce their liability to IHT. The most commonly used exemption is the spouse and civil partner exemption. All gifts and transfers between spouses and civil partners are generally exempt. This means that most estates passing to a surviving spouse do not have to pay IHT.

UK domiciled individuals are liable to IHT on their worldwide assets. Non-UK domiciles are liable only on their assets in the UK unless they have been resident in the UK for at least 17 out of the previous 20 years when they will be deemed to be UK domiciled and so will be liable to IHT on their worldwide assets.

For more information on IHT go to <http://www.hmrc.gov.uk/inheritancetax/>

## The impact of the section 154 exemption

The section 154 exemption can make a considerable difference if any part of the estate is left to anyone other than a spouse or civil partner. This would include any part of the estate inherited by minor children either by a will or under the rules of intestacy or any part of the estate left to an unmarried partner.

### 1. If all estate transferred to spouse/civil partner

Value of estate at time of death	500,000
Exempt because transferred to spouse/civil partner	(500,000)
Estate chargeable to IHT	NIL
Balance of nil-rate band available for transfer to spouse's estate	325,000

The result would be exactly the same if the estate was exempt because of section 154.

### 2. If estate transferred to children, unmarried partner or others

Value of estate at time of death	500,000
Nil-rate band	(325,000)
Estate chargeable to IHT	175,000
Tax at 40%	70,000

The effect of the section 154 exemption is:

Value of estate at time of death	500,000
Exempt because section 154 exemption	(500,000)
Estate chargeable to IHT	NIL

## 4. The current exemption for armed forces

The exemption acknowledges the risks that members of the armed forces are placed in serving their country and the effects that can have on their families.

To qualify for the exemption in section 154 IHTA, the deceased must have been

- a member of any of the armed forces of the Crown, or
- a civilian subject to service discipline within the meaning of the Armed Forces Act 2006.

Section 154 IHTA provides for exemption when a person dies from a wound inflicted, accident occurring or disease contracted at a time when specified conditions were satisfied. These are either

- on active service against an enemy, or
- on other service of a warlike nature or which in the opinion of the Treasury involved the same risks.

They will also qualify for the exemption if they died from a disease contracted at some previous time and their death was hastened because the disease was aggravated by the specified conditions.

Death does not need to occur at the time the person was injured in the line of duty. The death may occur sometime after but it was hastened by the injury.

For example, a veteran dying in 2014 from an injury suffered while on active service in the Gulf War in 1991 would qualify for the exemption.

The existing legislation works well for members of the armed forces and is well understood so we do not propose any major changes to this. However, if there is evidence that the exemption can be amended to work more effectively within the aims we will consider this.



## 5. Emergency service personnel responding to emergency circumstances

The government proposes to provide a comparative exemption to a deceased person who was **emergency service personnel** in the United Kingdom and whose death has been caused directly or hastened by an injury sustained while **responding to emergency circumstances**. This recognises the risks that these individuals can face in serving their communities.

We think this can most easily be achieved by introducing a new exemption aimed specifically at emergency service personnel.

### Definition of emergency service personnel

There is no existing definition of emergency services personnel which covers all the groups we think could be included. Our proposed definition is based on section 248A of the Income Tax (Earnings and Pensions) Act 2003 and the Emergency Workers (Obstruction) Act 2006.

Our proposed definition is:

- a) a person employed or engaged directly or indirectly by a fire and rescue authority or a person providing such services pursuant to arrangements made by, or at the request of, a relevant fire and rescue authority
- b) a person employed or engaged directly or indirectly by a relevant NHS body in the provision of ambulance or paramedic services (including air ambulance services) or a person providing such services pursuant to arrangements made by, or at the request of, a relevant NHS body
- c) a constable or other person employed or engaged directly or indirectly by a police force or a person providing such services pursuant to arrangements made by, or at the request of, a relevant police force
- d) a member of Her Majesty's Coastguard
- e) a member of the crew of a vessel operated by the Royal National Lifeboat Institution

- f) a member of a voluntary organisation working with the police or fire and rescue services to provide specialised search and rescue services including Mountain Rescue and Cave Rescue
- g) a person providing services for the transport of organs, blood, equipment or personnel pursuant to arrangements made by, or at the request of, a relevant NHS body

### **Question 1**

**Will this definition of 'emergency service personnel' include everyone who should be included within this description?? If not, which groups have been excluded and why should they be included?**

## Definition of emergency circumstances

We propose that circumstances are ‘emergency circumstances’ if they are present or imminent and are causing or are likely to cause or appear likely to cause –

- (i) the death of a person
- (ii) serious injury to or the serious illness (including mental illness) of a person
- (iii) serious harm to the environment (including the life and health of plants and animals)
- (iv) serious harm to any building or other property
- (v) a worsening of any such injury, illness or harm.

