NEW IHT RULES FOR SETTLEMENTS AND OTHER RECENT DEVELOPMENTS

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I THE IHT TAXATION OF RELEVANT PROPERTY TRUSTS

Glossary

RPT: Relevant Property (“RP”) Trust being one taxed under IHTA 1984 Pt III Ch III. Since the 2006 changes, this includes trusts with “non-qualifying” interests in possession.

HCT: Hypothetical Chargeable Transfer used in order to arrive at the rate of IHT. It may include property in other settlements which is not itself taxed but which increases the tax rate applying to the relevant property.

TYA: 10 year anniversary.

1. Background

a. 2012 Budget: the Chancellor announced a consultation exercise aimed at simplifying the IHT charges on RPT.

b. Consultation 1: 13 July to 5 October 2012 (“IHT: Simplifying Charges on Trusts”).

c. Consultation 2: 31 May to 23 August 2013 (“IHT: Simplifying charges on trusts - the next stage”). Following this consultation two changes in FA 2014:
   i. rules deeming income to be relevant property after five years;
   ii. new filing / payment date for 10 year / exit charges being six months after the end of the month when the charge arose.

d. Consultation 3: 6 June to 29 August 2014 (“IHT - a Fairer Way of calculating trust charges”). To combat the use of pilot trusts, which could be used to reduce / eliminate the charge on RPT, it proposed a “settlement nil rate band” (“SNRB”) to be divided between all settlements / will trusts created by a settlor / testator. Anti-forestalling provisions to 6 June 2014.

e. The SNRB proposals in para (d) above were wholly abandoned in the Autumn Statement and new proposals are contained in draft
clauses published on 10 December 2014 (see Appendix 1). Anti-
forestalling from that date but some transitional relief for wills.

The end result?

No simplification (except as in para l(c)(ii) above).

Consultation hijacked by the Revenue to destroy pilot trusts!

2. The old rules

a. There are three occasions of charge to consider in connection with
RPT:

i. an entry charge when the settlor creates the settlement: no
changes;

ii. 10 year (anniversary) charges; and

iii. exit charges when property ceases to be relevant property.
Linked to (ii) and it is in these areas that there are changes.

Note also the analogous exit charge in the case of s71D (18-25) trusts.

b. Anniversary charges

Step 1 - calculate the hypothetical chargeable transfer (HCT).

Step 2 - calculate tax at half death rates on HCT.

Step 3 - turn the tax calculated at Step 2 into an average rate and take
30%.

Step 4 - apply that rate to the value of the relevant property in the
settlement.

Example 1

Ted dies with a large estate. He is divorced and has not used up his nil rate band.
His will creates two relevant property settlements each of £300,000. 10 years later
the nil rate band is £500,000, both settlements have increased in value to £500,000
and there have been no payments out of either settlement. The anniversary charge
on both settlements is calculated as follows:

Step 1 - calculate the hypothetical chargeable transfer (HCT)

HCT is £500,000 + £300,000 (value of property in related settlement at time created)\(^1\) = £800,000

Step 2 - calculate tax at half death rates on HCT

First £500,000 is taxed at 0% = nil

Next £300,000 is taxed at 20% = £60,000

Step 3 - turn the tax calculated at Step 2 into an average rate and take 30%

\[
\frac{60,000 \times 100}{800,000} = 7.5\%
\]

\[
7.5 \times 30\% = 2.25\%
\]

Step 4 - apply that rate to the relevant property

\[
£500,000 \times 2.25\% = £11,250
\]

c. Planning

To keep the rate for anniversary charges low, it is desirable:

i. to create the settlement when the settlor has a nil cumulative total; and

ii. not to increase the HCT by:

(1) related settlements (more than one settlement created on the same day), or

(2) non-relevant property being included in the same settlement (eg one settlement, part of which comprises a relevant property settlement and part of which is a disabled person’s trust).

\(^1\) Any increase in value is ignored.
Where a settlor wants to settle substantial amounts without incurring anniversary charges, the use of pilot trusts may have been beneficial.

There are, of course, other ways of reducing the periodic charge. For instance, with advance planning the trust fund could be invested in 100% relievable property, i.e. business and agricultural property (this must be done at least two years before the anniversary).\(^2\) Note also:

(A) that “nil rate band discretionary trusts” (viz trusts set up with property worth no more than £325,000) suffer no IHT exit charges on distributions out of the trust in the first 10 years but may suffer a 10 year charge if the value of property in the settlement has increased in value by more than rises in the IHT nil rate band;

(B) distributions in the first 10 years are taken into account when calculating the anniversary charge (they are on the settlement’s cumulative total) so that reducing the value of the settled property shortly before the 10 year anniversary to the then nil rate band will not prevent an anniversary charge arising.

\(^2\) This property may then be sold but distributions in the 10 years following the anniversary will still be taxed on the basis that there was 100% relievable property at the time of the anniversary.
Example 2

Calculating a 10 year charge

\[
RPT = \text{value of settled property immediately before a 10 year anniversary}
\]

Value of property in related settlement when created

Value of non-RP in the settlement when set up (eg in qualifying ip fund or disabled trust)

Chargeable transfers of the settlor in the seven years before creating the settlement / any addition

Relevant in calculating HCT and so rate of IHT

Relevant in deciding if the RPT benefits from any NRB

Note:

- A related settlement is one created on the same day as the RPT. Note that it is the value in that settlement at the time of creation that is taken into account. Although pilot trusts were commonly set up on different days, even if set up on the same day with a £10 initial fund, the adverse consequences were minimal.

- There are special rules for additions: essentially, if the settlor had made chargeable transfers in the preceding seven years then these may be taken into account instead of his total when he set up the RPT if less (and will reduce the NRB available to the settlement). BUT other transfers of the settlor made on the same day are ignored. This explains the attraction of pilot trusts. Note also that the additions rule is limited to chargeable transfers so that a gift in settlement falling within the normal expenditure out of income exemption is not caught.
Example 3

1. A settlor has no chargeable transfers on the clock when he creates:

<table>
<thead>
<tr>
<th>PT1</th>
<th>PT2</th>
<th>PT3</th>
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<tbody>
<tr>
<td>£10</td>
<td>£10</td>
<td>£10</td>
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</table>

2. Subsequently *inter vivos* (or on death) he adds substantial assets to PT1-3 (NB: in the case of lifetime additions, all on the same day).

<table>
<thead>
<tr>
<th>PT1</th>
<th>PT2</th>
<th>PT3</th>
</tr>
</thead>
<tbody>
<tr>
<td>£325,000</td>
<td>£325,000</td>
<td>£325,000</td>
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</table>

*Provided that* the settlor had an unused NRB both on creation of the trusts and at the time of the addition, each of PT1-3 would benefit from a full NRB: i.e. the benefits of fragmentation over a single settlement. But note that the additions to the three trusts (£325,000 x 3) are fully chargeable.

3. Changes in FA 2014

Accounting

a. From 6 April 2014, an account / tax must be rendered six months after the end of the month in which the charge arose (note that HMRC’s guide IHT113 is incorrect).

Example 4

Chargeable event on 20 May 2014. Filing / payment date is *30 November 2014.*

Retained income

b. With effect from 6 April 2014, income which has been in the trust for more than five years is treated as relevant property for the purpose of the 10 year charge. A FIFO approach is to be adopted:

“In most cases, there is no need to conduct a forensic examination of transactions through the income account. In determining whether any income is to be treated as relevant
property under these provisions, it will normally be sufficient for trustees to take the balance on the income account immediately before the ten charge year arises and deduct from that amount, the income that has arisen during the five preceding years. Any balance on the income account is to be treated as relevant property.”

There is no discount (contrast actual accumulations).

Example 5

The periodic charge for the Silbury Settlement falls on 1 April 2016. On reviewing the position on 30 March 2016, the trustees discover:

1. that they have undistributed income from before 1 April 2011 totalling £100,000; and

2. after that date, a further £75,000. If they do nothing, the £100,000 will be deemed relevant property at the time of the anniversary and may therefore suffer a tax charge of £6,000.

But if the trustees resolve on 30 March to accumulate that £100,000 of income then, although it will suffer a periodic charge, there will be a discount for the 39 quarters during which it was not relevant property so that the tax charge is reduced to £150.

Also bear in mind that if there is the usual power to distribute accumulations as income, it can still be distributed without an IHT exit charge if subject to income tax in the hands of the beneficiary.

4. The proposed new rules

   a. It is envisaged that these will be introduced in FA 2015 (to be passed during the current Parliament) and will become law on 6 April 2015. But note:

      i. transitional rules in the case of additions by will: see para (f) below;

      ii. it is likely that there will be amendments to the current legislation;

      iii. the revised legislation is in Appendix I.
b. The key change is in the concept of a “same day addition” (SDA: see s62A).

