

# lightening the load



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Colin Jelley outlines the draft regulations from HM Revenue & Customs (HMRC) for inheritance tax (IHT) reporting.

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In the September *informer* I outlined the latest proposals from HMRC to simplify IHT reporting following the wholesale changes to trust taxation in the March 2006 Budget. Nearly two years on and the Government has finally taken action in this area.

This article provides a summary of these changes. I am of course writing this before all the noise of the 2008 Budget – and hoping the area of inheritance tax reporting saw little further change by the time you are reading it.

## less testing

The regulations on 'Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations)' were laid before Parliament on 6 March 2008 and will come into force on 6 April 2008 but apply retrospectively. These describe the circumstances in which

clients making Chargeable Lifetime Transfers (CLTs) to trusts need to report them. Additional regulations were laid at the same time, describing the circumstances in which trustees suffering 10-yearly periodic and exit tax charges need to make reports. However, this article will not address these additional regulations.

Although these announcements were expected, the content was somewhat different to what had been proposed last year. The regulations apply to any CLTs made on or after 6 April 2007 and will replace the current antiquated reporting provisions, which require CLTs to be reported within 12 months of being made where they exceed £10,000 in any one year or £40,000 over a ten-year period.

Where an individual makes a CLT, the regulations introduce two new tests to determine when a report to HMRC is

NOT required and these can be summarised as follows:

## test one

- a. The asset transferred is cash or quoted shares or securities, AND
- b. The value transferred by the chargeable transfer, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the transfer, does not exceed the IHT threshold.

This means that CLTs of cash, quoted shares or securities will not be required to report where all CLTs made by the client in the previous seven years (including the CLT now being made) do not exceed the value of the individual's available nil-rate band. This infers that reports in these circumstances will only be required where IHT is due.

// In practice the new provisions should mean that the majority of clients will not be required to report at all. //

## test two

- a. The value transferred by the chargeable transfer, together with the values transferred by any previous chargeable transfers made by the transferor during the seven years preceding the transfer, does not exceed 80% of the IHT threshold, AND
- b. The value transferred by the transfer of value giving rise to the chargeable transfer does not exceed the net IHT threshold.

The net IHT threshold means the IHT threshold (currently £300,000) less the sum of the values transferred by all previous chargeable transfers made by the transferor during the seven years preceding the chargeable transfer now being made (not including the CLT now being made).

For the purposes of 2b above, business property relief and agricultural property relief will not apply in determining the value transferred by the chargeable transfer.

The 80% limit in test two would mean the reporting level in 2007/08 would be £240,000. However, where previous CLTs have been made then the legislation provides that this figure may be different.

There was an additional third test proposed by HMRC in the summer of 2007, specifically targeted at Discounted Gift Trusts. In the HMRC example published at that time, the reporting threshold would be tested against the sum of the discounted gift and the value retained by the settlor. HMRC have confirmed that this test has not been carried forward under the new regulations.

The regulations do not change the period in which a report should be submitted, or when tax should be paid if due. Where tax is due this is required to be paid within six months of the end of the month in which the transfer is made. Whether tax is due or not, where the new limits are exceeded the report will be required within 12 months following the end of the month in which the CLT was made.

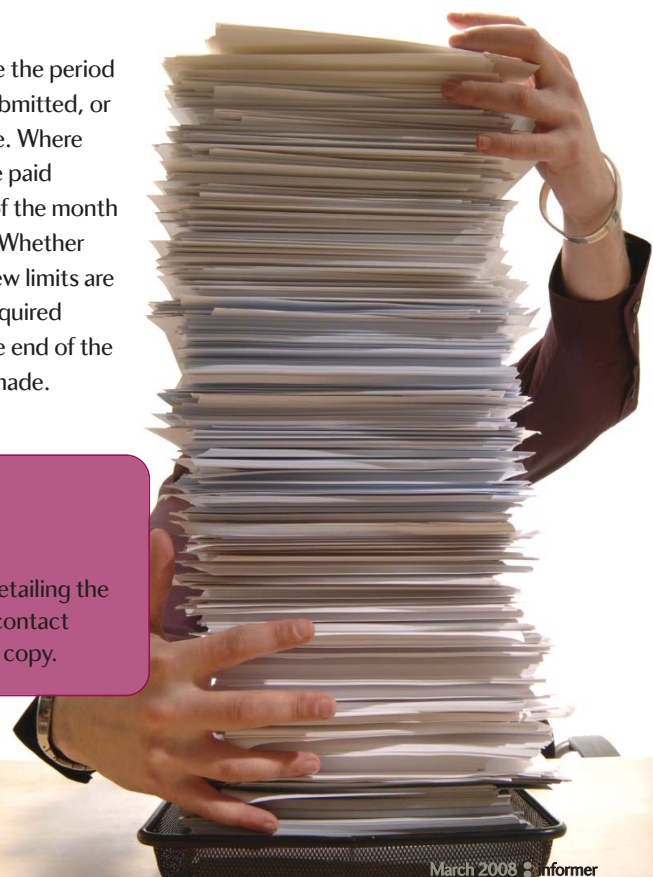
## summary

Advisers need to make sure they are aware of this change where their clients are making CLTs to trusts. Clearly these changes increase the reporting thresholds, which should significantly reduce the number of reports made. In practice the new provisions should mean that the majority of clients will not be required to report at all. This will be good news for clients, their advisers and HMRC, reducing the administration burden for all involved. ●

## Budget 2008 informer insert

With this issue of informer you should have received a four-page flyer detailing the key Budget 2008 advice issues. If you did not receive this flyer, please contact your Skandia regional office (see the back page for details) to receive a copy.

This article is based on Skandia's interpretation of the law and HM Revenue & Customs practice as at 29 February 2008. We believe this interpretation to be correct but cannot guarantee it.



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