A person is responding to emergency circumstances if the person

- a) is going anywhere for the purpose of dealing with emergency circumstances occurring there, or
- b) is dealing with emergency circumstances or preparing to do so imminently, and
- c) is responding in accordance with the requirements of their role/contract

Extra Statutory Concession F5 is very limited as it only gives relief to officers of the Police Service Northern Ireland who die from terrorist activity in Northern Ireland. As these officers will benefit from the new exemption, the concession will be withdrawn when the new legislation is introduced.

## Question 2

**Will this definition of ‘emergency circumstances’ cover all the circumstances which meet the Government’s objective of providing broad parity with the existing exemption for the armed services?**

**If not, what definition would be suitable?**

## 6. Armed forces personnel responding to emergency circumstances

The armed forces often provide essential support to the emergency services for example, in rescuing people affected by flooding earlier this year.

It would be anomalous if someone from the emergency services responding to emergency circumstances was killed and did qualify for IHT exemption whereas a member of the armed forces working alongside them did not because the emergency was not of 'a warlike nature.'

We could amend the definition of conditions under which armed forces personnel qualify for section 154 exemption to include when they are responding to emergency circumstances as defined above.

### **Question 3**

**Will extending the qualifying circumstances for armed forces personnel to include responding to emergency circumstances cover all the circumstances which should qualify?**

**If not, what definition would be suitable?**

## 7. Lifetime transfers

### Potentially exempt transfers

IHT isn't only charged on the property left in a person's estate when they die. If they gave away some of their assets, property or money while they were alive these lifetime transfers could be chargeable to IHT when they do die.

Not all lifetime transfers will be chargeable. A person can give away up to £3000 per year to anyone without any IHT consequences. If they don't give away the full £3000 in a year they can carry the unused exemption forward for one year and give away up to £6000 in the second year.

Wedding or civil partnership ceremony gifts are also exempt from IHT subject to certain limits.

Lifetime transfers will not be chargeable if the transfer is to another individual and the person making the transfer survives for 7 years after the date of the transfer. These are potentially exempt transfers (PET).

If the person dies before the 7 years are up, such transfers will start to use up the nil rate band. If the nil rate band is exhausted, tax is chargeable in respect of the transfer although some taper relief may be due.

The current section 154 exemption applies only to the assets that pass on death. This means that a person's estate which qualifies for section 154 exemption could still have to pay IHT on any PETs made within 7 years of death.

We are proposing to change the exemption so that it also applies to the tax payable on any PETs which become chargeable to tax at death. This change would be effective where death occurred after 19 March 2014.

### Question 4

**Should the exemption include the liability that may arise on potentially exempt lifetime transfers which would otherwise become chargeable at death?**

## Immediately chargeable lifetime transfers

Any lifetime transfer that does not qualify as a PET or which is not specifically exempt is immediately chargeable to tax. This means that IHT is due on the transfer at the time it is made, not when the transferor dies.

The following are examples of transfers that are immediately chargeable

- a transfer into a relevant property trust (most property settled on trust after 2006 is known as 'relevant property')
- a transfer to a company
- an alteration in the share capital of a close company
- a transfer from a close company

These transfers are subject to a lower rate of IHT of 20% rather than 40%. But if the transferor dies within 7 years of making an immediately chargeable transfer, an additional charge of up to a further 20% is payable on death.

The current section 154 exemption does not apply to immediately chargeable lifetime transfers and bearing in mind the rationale behind the exemption, we do not believe that it should be extended to transfers that give rise to an immediate charge to tax.