If value is added to a settlement (“Settlement A”) and on the same day the same settlor adds value to one or more other settlements (“Settlement B” - plural?) then in taxing Settlement A include the value of the addition to Settlement B (and if not already included by reference to the related settlements rule, add the original value of Settlement B).

So to calculate the 10 year anniversary charge on a RPT:

i. take value of settled property immediately before the 10 year anniversary;

ii. add value of property in a related settlement (when set up);

iii. if a SDA to the Settlement then include the value of the addition to any other settlement(s) and (if necessary) the original sum settled in those settlements.

Example 6

Calculating the anniversary charge under the new rules.

<table>
<thead>
<tr>
<th>RPT: value of settled property immediately before the TYA</th>
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</thead>
<tbody>
<tr>
<td>Value of property in related settlement when created</td>
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<tr>
<td>Value of SDA and (if not already included) value of original property in Settlement B</td>
</tr>
<tr>
<td>Chargeable transfers of settlor - as before</td>
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Relevant in calculating HCT and so rate of IHT

c. Features of SDA:

i. At present defined, the “other” settlement (Settlement B) need not be a RPT: i.e. it could be a disabled trust with a qualifying interest in possession! This can have startling results.
Example 7

In 2015 Xandra set up a disabled trust for her grandchild Chloe settling £500,000 (a PET). In 2016 she added £10,000 to the disabled trust and established a RPT with £325,000. In taxing this RPT in the future (Settlement A), the value of the addition (£10,000) and of the property originally in the disabled trust (£500,000) (Settlement B) must be included in the HCT as the result of the SDA.

There is an exclusion for charitable trusts (see s62A(3)(b)) and this should be extended to include all non-RP settlements (but note that related settlements do not have to be relevant property trusts).

ii. A SDA can involve a lifetime transfer by the settlor or an addition by will (including the creation of a new RPT in the will).

Example 8

In 2014 Janus set up a discretionary trust of £300,000. On his death in 2022, he added £50,000 to the existing trust and set up a will trust (also a RPT) of £350,000. This involves a SDA (see s62A(2)).

d. *A (mistaken?) change*

It is proposed that from 6 April 2015 it will no longer be necessary to aggregate the value of property held in any non-relevant property part of the settlement. This may have a significant impact on the taxation of former A&M trusts.

Example 9

On 6 April 2000, Pluto settled £1m on A&M trusts for his two grandchildren (Sid and Sad): this was a PET by Pluto.

On 21 March 2006 Sid became entitled to an interest in possession in half the fund: this is a qualifying interest in possession.

On 6 April 2008 the remaining moiety (Sad’s share) became subject to the relevant property regime. On 6 April 2010 (at the time of the first TYA) this half share was
worth £700,000.

The old rules

1. The HCT is £700,000 + £500,000 (value of Sid’s share when settled) = £1.2m.

2. The tax rate is £1.2m - £325,000 = £875,000 x 20% = £175,000 giving a rate of 14.58 x 30% = 4.37%.

3. Tax on Sad’s share = £30,590 (less an eight year discount when the A&M rules applied = £6,118).

The proposed new rules

If we ignore Sid’s share, the HCT is £700,000 so that the tax rate is £700,000 - £325,000 = £375,000 x 20% = £75,000 giving a rate of 10.72 x 30% which is 3.22%. As a result the tax on Sad’s share is £22,540 (after discount £4,508).

BUT the retention of related settlements and the provisions of SDA make the exclusion of Sid’s share baffling!

e. The addition can be of value rather than property (eg a settlor releasing his loan to the settlement). Beware eg the settlor paying a TYA charge when the trust is “dry” - better to lend the cash to the settlement on a demand loan. The addition can be small (no de minimis exclusion).

f. Anti-forestalling (protected settlements)

The rules on SDA do not apply to protected settlements (s62A(3)). A settlement is protected if there have been no transfers of value by the settlor on or after 10 December 2014.

Example 10

1. Jake established four pilot trusts (each of £10) on consecutive days in October 2014, and on 9 December 2014 added substantial funds to each. The settlements are protected and the benefits of the IHT planning using multiple trusts not removed.
2. As above but Jake made the additions on 10 December 2014. The new rules apply and notably the SDA must be included in the computation.

3. As in para 1 except that an addition is made in January 2015 to only one of the pilot trusts. The new rules do not apply since there is no SDA to another settlement.

g. Protected settlements and additions by will

Property can be added to an existing settlement after 10 December 2014 without the new rules applying if:

i. the addition is by a disposition made in the settlor’s will and those provisions “are in substance the same as they were immediately before 10 December 2014" (see s62B(4): “a protected testamentary disposition”);

ii. the taxpayer must die before 6 April 2016.

Example 11

Jan set up four pilot trusts in 2013 and in her will (made the same year) she leaves her residue to be divided equally between them. She dies on 5 April 2016. The settlements are protected and any savings from the use of pilot trusts are retained.

Consider:

1. In 2015 Jan makes a new will because she wishes to change her executors but the residue is still left to the pilot trusts (still protected).

2. In 2015 she makes a new will to leave a pecuniary legacy to her godchild. The residue is reduced but still left to the pilot trusts: still protected?

3. In 2015 she makes a codicil which removes a legacy thereby increasing the amount of residue passing to the settlements (still protected?). Contrast the position if she does not make a codicil but a legacy in the will is adeemed and so, again, residue is increased.

Note:

a. If a new will is made, keep the old will to prove that the disposition to the
trusts is the same as it was before 10 December.

b. If a testator changes her will believing that she will not die before 6 April 2016 (eg she leaves everything to her son) but then she succeeds in dying on 5 April, can the son reinstate the protected testamentary disposition to the trusts by a s142(1) variation? No: since the variation is not a testamentary disposition.

Conclusions

(1) Making a new will / codicil is not fatal to there being a protected settlement provided that the disposition to the settlement remains in substance the same.

(2) If the settlor does not die before 6 April 2016 so that the new rules apply to the additions, it will be possible to redirect the additions (eg onto IPDI trusts) by an appointment falling within s144.

(3) Ideally, clients should review wills in these cases and consider making a new will to take effect if they survive to 6 April 2016.

h. Other points

i. It seems that the consultation exercise is now at an end: i.e. no immediate plans to make trustees self-assess; to make the tax charge a flat 6% rate etc.

ii. It remains possible for settlors to create a RPT using the full amount of their nil rate band and then, after seven years, repeat the exercise.

See Appendix 2 for an example contrasting the effect of the old and proposed new rules.
II OTHER IHT CHANGES AFFECTING SETTLEMENTS

1. **Abolition of the *Frankland* trap**

   Takes effect for deaths on or after 10 December 2014.

   **Example 12**

   Tad dies on 9 December 2014 and his residuary estate is left on a discretionary trust.

   1. Within three months of his death, the trustees appoint the residue absolutely to his surviving spouse / civil partner. No reading-back under s144 so that there is no spouse exemption and Tad’s estate remains fully taxable (see *Frankland v IRC*).

   2. If the trustees had appointed an interest in possession to the spouse etc then this is an IPDI and is read-back so that the spouse exemption applies.

   But if Tad dies on 10 December or later, both the above appointments will be read-back so that the spouse exemption will prevent any IHT charge arising.

2. **Closing a s80 loophole**

   a. This section applies when a settlement is created with an initial interest in possession for the settlor and/or his spouse / civil partner. In general, if after that initial interest ends the trusts continue as RPT then the settlement is treated as made at the time when the final iip ended by that beneficiary.

   **Example 13**

   Ceri’s will gives his wife a life interest in the residue of his estate (an IPDI) with trusts over in favour of the couple’s children. He also sets up a NRBDT. The position is that:

   1. when the wife dies she is treated as creating a relevant property trust for the children;

   2. the IPDI trust is not therefore a related settlement in calculating charges on

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3 [1997] STC 1450 CA.
b. After the 2006 changes the intention was that s80 would only apply to *qualifying* interests in possession but there was a loophole.

**Example 14**

Jim set up a trust in 2005 under which he was entitled to an interest in possession. Subject thereto his wife Jemima took an interest in possession and there were remainder trusts over for the children.

1. Jim’s interest is a qualifying interest in possession (i.e. settled property taxed as part of his estate).

2. After 5 October 2008 Jim surrenders his interest so that Jemima takes her interest in possession. Jemima’s interest is not qualifying (it is outside the TSI period which ended on 5 October) and so the value of the settled property is not treated as comprised in her estate. Jim makes an immediately chargeable transfer BUT the property is not treated as comprised in the relevant property regime until Jemima’s interest ends. Accordingly:

   a. during the continuance of Jemima’s interest, no IHT charges accrue on the settled property;

   b. on her interest ending, there is no IHT charge and the RP charging regime only applies from that date.

The result of the lacuna was that if Jemima was relatively young, the settlement might be IHT free for many years so justifying paying tax when terminating Jim’s interest!

The loophole has been closed (from the day after Royal Assent to the Finance Act) by requiring the interests in possession to be qualifying.

