Preserving a nation

Management of taxes



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Helen Thornley considers some of the items accepted as settlement in lieu of tax

What do a rare mineral specimen, a portrait of Frederick Howard the 5th Earl of Carlisle by Sir Joshua Reynolds, and a collection of lyrics and letters by John Lennon all have in common?

The first two were accepted in settlement of death duties under the long-standing Acceptance in Lieu (AIL) scheme. The Lennon papers were the first acceptance in 2012/13 under the Cultural Gifts Scheme (CGS), which allows donors to obtain tax relief on accepted gifts against income tax, capital gains tax or corporation tax.

The ability to settle taxes by a transfer of assets dates back to the People's Budget of 1909-10. While Chancellor David Lloyd-George increased death duties, he also allowed the revenue to consider offers of land to satisfy the tax. As historic homes became increasingly unaffordable, and many were demolished during the 20th century, AIL was one way of preserving them for the future.

It was not until the 1950s that chattels could be transferred under AIL. Initially only the contents of properties accepted in lieu could be offered, until in 1956 the scheme finally allowed offers of chattels alone. Nowadays chattels form the majority of the assets transferred under AIL with only one country house – Seaton Delaval in Northumberland – accepted in the past 30 years.

But not everything offered is accepted. Canova's marble statue of The Three Graces was originally offered in lieu of £1.2m of taxes in 1979. The agreement fell through and 10 years later the owners agreed a sale to a US museum for £7.6m. A fight then commenced to keep it in the UK with Lord Rothschild (then Jacob Rothschild) at one stage proposing AIL as a solution again. He suggested that a substantial estate he had inherited matched the US offer, bought the statute, and then returned it to the nation under AIL to settle estate taxes. Eventually the statue was acquired for the nation in 1994 but only with significant public and private funds.

The saga illustrates the risk of losing historic items overseas forever. While the principle of AIL to retain assets in the UK has been generally accepted, other conditional reliefs designed to protect our heritage have faced challenges over who is really benefiting.

When estate duty was created in 1894 it was only remitted where objects of national, scientific, or historic interest were transferred to universities and public bodies. The first form of conditional relief came in 1896 where, provided items were in trust and could not be sold, estate duty was deferred until the items passed to someone capable of selling them. This relief was extended in 1910 to include objects of artistic interest and remove the settlement condition.

From the beginning the ability to defer tax and retain the asset was controversial, seen as a tax relief on luxuries. Sir William Harcourt, who had brought in estate duty but was in opposition by 1896, spoke against the proposed exemption clauses. He believed there should only be exemption if the public who were forgoing the tax could enjoy the items exempted. 'The thing would be impossible!' replied the

Chancellor. So exemptions were granted without access rights on the grounds of security, inconvenience for the owners, and the ignorance of the general public.

It took until 1976 for the requirement of ‘reasonable access to the public’ to be included in the conditions for exemption. But while possible in theory, it was more difficult in practice.

In 1997, a little over 100 years after Harcourt first called for access, Mark Thomas, the political satirist, campaigner and comedian put the system to the test in the case of ‘the three-tier mahogany buffet with partially reeded slender balustrade upright supports’.

Owned by Sir Nicholas Soames, politician and grandson of Churchill, and held by him under conditional exemption, Thomas encouraged hundreds of people to request access. His goal was to highlight what he viewed as an abuse of the rules, with exempt items effectively enjoyed free of tax by their owners. A year later the conditional exemption conditions were tightened up, with both more onerous access requirements and stricter conditions on the quality of items that could qualify in the first place.

The relief still remains one of the ways our heritage is preserved via the tax system and you can find out what is conditionally exempt, and your access rights, where you live on GOV.UK.