However, we do believe that the further charge triggered by the transferor's death should be treated in the same way as the tax charge that arises on PETs so that the exemption applies to this further charge that arises on death. This change would be effective where death occurred after 19 March 2014.

### Question 5

**Should the exemption include the additional liability arising on death for immediately chargeable lifetime transfers?**

## 8. Administration of the exemption

### **Current arrangements for armed forces**

The current section 154 exemption is largely administered by the Ministry of Defence (MoD). Exemption is given where the MoD has issued a certificate confirming the conditions for section 154 have been met. HMRC reserves the right to review the MoD assessment to ensure the legislation is applied correctly.

Applications for certificates by reference to active service or association with the armed forces of the crown are made to the Joint Casualty and Compassionate Centre (JCCC), part of Defence Business Services.

The JCCC automatically reviews the circumstances of death for all serving members of the armed forces and where appropriate will issue a certificate.

This is not considered to be an administratively burdensome process and there are relatively few applications each year.

HMRC relies upon the professionalism and experience of the MoD to determine whether a particular case qualifies for exemption. As there is only one agency handling all applications, standards are applied consistently and this is a process that works well.

### **Future arrangements for emergency service personnel**

The administration of the emergency services is dealt with by different bodies in the UK.

#### **England**

The Department of Health is responsible for the Ambulance Service.

The Department for Communities and Local Government is responsible for the Fire and Rescue Service.

The Home Office is responsible for the Police Forces in England and Wales.

## Scotland

Responsibility for all Ambulance Services, Fire and Rescue Services and Police Forces in Scotland have been devolved to the Scottish Government.

## Wales

Responsibility for all Ambulance Services and Fire and Rescue Services in Wales have been devolved to the Welsh Assembly Government.

The Home Office is responsible for the Police Forces in Wales.

## Northern Ireland

Responsibility for all Ambulance Services, Fire and Rescue Services and Police Forces in Northern Ireland have been devolved to the Northern Ireland Assembly.

HMRC does not have the experience or knowledge of emergency service operations to make the judgement as to when a person's death has been caused directly or hastened by injury etc incurred when responding to emergency circumstances.

Ideally, we would like to follow the MoD model for emergency service personnel and rely upon an expert panel or agency who can decide when a certificate for death 'responding to emergency circumstances' would be issued.

For the armed forces, it is clear that the MoD is the right organisation to do this as they have overall responsibility for all armed forces in the UK. It is less clear who the decision makers would be for emergency services because there is no overarching organisation which deals with Police, Ambulance or Fire and Rescue services across the UK.

To ensure consistency, HMRC would prefer to identify one organisation which would be the decision maker for each emergency service. If this is not possible, then HMRC would like to identify one organisation to be the decision maker for each emergency service in England, Scotland, Wales and Northern Ireland.

We do not think it will be necessary to establish a bureaucratic system to oversee the decision making to ensure consistency between decisions at national levels, across emergency services and with the armed forces, especially as it is hoped that the number of decisions that have to be made will be very small but we will keep this under review.



### **Question 6**

**For each emergency service, which would be the best organisation or agency to be the decision maker?**

### **Question 7**

**Is there an alternative approach to the administrative arrangements and why do you recommend it?**

## 9. Assessment of Impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	Negligible	Negligible	Negligible	Negligible	Negligible
<b>Economic impact</b>	This is not expected to have any significant economic impacts.				
<b>Impact on individuals and households</b>	This measure would exempt from IHT the estates of persons in the armed forces and emergency services whose death can be attributed to, or is hastened by, injury or illness suffered whilst responding to emergency circumstances and members of the armed forces who die on active service against the enemy or other service of a war like nature.				
<b>Equalities impacts</b>	<p>Those benefiting from this exemption will reflect the demographics of the armed forces and emergency services in which they serve. It is expected that the majority will be male.</p> <p>Approximately 70% of those who have qualified for the exemption in the past 10 years have been aged 70 years and older.</p> <p>Emergency services in Northern Ireland are subject to section 75 of the Northern Ireland Act which places an additional obligation on public authorities carrying out their functions in Northern Ireland to promote equality of opportunity between persons of different religious beliefs. The Police Service in Northern Ireland now maintains a recruitment policy which reflects the diversity of the community it serves although historically police officers were predominantly protestant.</p> <p>This measure is not expected to have a disproportionate impact on any protected group.</p>				
<b>Impact on businesses and Civil Society Organisations</b>	This is expected to have no impact on businesses or civil society organisations.				
<b>Impact on HMRC or other public sector delivery organisations</b>	There will be a negligible operational impact on HM Revenue & Customs.				
<b>Other impacts</b>	No other impacts have been identified.				