3. **Claims for conditional exemption (heritage property)**

   From Royal Assent, trustees have two years following a 10 year anniversary to claim conditional exemption (until then, the exemption had to be claimed and property designated before the anniversary).
III EXTENSIONS OF THE DEATH ON ACTIVE SERVICE EXEMPTION

1. Relief for deaths of members of the armed forces / emergency service personnel etc

The original relief for members of the armed forces whose death was caused or hastened by injury whilst on active service has been substantially extended and the reliefs increased by legislation in FA 2015. These new rules apply to deaths on or after 19 March 2014⁴ and are contained in the following sections:

a. IHTA 1984 s154: death on active service (members of the armed forces);

b. IHTA 1984 s153A: death of emergency service personnel;

c. IHTA 1984 s155A: death of constables and service personnel targeted because of their status.

2. The reliefs

These sections provide the following reliefs:

a. no IHT is chargeable on the death of the individual (IHTA 1984 s4 is excluded). Note that the exemption applies whoever the estate passes to;

b. a potentially exempt transfer made in the seven years before death is not chargeable;

c. extra IHT is not payable in respect of a chargeable transfer made within seven years of the death.

The old legislation had merely given relief for the death charge.

3. Death on active service exemption

This is the oldest exemption in the long history of death duties dating back to the reign of William and Mary and to the Probate Duty introduced in 1694.⁵ It applies where the taxpayer died from a wound inflicted, accident occurring or

⁴ This was the date of the 2014 Budget when the Chancellor announced a consultation on the extension of the existing relief.
⁵ In estate duty the exemption was in FA 1952 s71 and it is now in IHTA 1984 s154.
disease contracted while on active service against an enemy or on other service of a warlike nature or involving the same risks.\textsuperscript{6} It also applies where death is from a disease contracted at some previous time, but the death is due to or hastened by the aggravation of the disease during a period of such service. The exemption is capable of a wider application than might from its title be imagined. For instance:

a. the death does not have to be ‘on the battlefield’: it suffices that the wound, accident or disease was inflicted, occurred or was contracted at a time when the deceased was on active service (albeit he might have been off duty or absent on leave at the time of the cause of death);

b. the wound does not need to be the only or direct pathological cause of death:\textsuperscript{7} it simply has to be a cause.

In order to claim the exemption it is essential to obtain a certificate from the Ministry of Defence Joint Casualty and Compassionate Centre. IHTM11291 deals with the procedure for claiming exemption. There are two forms of certificate, a simplified one for deaths of currently serving people where there is no doubt that s154 is satisfied and one for other deaths (see IHTM11301).

4. Death of emergency service personnel

The exemption applies to members of the emergency services: eg police; fire brigade; search and rescue services such as coast guards; medical, ambulance and paramedic services including those transporting organs and medical equipment. In addition, it covers humanitarian aid workers who may be working for a government; state or international organisation.\textsuperscript{8} The relief is given if the relevant person died etc while “responding to emergency circumstances”\textsuperscript{9}. As with the armed services exemption, the death may occur later and it suffices that the injury sustained whilst responding to an emergency was one of the causes of death.

\textsuperscript{6} By extra-statutory concession F5 the exemption was applied to the estates of members of the Police Service of Northern Ireland (or the previous police authority, the Royal Ulster Constabulary) who died from injuries caused in Northern Ireland by terrorist activity.

\textsuperscript{7} Bartly-King v Ministry of Defence [1979] 2 All ER 80.

\textsuperscript{8} See IHTA 1984 s153A(6) for the definition of an “emergency responder”. This definition may be extended by Treasury regulation. What of the security services (eg James Bond)?

\textsuperscript{9} For the definition of “emergency circumstances”, see s153A(3). These include the death or serious injury of a person or animal.
5. **Constables and armed services personnel targeted because of their status**

For this exemption to apply, it is immaterial whether the individual was acting in the course of his duties when attacked. A “service person” is defined as “a member of the armed forces of the Crown or a civilian subject to service discipline (within the meaning of the Armed Forces Act 2006)”. The individual must have died / been injured as a result of being deliberately targeted because of his status.
IV INHERITING ISAs

In relation to deaths on or after 3 December 2014, a surviving spouse / civil partner can take the benefit of the extra ISA investments of the Deceased. See the Individual Savings Account (Amendment) Regs 2015 (draft) published 20 January 2015. Note especially:

1. the surviving spouse must have been living with the Deceased at the time of his death (i.e. the income tax rather than IHT test of whether married);

2. she must have an ISA account: query with the same provider;

3. there appear to be differences between cash ISAs and stocks and shares ISAs: necessary to inherit the latter?

Example 15

At her death on 4 December 2014, Janice had £50,000 invested in cash ISAs. Her surviving civil partner, Julie, can invest that sum in a cash ISA (in addition to her own investment limit) provided that she does this within three years of Janice’s death or (if later) 180 days after the administration of her estate ends. In this case, Janice is treated as dying (for the purposes of the three year period) on 6 April 2015. She does not have to inherit the cash sum.
V PROPOSED EXTENSION OF DOTAS TO IHT PLANNING

The proposal is to extend the DOTAS rules to IHT generally. The Consultation
document\(^{10}\) commented:

“2.37 There have been few disclosures under [the IHT] hallmark. HMRC’s understanding is that this is in part because of the narrow scope of the existing hallmark and also because promoters claim that their schemes are ‘substantially the same’ as pre-April 2011 schemes and as such are outside of the current DOTAS requirements. The hallmark has therefore not been as effective as intended in providing information about schemes involving relevant property trusts and the extent of their use.

2.38 HMRC is aware of a variety of schemes that seek to avoid IHT which would not be detected by the current hallmark because of its focus on a very specific area of IHT avoidance. These include:

- schemes entered into during a person’s lifetime which are designed to reduce the value of their estate, thereby avoiding IHT on death
- arrangements which seek to avoid IHT on lifetime transfers or charges other than ‘entry charges’ on relevant property trusts

The potential tax lost as a result of such schemes and arrangements may be substantial. The Government believes these should be brought within DOTAS in order to provide adequate safeguards for the Exchequer…

2.43 A key element of any change would be to ensure that any new disclosure requirements applicable to IHT remain tightly targeted, describe the avoidance which HMRC is interested in, and do not catch IHT planning that involves the straightforward use of reliefs and exemptions…

2.44 … So that the application of DOTAS to IHT does not pick up what would be regarded as acceptable tax planning, it is proposed, as a further safeguard, that only arrangements which an informed observer could reasonably conclude are an IHT avoidance scheme or arrangement would be disclosable. Straightforward use of the existing generous IHT reliefs and exemptions would not be disclosable.

2.45 For example, the spouse and civil partner exemption is designed to ensure that transfers between spouses and civil partners are exempt from IHT, recognising the unique legal commitment entered into. The exemption means that, for example, on the death of the…

\(^{10}\) See “Strengthening the Tax Avoidance Disclosure Regimes” (31 July 2014) and the Summary of Responses (December 2014).
first spouse the survivor does not have to sell the family home in which they have both been living. Where an individual person uses a standard Will to make use of the exemption in a straightforward way, the Government would not want sight of this ‘transaction’ under DOTAS.

2.46 Equally, arrangements which are permitted by the fundamental structure of inheritance tax would not necessarily have to be disclosed. For example, where after the death of his first wife the deceased remarried, he may wish to ensure that the assets from his first marriage pass to the children of that marriage. He can achieve this by leaving that part of his estate on revocable interest in possession trusts for his second wife, with remainders to his children. If the life interest is brought to an end whilst the second wife is still alive, she will be treated as making a potentially exempt transfer which will be an exempt transfer on her surviving seven years. The assets pass down a generation free of inheritance tax because of the structure of the tax. However, if the surviving spouse’s interest in possession was terminated after the first spouse’s death but in a way that circumvented the reservation of benefit rules so that the surviving spouse obtained continuing access to the property she shared with the deceased, such a scheme would be disclosable.\(^{11}\)

2.47 Similarly, business property relief and agricultural property relief are designed to ensure that businesses do not have to be broken up and sold to pay IHT and to encourage entrepreneurs to invest in businesses and take the associated risks. Investing in AIM shares with the intention of qualifying for business property relief having owned them for two years and then giving them into a trust which immediately sold them would not be disclosable. This is simply the natural consequence of a relief which does not require the donee to hold the business property for any minimum period. However, doing so, but in such a way that what is effectively a double deduction is obtained by circumventing the liability provisions in Finance Act 2103, would be disclosable.\(^{12}\)

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\(^{11}\) This refers to *Ingram* and reversionary lease schemes that may be used when the residence is settled.

\(^{12}\) In a case where the taxpayer borrowed to buy the AIM shares and charged the debt on (say) his main residence, it may still be deductible if the shares are subject to a PET.
VI  FUTURE TRENDS

1. Growing evidence that HMRC are looking to restrict the scope of widely used exemptions, eg:
   a. main residence relief: see the multiplicity of recent cases and note the proposal that the election be abolished;
   b. business property relief: see especially recent cases dealing with when the business “mainly” involves the holding of an investment;
   c. sharing arrangements under s102B: is the donee in occupation or merely a visitor?

2. See the Report of the National Audit Office (7 April 2014) and note:
   a. revenue raised by IHT (2013/14 tax year) £3.4bn (cp in 2008 £3.8bn peak);
   b. value of reliefs £22.4bn (NRB being £18.4bn of that);
   c. APR up from £195m in 2008/09 to £370m in 2012/13 and BPR up in the same period from £150m to £385m.
Appendix 1

IHTA 1984

ss60-71G

(As amended by simplifying charges consultation)

60 Commencement of settlement

In this Chapter references to the commencement of a settlement are references to the time when property first becomes comprised in it.

61 Ten-year anniversary

(1) In this Chapter “ten-year anniversary” in relation to a settlement means the tenth anniversary of the date on which the settlement commenced and subsequent anniversaries at ten-yearly intervals, but subject to subsections (2) to (4) below.

(2) The ten-year anniversaries of a settlement treated as made under section 80 below shall be the dates that are (or would but for that section be) the ten-year anniversaries of the settlement first mentioned in that section.

(3) No date falling before 1st April 1983 shall be a ten-year anniversary.

(4) Where—

(a) the first ten-year anniversary of a settlement would apart from this subsection fall during the year ending with 31st March 1984, and

(b) during that year an event occurs in respect of the settlement which could not have occurred except as the result of some proceedings before a court, and

(c) the event is one on which tax was chargeable under Chapter II of Part IV of the Finance Act 1982 (or, apart from Part II of Schedule 15 to that Act, would have been so chargeable),

the first ten-year anniversary shall be taken to be 1st April 1984 (but without affecting the dates of later anniversaries).

62 Related settlements

(1) For the purposes of this Chapter two settlements are related if and only if—

(a) the settlor is the same in each case, and

(b) they commenced on the same day,

but subject to subsection (2) below.

(2) Two settlements are not related for the purposes of this Chapter if all the property comprised in one or both of them was immediately after the settlement commenced held for charitable purposes only without limit of time (defined by a date or otherwise).

62A Same-day additions

(1) For the purposes of this Chapter, there is a “same-day addition”, in relation to a settlement (“settlement A”), if:

(a) there is a transfer of value by a person as a result of which the value immediately afterwards of the property comprised in settlement A is greater than the value immediately before.
(b) as a result of the same transfer of value, or as a result of another
transfer of value made by that person on the same day, the value
immediately afterwards of the property comprised in another
settlement ("settlement B") is greater than the value immediately
before, and

(c) that person is the settlor of settlements A and B, and references to the
value of the same-day addition are to the difference between the two
values mentioned in paragraph (b).

(2) The transfer or transfers of value mentioned in subsection (1) include a
transfer or transfers of value as a result of which property first becomes
comprised in settlement A or settlement B; but not if settlements A and B are
related settlements.

(3) There is not a same-day addition for the purposes of this Chapter if any of the
following conditions is met:

(a) immediately after the transfer of value mentioned in subsection (1)(a)
    all the property comprised in settlement A was held for charitable
    purposes only without limit of time (defined by a date or otherwise),

(b) immediately after the transfer of value mentioned in subsection (1)(b)
    all the property comprised in settlement B was so held.

(c) either or each of settlements A and B is a protected settlement (see
    section 62B), and

(d) either or each of the transfer of value mentioned in subsection (1)(a),
    and the transfer of value mentioned in subsection (1)(b), results from
    the payment of a premium under a contract of life insurance the terms
    of which provide for premiums to be due at regular intervals of one
    year or less throughout the contract term.

(4) For the purposes of subsection (1) above, it is immaterial whether the amount
of the property comprised in settlement A or settlement B (or neither) was
increased as a result of the transfer or transfers of value mentioned in that
subsection.

62B Protected settlements

(1) For the purposes of this Chapter, a settlement is a "protected settlement" if it
commenced before 10 December 2014 and either condition A or condition B
is met.

(2) Condition A is met if there have been no transfers of value by the settlor on or
after 10 December 2014 as a result of which the value of the property
comprised in the settlement was increased.

(3) Condition B is met if:

(a) there has been a transfer of value by the settlor on or after 10
    December 2014 as a result of which the value of the property
    comprised in the settlement was increased, and

(b) that transfer of value was the transfer of value under section 4 on the
    settlor's death before 6 April 2016 and it had the result mentioned by
    reason of a protected testamentary disposition.

(4) In subsection (3)(b) "protected testamentary disposition" means a disposition
effected by provisions of the settlor's will that at the settlor's death are, in
substance, the same as they were immediately before 10 December 2014.
63 Minor interpretative provisions

In this Chapter, unless the context otherwise requires—

“payment” includes a transfer of assets other than money;
“quarter” means period of three months.

64 Charge at ten-year anniversary

(1) Where immediately before a ten-year anniversary all or any part of the property comprised in a settlement is relevant property, tax shall be charged at the rate applicable under sections 66 and 67 below on the value of the property or part at that time.

(1A) For the purposes of subsection (1) above, property held by the trustees of a settlement immediately before a ten-year anniversary is to be regarded as relevant property comprised in the settlement at that time if—

(a) it is income of the settlement,
(b) the income arose before the start of the five years ending immediately before the ten-year anniversary,
(c) the income arose (directly or indirectly) from property comprised in the settlement that, when the income arose, was relevant property, and
(d) when the income arose, no person was beneficially entitled to an interest in possession in the property from which the income arose.

(1B) Where the settlor of a settlement was not domiciled in the United Kingdom at the time the settlement was made, income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

(a) is situated outside the United Kingdom, or
(b) is represented by a holding in an authorised unit trust or a share in an open-ended investment company.

(1C) Income of the settlement is not to be regarded as relevant property comprised in the settlement as a result of subsection (1A) above so far as the income—

(a) is represented by securities issued by the Treasury subject to a condition of the kind mentioned in subsection (2) of section 6 above, and
(b) it is shown that all known persons for whose benefit the settled property or income from it has been or might be applied, or who are or might become beneficially entitled to an interest in possession in it, are persons of a description specified in the condition in question.

(2) For the purposes of subsection (1) above, a foreign-owned work of art which is situated in the United Kingdom for one or more of the purposes of public display, cleaning and restoration (and for no other purpose) is not to be regarded as relevant property.

65 Charge at other times

(1) There shall be a charge to tax under this section—

(a) where the property comprised in a settlement or any part of that property ceases to be relevant property (whether because it ceases to be comprised in the settlement or otherwise); and
(b) in a case in which paragraph (a) above does not apply, where the trustees of the settlement make a disposition as a result of which the value of relevant property comprised in the settlement is less than it would be but for the disposition.

(2) The amount on which tax is charged under this section shall be—

(a) the amount by which the value of relevant property comprised in the settlement is less immediately after the event in question than it would be but for the event, or

(b) where the tax payable is paid out of relevant property comprised in the settlement immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(3) The rate at which tax is charged under this section shall be the rate applicable under section 68 or 69 below.

(4) Subsection (1) above does not apply if the event in question occurs in a quarter beginning with the day on which the settlement commenced or with a ten-year anniversary.

(5) Tax shall not be charged under this section in respect of—

(a) a payment of costs or expenses (so far as they are fairly attributable to relevant property), or

(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident, or in respect of a liability to make such a payment.

(6) Tax shall not be charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

(7) Tax shall not be charged under this section by reason only that property comprised in a settlement ceases to be situated in the United Kingdom and thereby becomes excluded property by virtue of section 48(3)(a) above.

(7A) Tax shall not be charged under this section by reason only that property comprised in a settlement becomes excluded property by virtue of section 48(3A)(a) (holding in an authorised unit trust or a share in an open-ended investment company is excluded property unless settlor domiciled in UK when settlement made).

(8) If the settlor of a settlement was not domiciled in the United Kingdom when the settlement was made, tax shall not be charged under this section by reason only that property comprised in the settlement is invested in securities issued by the Treasury subject to a condition of the kind mentioned in section 6(2) above and thereby becomes excluded property by virtue of section 48(4)(b) above.

(9) For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.
66 Rate of ten-yearly charge

(1) Subject to subsection (2) below, the rate at which tax is charged under section 64 above at any time shall be three tenths of the effective rate (that is to say the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (3) below.

(2) Where the whole or part of the value mentioned in section 64 above is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period of ten years ending immediately before the ten-year anniversary concerned, the rate at which tax is charged on that value or part shall be reduced by one-fortieth for each of the successive quarters in that period which expired before the property became, or last became, relevant property comprised in the settlement.

(2A) Subsection (2) above does not apply to property which is regarded as relevant property as a result of section 64(1A) (and accordingly that property is charged to tax at the rate given by subsection (1) above).