### Question 8

**Do you have any comments on the assessment of equality and other impacts?**

# 10. Summary of Consultation Questions

## Question 1

Will this definition of 'emergency service personnel' include everyone who should be included within this description?? If not, which groups have been excluded and why should they be included?

## Question 2

Will this definition of 'emergency circumstances' cover all the circumstances which meet the Government's objective of providing broad parity with the existing exemption for the armed services?

If not, what definition would be suitable?

## Question 3

Will extending the qualifying circumstances for armed forces personnel to include responding to emergency circumstances cover all the circumstances which should qualify? If not, what definition would be suitable?

## Question 4

Should the exemption include the liability that may arise on potentially exempt lifetime transfers which would otherwise become chargeable at death?

## Question 5

Should the exemption include the additional liability arising on death for immediately chargeable lifetime transfers?

## Question 6

For each emergency service, which would be the best organisation or agency to be the decision maker?

## Question 7

Is there an alternative approach to the administrative arrangements and why do you recommend it?

## Question 8

Do you have any comments on the assessment of equality and other impacts?

# 11. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework.

There are 5 stages to tax policy development:

Stage 1 Setting out objectives and identifying options.

Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.

Stage 3 Drafting legislation to effect the proposed change.

Stage 4 Implementing and monitoring the change.

Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on draft legislation.

## How to respond

A summary of the questions in this consultation is included at chapter 10.

Responses should be sent by 15 October 2014,

- by e-mail to: [ihtandtrustsconsult.car@hmrc.gsi.gov.uk](mailto:ihtandtrustsconsult.car@hmrc.gsi.gov.uk)
- or by post to: Tracy Gribble, HMRC, Room G/48, 100 Parliament Street, London SW1A 2BQ

Telephone enquiries to Tracy Gribble on 03000 585169 (from a text phone prefix this number with 18001).

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### **Consultation Principles**

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Oliver Toop, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100  
Parliament Street, London, SW1A 2BQ.

Email: [hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk](mailto:hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk)

Please do not send responses to the consultation to this address.

# Annex A: Relevant (current) Government Legislation

The current exemption for death on active service etc is at section 154 of Inheritance Act 1984.

## **154 Death on active service, etc.**

(1) Section 4 above shall not apply in relation to the death of a person in whose case it is certified by the Defence Council or the Secretary of State —

(a) that he died from a wound inflicted, accident occurring or disease contracted at a time when the conditions specified in subsection (2) below were satisfied, or

(b) that he died from a disease contracted at some previous time, the death being due to or hastened by the aggravation of the disease during a period when those conditions were satisfied.

(2) The conditions referred to in subsection (1) above are that the deceased was a member of any of the armed forces of the Crown or a civilian subject to service discipline within the meaning of the Armed Forces Act 2006 and (in any case) was either —

(a) on active service against an enemy, or

(b) on other service of a warlike nature or which in the opinion of the Treasury involved the same risks as service of a warlike nature.

(3) In relation to any time before 28th July 1981 (the date of the passing of the Armed Forces Act 1981), the reference in subsection (2) above to membership of the armed forces of the Crown shall include a reference to employment as a person of any of the descriptions specified in paragraph 1(3) of Schedule 7 to the Finance Act 1975 (women's services).

# Annex B: Relevant (current) Extra Statutory Concession

The current extension to the exemption for death on active service etc for the Police Service of Northern Ireland is at Extra Statutory Concession F5.

## **F5. Deaths of members of the Police Service of Northern Ireland**

The relief from inheritance tax under Section 154 IHTA 1984, granted in certain circumstances to the estates of members of the armed forces, is applied to the estates of members of the Police Service of Northern Ireland who die from injuries caused in Northern Ireland by terrorist activity.