(3) The chargeable transfer postulated in subsection (1) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (4) below;

(b) which is made immediately before the ten-year anniversary concerned by a transferor who has in the preceding seven years made chargeable transfers having an aggregate value determined in accordance with subsection (5) below; and

(c) on which tax is charged in accordance with section 7(2) of this Act.

(4) The amount referred to in subsection (3)(a) above is equal to the aggregate of—

(a) the value on which tax is charged under section 64 above;

(b) the value immediately after it became comprised in the settlement of any property which was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement; and

(c) the value, immediately after a related settlement commenced, of the property then comprised in it;

(d) the value of any same-day addition; and

(e) where:

   (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (d) above, and

   (ii) that other settlement is not a related settlement,

the value immediately after that other settlement commenced of the property then comprised in that other settlement;

but subject to subsection (6) below.

(5) The aggregate value referred to in subsection (3)(b) above is equal to the aggregate of—
(a) the values transferred by any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974, and

(b) the amounts on which any charges to tax were imposed under section 65 above in respect of the settlement in the ten years before the anniversary concerned;

but subject to subsection (6) and section 67 below.

(6) In relation to a settlement which commenced before 27th March 1974—

(a) subsection (4) above shall have effect with the omission of paragraphs (b) and (c) to (e); and

(b) subsection (5) above shall have effect with the omission of paragraph (a);

and where tax is chargeable under section 64 above by reference to the first ten-year anniversary of a settlement which commenced before 9th March 1982, the aggregate mentioned in subsection (5) above shall be increased by the amounts of any distribution payments (determined in accordance with the rules applicable under paragraph 11 of Schedule 5 to the Finance Act 1975) made out of the settled property before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the Finance Act 1982 applied, 1st April 1983, or, as the case may be, 1st April 1984) and within the period of ten years before the anniversary concerned.

67 Added property, etc

(1) This subsection applies where, after the settlement commenced and after 8th March 1982, but before the anniversary concerned, the settlor made a chargeable transfer as a result of which the value of the property comprised in the settlement was increased.

(2) For the purposes of subsection (1) above, it is immaterial whether the amount of the property so comprised was increased as a result of the transfer, but a transfer as a result of which the value increased but the amount did not shall be disregarded if it is shown that the transfer—

(a) was not primarily intended to increase the value, and

(b) did not result in the value being greater immediately after the transfer by an amount exceeding five per cent of the value immediately before the transfer.

(3) Where subsection (1) above applies in relation to a settlement which commenced after 26th March 1974, section 66(5)(a) above shall have effect as if it referred to the greater of—

(a) the aggregate of the values there specified, and

(b) the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of seven years ending with the day on which the chargeable transfer falling within subsection (1) above was made—

(i) disregarding transfers made on that day or before 27th March 1974, and

(ii) excluding the values mentioned in subsection (5) below;
and where the settlor made two or more chargeable transfers falling within subsection (1) above, paragraph (b) above shall be taken to refer to the transfer in relation to which the aggregate there mentioned is the greatest.

(4) Where subsection (1) above applies in relation to a settlement which commenced before 27th March 1974, the aggregate mentioned in section 66(5) above shall be increased (or further increased) by the aggregate of the values transferred by any chargeable transfers made by the settlor in the period of [seven] years ending with the day on which the chargeable transfer falling within subsection (1) above was made—

(a) disregarding transfers made on that day or before 27th March 1974, and

(b) excluding the values mentioned in subsection (5) below;

and where the settlor made two or more chargeable transfers falling within subsection (1) above, this subsection shall be taken to refer to the transfer in relation to which the aggregate to be added is the greatest.

(5) The values excluded by subsections (3)(b)(ii) and (4)(b) above are—

(a) any value attributable to property whose value is taken into account in determining the amount mentioned in section 66(4) above; and

(b) any value attributable to property in respect of which a charge to tax has been made under section 65 above and by reference to which an amount mentioned in section 66(5)(b) above is determined.

(6) Where the property comprised in a settlement immediately before the ten-year anniversary concerned, or any part of that property, had on any occasion within the preceding ten years ceased to be relevant property then, if on that occasion tax was charged in respect of the settlement under section 65 above, the aggregate mentioned in section 66(5) above shall be reduced by an amount equal to the lesser of—

(a) the amount on which tax was charged under section 65 (or so much of that amount as is attributable to the part in question), and

(b) the value on which tax is charged under section 64 above (or so much of that value as is attributable to the part in question);

and if there were two or more such occasions relating to the property or the same part of it, this subsection shall have effect in relation to each of them.

(7) References in subsection (6) above to the property comprised in a settlement immediately before an anniversary shall, if part only of the settled property was then relevant property, be construed as references to that part.

68 Rate before first ten-year anniversary

(1) The rate at which tax is charged under section 65 above on an occasion preceding the first ten-year anniversary after the settlement's commencement shall be the appropriate fraction of the effective rate at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (4) below (but subject to subsection (6) below).

(2) For the purposes of this section the appropriate fraction is three tenths multiplied by so many fortieths as there are complete successive quarters in the period beginning with the day on which the settlement commenced and ending with the day before the occasion of the charge, but subject to subsection (3) below.
(3) Where the whole or part of the amount on which tax is charged is attributable to property which was not relevant property, or was not comprised in the settlement, throughout the period referred to in subsection (2) above, then in determining the appropriate fraction in relation to that amount or part—

(a) no quarter which expired before the day on which the property became, or last became, relevant property comprised in the settlement shall be counted, but

(b) if that day fell in the same quarter as that in which the period ends, that quarter shall be counted whether complete or not.

(4) The chargeable transfer postulated in subsection (1) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (5) below;

(b) which is made at the time of the charge to tax under section 65 by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day or before 27th March 1974; and

(c) on which tax is charged in accordance with section 7(2) of this Act.

(5) The amount referred to in subsection (4)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the relevant property then comprised in it;

(b) the value, immediately after a related settlement commenced, of the property then comprised in it; and

(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 65 (whether or not it has remained so comprised), the value, immediately after it became comprised in the settlement, of property which:

(i) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and

(ii) was relevant property immediately after it became so comprised, whether or not the property has remained relevant property comprised in the settlement;

(d) the value, at the time it became (or last became) relevant property, of property which:

(i) was comprised in the settlement immediately after the settlement commenced and was not then relevant property but became relevant property before the occasion of the charge under section 65 above, or

(ii) became comprised in the settlement after the settlement commenced and before the occasion of the charge under section 65 above, and was not relevant property immediately after it became comprised in the settlement, but became

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relevant property before the occasion of the charge under that section,
whether or not the property has remained relevant property comprised
in the settlement;

(e) the value of any same-day addition; and

(f) where:
   (i) an increase in the value of the property comprised in another
       settlement is represented by the value of a same-day addition
       aggregated under paragraph (e) above, and
   (ii) that other settlement is not a related settlement,

the value immediately after that other settlement commenced of the
property then comprised in that other settlement.

(6) Where the settlement commenced before 27th March 1974, subsection (1)
above shall have effect with the substitution of a reference to three tenths for
the reference to the appropriate fraction; and in relation to such a settlement
the chargeable transfer postulated in that subsection is one—

(a) the value transferred by which is equal to the amount on which tax is
    charged under section 65 above;

(b) which is made at the time of that charge to tax by a transferor who has
    in the period of seven years ending with the day of the occasion of the
    charge made chargeable transfers having an aggregate value equal to
    the aggregate of—
       (i) any amounts on which any charges to tax have been imposed
           under section 65 above in respect of the settlement in [the
           period of ten years ending with that day; and
       (ii) the amounts of any distribution payments (determined in
           accordance with the rules applicable under paragraph 11
           of Schedule 5 to the Finance Act 1975) made out of the settled
           property before 9th March 1982 (or, where paragraph 6, 7 or 8
           of Schedule 15 to the Finance Act 1982 applied, 1st April 1983,
           or, as the case may be, 1st April 1984) and within the said
           period of ten years; and

(c) on which tax is charged in accordance with section 7(2) of this Act.

69 Rate between ten-year anniversaries

(1) Subject to subsection (2A) below, the rate at which tax is charged under
section 65 above on an occasion following one or more ten-year
anniversaries after the settlement's commencement shall be the appropriate
fraction of the rate at which it was last charged under section 64 (or would
have been charged apart from section 66(2)).

(2) If at any time before the occasion of the charge under section 65 and on or
after the most recent ten-year anniversary—
   (a) property has become comprised in the settlement, or
   (b) property which was comprised in the settlement immediately before
       the anniversary, but was not then relevant property, has become
       relevant property,
then, whether or not the property has remained comprised in the settlement or has remained relevant property, the rate at which tax is charged under section 65 shall be the appropriate fraction of the rate at which it would last have been charged under section 64 (apart from section 66(2)) if immediately before that anniversary the property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below. Subsection (2A) below applies:

(a) if, at any time in the period beginning with the most recent ten-year anniversary and ending immediately before the occasion of the charge under section 65 above (the "relevant period"), property has become comprised in the settlement which was relevant property immediately after it became so comprised, or

(b) if:

(i) at any time in the relevant period, property has become comprised in the settlement which was not relevant property immediately after it became so comprised, and

(ii) at a later time in the relevant period, that property has become relevant property, or

(c) if property which was comprised in the settlement immediately before the relevant period, but was not then relevant property, has at any time during the relevant period become relevant property.

(2A) Whether or not all of the property within any of paragraphs (a) to (c) of subsection (2) above has remained relevant property comprised in the settlement, the rate at which tax is charged under section 65 is to be the appropriate fraction of the rate at which it would last have been charged under section 64 above (apart from section 66(2) above) if:

(a) immediately before the most recent ten-year anniversary, all of that property had been relevant property comprised in the settlement with a value determined in accordance with subsection (3) below, and

(b) any same-day addition made on or after the most recent ten-year anniversary had been made immediately before that anniversary.

(3) In the case of property within subsection (2)(a) above which either—

(a) was relevant property immediately after it became comprised in the settlement, or

(b) was not then relevant property and has not subsequently become relevant property while remaining comprised in the settlement, the value to be attributed to it for the purposes of subsection (2A) above is its value immediately after it became comprised in the settlement; and in any other case the value to be so attributed is the value of the property when it became (or last became) relevant property.

(4) For the purposes of this section the appropriate fraction is so many fortieths as there are complete successive quarters in the period beginning with the most recent ten-year anniversary and ending with the day before the occasion of the charge; but subsection (3) of section 68 above shall have effect for the purposes of this subsection as it has effect for the purposes of subsection (2) of that section.
70  **Property leaving temporary charitable trusts**

(1)  This section applies to settled property held for charitable purposes only until the end of a period (whether defined by date or in some other way).

(2)  Subject to subsections (3) and (4) below, there shall be a charge to tax under this section—

(a)  where settled property ceases to be property to which this section applies, otherwise than by virtue of an application for charitable purposes, and

(b)  in a case in which paragraph (a) above does not apply, where the trustees make a disposition (otherwise than by an application of property for charitable purposes) as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(3)  Tax shall not be charged under this section in respect of—

(a)  a payment of costs or expenses (so far as they are fairly attributable to property to which this section applies), or

(b)  a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident, or in respect of a liability to make such a payment.

(4)  Tax shall not be charged under this section by virtue of subsection (2)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

(5)  The amount on which tax is charged under this section shall be—

(a)  the amount by which the value of property which is comprised in the settlement and to which this section applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b)  where the tax payable is paid out of settled property to which this section applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(6)  The rate at which tax is charged under this section shall be the aggregate of the following percentages—

(a)  0.25 per cent for each of the first forty complete successive quarters in the relevant period,

(b)  0.20 per cent for each of the next forty,

(c)  0.15 per cent for each of the next forty,

(d)  0.10 per cent for each of the next forty, and

(e)  0.05 per cent for each of the next forty.

(7)  Where the whole or part of the amount on which tax is charged under this section is attributable to property which was excluded property at any time during the relevant period then, in determining the rate at which tax is charged under this section in respect of that amount or part, no quarter throughout which that property was excluded property shall be counted.
In subsections (6) and (7) above “the relevant period” means the period beginning with the later of—

(a) the day on which the property in respect of which tax is chargeable became (or last became) property to which this section applies, and

(b) 13th March 1975,

and ending with the day before the event giving rise to the charge.

Where the property in respect of which tax is chargeable—

(a) was relevant property immediately before 10th December 1981, and

(b) became (or last became) property to which this section applies on or after that day and before 9th March 1982 (or, where paragraph 6, 7 or 8 of Schedule 15 to the Finance Act 1982 applied, 1st April 1983 or, as the case may be, 1st April 1984),

subsection (8) above shall have effect as if the day referred to in paragraph (a) of that subsection were the day on which the property became (or last became) relevant property before 10th December 1981.

For the purposes of this section trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.

71 Accumulation and maintenance trusts

(1) Subject to subsections (1A) to (2) below, this section applies to settled property if—

(a) one or more persons (in this section referred to as beneficiaries) will, on or before attaining a specified age not exceeding [eighteen]³, become beneficially entitled to it …, and

(b) no interest in possession subsists in it and the income from it is to be accumulated so far as not applied for the maintenance, education or benefit of a beneficiary.

(1A) This section does not apply to settled property at any particular time on or after 22nd March 2006 unless this section—

(a) applied to the settled property immediately before 22nd March 2006, and

(b) has applied to the settled property at all subsequent times up to the particular time.

(1B) This section does not apply to settled property at any particular time on or after 22nd March 2006 if, at that time, section 71A below applies to the settled property.

(2) This section does not apply to settled property unless either—

(a) not more than twenty-five years have elapsed since the commencement of the settlement or, if it was later, since the time (or latest time) when the conditions stated in paragraphs (a) and (b) of subsection (1) above became satisfied with respect to the property, or

(b) all the persons who are or have been beneficiaries are or were either—

(i) grandchildren of a common grandparent, or
(ii) children, widows or widowers [or surviving civil partners] of such grandchildren who were themselves beneficiaries but died before the time when, had they survived, they would have become entitled as mentioned in subsection (1)(a) above.

(3) Subject to subsections (4) and (5) below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which this section applies, and

(b) in a case in which paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which this section applies is less than it would be but for the disposition.

(4) Tax shall not be charged under this section—

(a) on a beneficiary's becoming beneficially entitled to, or to an interest in possession in, settled property on or before attaining the specified age.

(b) on the death of a beneficiary before attaining the specified age.

(5) Subsections (3) to (8) and (10) of section 70 above shall apply for the purposes of this section as they apply for the purposes of that section (with the substitution of a reference to subsection (3)(b) above for the reference in section 70(4) to section 70(2)(b)).

(6) Where the conditions stated in paragraphs (a) and (b) of subsection (1) above were satisfied on 15th April 1976 with respect to property comprised in a settlement which commenced before that day, subsection (2)(a) above shall have effect with the substitution of a reference to that day for the reference to the commencement of the settlement, and the condition stated in subsection (2)(b) above shall be treated as satisfied if—

(a) it is satisfied in respect of the period beginning with 15th April 1976, or

(b) it is satisfied in respect of the period beginning with 1st April 1977 and either there was no beneficiary living on 15th April 1976 or the beneficiaries on 1st April 1977 included a living beneficiary, or

(c) there is no power under the terms of the settlement whereby it could have become satisfied in respect of the period beginning with 1st April 1977, and the trusts of the settlement have not been varied at any time after 15th April 1976.

(7) In subsection (1) above “persons” includes unborn persons; but the conditions stated in that subsection shall be treated as not satisfied unless there is or has been a living beneficiary.

(8) For the purposes of this section a person’s children shall be taken to include his illegitimate children, his adopted children and his stepchildren.

71A Trusts for bereaved minors

(1) This section applies to settled property (including property settled before 22nd March 2006) if—

(a) it is held on statutory trusts for the benefit of a bereaved minor under sections 46 and 47(1) of the Administration of Estates Act 1925 (succession on intestacy and statutory trusts in favour of issue of intestate), or
(b) it is held on trusts for the benefit of a bereaved minor and subsection (2) below applies to the trusts, but this section does not apply to property in which a disabled person's interest subsists.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the bereaved minor, or
(b) established under the Criminal Injuries Compensation Scheme, or
(c) established under the Victims of Overseas Terrorism Compensation Scheme,

which secure that the conditions in subsection (3) below are met.

(3) Those conditions are—

(a) that the bereaved minor, if he has not done so before attaining the age of 18, will on attaining that age become absolutely entitled to—

(i) the settled property,
(ii) any income arising from it, and
(iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,

(b) that, for so long as the bereaved minor is living and under the age of 18, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor, and

(c) that, for so long as the bereaved minor is living and under the age of 18, either—

(i) the bereaved minor is entitled to all of the income (if there is any) arising from any of the settled property, or
(ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of the bereaved minor.

(4) Trusts such as are mentioned in paragraph (a), (b) or (c) of subsection (2) above are not to be treated as failing to secure that the conditions in subsection (3) above are met by reason only of—

(za) the trustees' having powers that enable them to apply otherwise than for the benefit of the bereaved minor amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(a) the trustees' having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(b) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees' having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),

(d) the trustees' having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or
(e) the trustees' having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(4A) For the purposes of this section and section 71B, the “annual limit” is whichever is the lower of the following amounts—
(a) £3,000, and
(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(4B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(4C) The Treasury may by order made by statutory instrument—
(a) specify circumstances in which subsection (4)(za) is, or is not, to apply in relation to a trust, and
(b) amend the definition of “the annual limit” in subsection (4A).

(4D) An order under subsection (4C) may—
(a) make different provision for different cases, and
(b) contain transitional and saving provision.

(4E) A statutory instrument containing an order under subsection (4C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(5) In this section “the Criminal Injuries Compensation Scheme” means—
(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,
(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and
(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(6) The preceding provisions of this section apply in relation to Scotland as if, in subsection (2) above, before “which” there were inserted “the purposes of”.

71B Charge to tax on property to which section 71A applies

(1) Subject to subsections (2)[, (2B)]² and (3) below, there shall be a charge to tax under this section—
(a) where settled property ceases to be property to which section 71A above applies, and
(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value of settled property to which section 71A above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71A applies as a result of—
(a) the bereaved minor attaining the age of 18 or becoming, under that age, absolutely entitled as mentioned in section 71A(3)(a) above, or
(b) the death under that age of the bereaved minor, or
(c) being paid or applied for the advancement or benefit of the bereaved minor.

(2A) Subsection (2B) applies in a case in which—
(a) an amount is paid or applied otherwise than for the benefit of the bereaved minor, and
(b) the exemptions provided by subsection (2) of this section and subsections (3) and (4) of section 70 do not apply.

(2B) In such a case, tax is not charged under this section in respect of whichever is the lower of the following amounts—
(a) the amount paid or applied, and
(b) the annual limit.

(3) Subsections (3) to (8) and (10) of section 70 above apply for the purposes of this section as they apply for the purposes of that section, but—
(a) with the substitution of a reference to subsection (1)(b) above for the reference in subsection (4) of section 70 above to subsection (2)(b) of that section,
(b) with the substitution of a reference to property to which section 71A above applies for each of the references in subsections (3), (5) and (8) of section 70 above to property to which that section applies,
(c) as if, for the purposes of section 70(8) above as applied by this subsection, property—
(i) which is property to which section 71A above applies,
(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71 above applied, and
(iii) which, by the operation of section 71(1B) above, ceased on that occasion to be property to which section 71 above applied, had become property to which section 71A above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied, and
(d) as if, for the purposes of section 70(8) above as applied by this subsection, property—
(i) which is property to which section 71A above applies,
(ii) which, immediately before it became property to which section 71A above applies, was property to which section 71D below applied, and
(iii) which, by the operation of section 71D(5)(a) below, ceased on that occasion (“the 71D-to-71A occasion”) to be property to which section 71D below applied, had become property to which section 71A above applies not on the 71D-to-71A occasion but on the relevant earlier occasion.

(4) In subsection (3)(d) above—
(a) “the relevant earlier occasion” means the occasion (or last occasion) before the 71D-to-71A occasion when the property became property to which section 71D below applied, but
(b) if the property, when it became property to which section 71D below applied, ceased at the same time to be property to which section 71 above applied without ceasing to be settled property, “the relevant earlier occasion” means the occasion (or last occasion) when the property became property to which section 71 above applied.] 1

71C Sections 71A and 71B: meaning of “bereaved minor”

In sections 71A and 71B above “bereaved minor” means a person—

(a) who has not yet attained the age of 18, and

(b) at least one of whose parents has died.] 1

71D Age 18-to-25 trusts

(1) This section applies to settled property (including property settled before 22nd March 2006), but subject to subsection (5) below, if—

(a) the property is held on trusts for the benefit of a person who has not yet attained the age of 25,

(b) at least one of the person’s parents has died, and

(c) subsection (2) below applies to the trusts.

(2) This subsection applies to trusts—

(a) established under the will of a deceased parent of the person mentioned in subsection (1)(a) above, or

(b) established under the Criminal Injuries Compensation Scheme, or

(c) established under the Victims of Overseas Terrorism Compensation Scheme,

which secure that the conditions in subsection (6) below are met.

(3) Subsection (4) has effect where—

(a) at any time on or after 22nd March 2006 but before 6th April 2008, or on the coming into force of paragraph 3(1) of Schedule 20 to the Finance Act 2006, any property ceases to be property to which section 71 above applies without ceasing to be settled property, and

(b) immediately after the property ceases to be property to which section 71 above applies—

(i) it is held on trusts for the benefit of a person who has not yet attained the age of 25, and

(ii) the trusts secure that the conditions in subsection (6) below are met.

(4) From the time when the property ceases to be property to which section 71 above applies, but subject to subsection (5) below, this section applies to the property (if it would not apply to the property by virtue of subsection (1) above) for so long as—

(a) the property continues to be settled property held on trusts such as are mentioned in subsection (3)(b)(i) above, and

(b) the trusts continue to secure that the conditions in subsection (6) below are met.

(5) This section does not apply—
(a) to property to which section 71A above applies,
(b) to property to which section 71 above, or section 89 below, applies, or
(c) to settled property if a person is beneficially entitled to an interest in possession in the settled property and—
   (i) the person became beneficially entitled to the interest in possession before 22nd March 2006, or
   (ii) the interest in possession is an immediate post-death interest, or a transitional serial interest, and the person became beneficially entitled to it on or after 22nd March 2006.

(6) Those conditions are—

(a) that the person mentioned in subsection (1)(a) or (3)(b)(i) above ("B"), if he has not done so before attaining the age of 25, will on attaining that age become absolutely entitled to—
   (i) the settled property,
   (ii) any income arising from it, and
   (iii) any income that has arisen from the property held on the trusts for his benefit and been accumulated before that time,

(b) that, for so long as B is living and under the age of 25, if any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B, and

(c) that, for so long as B is living and under the age of 25, either—
   (i) B is entitled to all of the income (if there is any) arising from any of the settled property, or
   (ii) if any of the income arising from any of the settled property is applied for the benefit of a beneficiary, it is applied for the benefit of B.

(6A) Where the income arising from the settled property is held on trusts of the kind described in section 33 of the Trustee Act 1925 (protective trusts), paragraphs (b) and (c) of subsection (6) have effect as if for "living and under the age of 25," there were substituted "under the age of 25 and the income arising from the settled property is held on trust for B."

(7) For the purposes of this section, trusts are not to be treated as failing to secure that the conditions in subsection (6) above are met by reason only of—

(za) the trustees’ having powers that enable them to apply otherwise than for the benefit of B amounts (whether consisting of income or capital, or both) not exceeding the annual limit,

(a) the trustees’ having the powers conferred by section 32 of the Trustee Act 1925 (powers of advancement),

(b) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by proviso (a) of subsection (1) of that section,

(c) the trustees’ having the powers conferred by section 33 of the Trustee Act (Northern Ireland) 1958 (corresponding provision for Northern Ireland),
(d) the trustees’ having those powers but free from, or subject to a less restrictive limitation than, the limitation imposed by subsection (1)(a) of that section, or

(e) the trustees’ having powers to the like effect as the powers mentioned in any of paragraphs (a) to (d) above.

(7A) For the purposes of this section and section 71E, the “annual limit” is whichever is the lower of the following amounts—

(a) £3,000, and

(b) 3% of the amount that is the maximum value of the settled property during the period in question.

(7B) For those purposes the annual limit applies in relation to each period of 12 months that begins on 6 April.

(7C) The Treasury may by order made by statutory instrument—

(a) specify circumstances in which subsection (7)(za) is, or is not, to apply in relation to a trust, and

(b) amend the definition of “the annual limit” in subsection (7A).

(7D) An order under subsection (7C) may—

(a) make different provision for different cases, and

(b) contain transitional and saving provision.

(7E) A statutory instrument containing an order under subsection (7C) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the House of Commons.

(8) In this section “the Criminal Injuries Compensation Scheme” means—

(a) the schemes established by arrangements made under the Criminal Injuries Compensation Act 1995,

(b) arrangements made by the Secretary of State for compensation for criminal injuries in operation before the commencement of those schemes, and

(c) the scheme established under the Criminal Injuries Compensation (Northern Ireland) Order 2002.

(9) The preceding provisions of this section apply in relation to Scotland—

(a) as if, in subsection (2) above, before “which” there were inserted “the purposes of”, and

(b) as if, in subsections (3)(b)(ii) and (4)(b) above, before “trusts” there were inserted “purposes of the”.

71E Charge to tax on property to which section 71D applies

(1) Subject to subsections (2) to [(4A)] below, there shall be a charge to tax under this section—

(a) where settled property ceases to be property to which section 71D above applies, or

(b) in a case where paragraph (a) above does not apply, where the trustees make a disposition as a result of which the value
of the settled property to which section 71D above applies is less than it would be but for the disposition.

(2) Tax is not charged under this section where settled property ceases to be property to which section 71D above applies as a result of—
(a) B becoming, at or under the age of 18, absolutely entitled as mentioned in section 71D(6)(a) above,
(b) the death, under the age of 18, of B,
(c) becoming, at a time when B is living and under the age of 18, property to which section 71A above applies, or
(d) being paid or applied for the advancement or benefit of B—
   (i) at a time when B is living and under the age of 18, or
   (ii) on B's attaining the age of 18.

(3) Tax is not charged under this section in respect of—
(a) a payment of costs or expenses (so far as they are fairly attributable to property to which section 71D above applies), or
(b) a payment which is (or will be) income of any person for any of the purposes of income tax or would for any of those purposes be income of a person not resident in the United Kingdom if he were so resident, or in respect of a liability to make such a payment.

(4) Tax is not charged under this section by virtue of subsection (1)(b) above if the disposition is such that, were the trustees beneficially entitled to the settled property, section 10 or section 16 above would prevent the disposition from being a transfer of value.

(4A) If an amount is paid or applied otherwise than for the benefit of B and the exemptions provided by subsections (2) to (4) do not apply, tax is not charged under this section in respect of whichever is the lower of the following amounts—
(a) the amount paid or applied, and
(b) the annual limit.

(5) For the purposes of this section the trustees shall be treated as making a disposition if they omit to exercise a right (unless it is shown that the omission was not deliberate) and the disposition shall be treated as made at the time or latest time when they could have exercised the right.]

71F Calculation of tax charged under section 71E in certain cases

(1) Where—
(a) tax is charged under section 71E above by reason of the happening of an event within subsection (2) below, and
(b) that event happens after B has attained the age of 18,
the tax is calculated in accordance with this section.

(2) Those events are—
(a) B becoming absolutely entitled as mentioned in section 71D(6)(a) above,
(b) the death of B, and
(c) property being paid or applied for the advancement or benefit of B.

(3) The amount of the tax is given by—

\[
\text{Chargeable amount} \times \text{Relevant fraction} \times \text{Settlement rate}
\]

(4) For the purposes of subsection (3) above, the “Chargeable amount” is—

(a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

(b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(5) For the purposes of subsection (3) above, the “Relevant fraction” is three tenths multiplied by so many fortieths as there are complete successive quarters in the period—

(a) beginning with the day on which B attained the age of 18 or, if later, the day on which the property became property to which section 71D above applies, and

(b) ending with the day before the occasion of the charge.

(6) Where the whole or part of the Chargeable amount is attributable to property that was excluded property at any time during the period mentioned in subsection (5) above then, in determining the “Relevant fraction” in relation to that amount or part, no quarter throughout which that property was excluded property shall be counted.

(7) For the purposes of subsection (3) above, the “Settlement rate” is the effective rate (that is to say, the rate found by expressing the tax chargeable as a percentage of the amount on which it is charged) at which tax would be charged on the value transferred by a chargeable transfer of the description specified in subsection (8) below.

(8) The chargeable transfer postulated in subsection (7) above is one—

(a) the value transferred by which is equal to an amount determined in accordance with subsection (9) below,

(b) which is made at the time of the charge to tax under section 71E above by a transferor who has in the period of seven years ending with the day of the occasion of the charge made chargeable transfers having an aggregate value equal to that of any chargeable transfers made by the settlor in the period of seven years ending with the day on which the settlement commenced, disregarding transfers made on that day, and

(c) on which tax is charged in accordance with section 7(2) above.

(9) The amount referred to in subsection (8)(a) above is equal to the aggregate of—

(a) the value, immediately after the settlement commenced, of the property then comprised in it, and

(b) the value, immediately after a related settlement commenced, of the property then comprised in it,
(c) the value, immediately after it became comprised in the settlement, of any property which became so comprised after the settlement commenced and before the occasion of the charge under section 71E above (whether or not it has remained so comprised),

(d) the value of any same-day addition, and

(e) where:

   (i) an increase in the value of the property comprised in another settlement is represented by the value of a same-day addition aggregated under paragraph (d) above, and

   (ii) that other settlement is not a related settlement, the value immediately after that other settlement commenced of the property then comprised in that other settlement.

71G Calculation of tax charged under section 71E in all other cases

(1) Where—

   (a) tax is charged under section 71E above, and

   (b) the tax does not fall to be calculated in accordance with section 71F above,

the tax is calculated in accordance with this section.

(2) The amount on which the tax is charged is—

   (a) the amount by which the value of property which is comprised in the settlement and to which section 71D above applies is less immediately after the event giving rise to the charge than it would be but for the event, or

   (b) where the tax is payable out of settled property to which section 71D above applies immediately after the event, the amount which, after deducting the tax, is equal to the amount on which tax would be charged by virtue of paragraph (a) above.

(3) The rate at which the tax is charged is the rate that would be given by subsections (6) to (8) of section 70 above—

   (a) if the reference to section 70 above in subsection (8)(a) of that section were a reference to section 71D above,

   (b) if the other references in those subsections to section 70 above were references to section 71E above, and

   (c) if, for the purposes of section 70(8) above, property—

      (i) which is property to which section 71D above applies,

      (ii) which, immediately before it became property to which section 71D above applies, was property to which section 71 applied, and

      (iii) which ceased on that occasion to be property to which section 71 above applied without ceasing to be settled property,

had become property to which section 71D above applies not on that occasion but on the occasion (or last occasion) before then when it became property to which section 71 above applied.
Appendix 2

(Example supplied by Robert Jamieson)

A comparison of the tax results under the current rules and under HMRC’s proposed alternative is set out below. The illustration looks at a 10 year anniversary charge and assumes that the present IHT rates and nil rate band remain in place for the time being.

Illustration

Christopher, whose cumulative total of chargeable transfers stood at £10,000, set up Pilot Trust A with £10 on 1 June 2015 and Pilot Trust B with another £10 on 2 June 2015. They are both discretionary settlements.

Christopher died on 1 January 2016 and his will instructed that £250,000 should be added to each trust.

When the first 10 year anniversary charge arrived in June 2025, the value of the property in each trust was:

Trust A (1 June 2025) £340,000
Trust B (2 June 2025) £340,000

There have been no exit charges.

Current rules

The IHT payable in connection with the 10 year anniversary charge on Trust A is calculated as follows:

£

Christopher’s chargeable transfers prior to Trust A

Add: Value of Trust A property on 1 June 2025

£350,000

IHT at lifetime rates on the value of Trust A’s property is:

£

On 10,000 – 325,000 = 315,000 @ 0%

On 325,000 – 350,000 = 25,000 @ 20%

£5,000

Thus:

5,000/340,000 x 100 = 1.471%
On the assumption that the 10 year anniversary charge is wholly ascribable to the addition on 1 January 2016 (i.e. the initial value settled is ignored), the number of quarters taken is 40 less the number of complete successive quarters prior to the addition – this comes to two. And so the fraction becomes 38/40ths.

The rate of IHT actually charged is:

\[1.471\% \times 30\% \times \frac{38}{40} = 0.419\%\]

Therefore, the trustees of Trust A must settle a liability of \(0.419\% \times £340,000 = £1,425\).

The 10 year anniversary tax calculation for Trust B is taken to be the same, i.e. another £1,425.

**Proposed alternative**

The IHT payable in connection with the 10 year anniversary charge on Trust A is calculated as follows:

- Christopher’s chargeable transfers prior to Trust A: £10,000
- Add: Value of Trust A property on 1 June 2025: £340,000
- Value of same-day addition to Trust B: £250,000
- Initial value of Trust B: £10

\[\text{Total: } £590,010\]

\[\text{Total: } £600,010\]

IHT at lifetime rates on the chargeable value for Trust A is:

- On £10,000 – £325,000 = £315,000 @ 0%: £0
- On £325,000 – £600,010 = £275,010 @ 20%: £55,002

\[\text{Total: } £55,002\]

Thus:

\[\frac{55,002}{590,010} \times 100 = 9.322\%\]

Making a similar assumption to the previous calculation, the rate of IHT actually charged is:

\[9.322\% \times 30\% \times \frac{38}{40} = 2.657\%\]

Therefore, the revised liability for the trustees of Trust A is \(2.657\% \times £340,000 = £9,034\), with the same sum being due from the trustees of Trust B, i.e. a more than six-fold increase.
Note that if Christopher had set up a single settlement then under the proposed new rules the charge on the TYA would be:

<table>
<thead>
<tr>
<th>£</th>
<th>Total value of relevant property</th>
<th>680,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>IHT at lifetime rates:</td>
<td>nil</td>
<td></td>
</tr>
<tr>
<td>0 - £325,000</td>
<td>nil</td>
<td></td>
</tr>
<tr>
<td>excess £355,000 @ 20%</td>
<td>71,000</td>
<td></td>
</tr>
</tbody>
</table>

So the average rate is 71,000 / 680,000 = 10.44

And the rate charged is 10.44 x 30% = 3.13%

So that the tax payable is £680,000 x 3.13% = £21,284

There may therefore still be an advantage in using more than one settlement (in this example, the saving is £21,284 - £18,068 = £3,216). The saving arises because under the SDA rules the two settlements are not aggregated: what happens is that the value of the property in Settlement B is taken at two different times (when set up and on the SDA).