FB 2016, cl 82 inheritance tax: increased nil rate band (Downsizing)

Inheritance Tax and trusts

01 August 2016

The Finance Bill is amended so that trust interests may qualify for the downsizing allowance

Finance Bill 2016, cl 82 and Sch 15 ensures that the inheritance tax residential nil-rate band (RNRB) is available when a person downsizes or ceases to own a home and other assets are passed on death to direct descendants. The CIOT pointed out omissions in the original version of the bill that did not cover the home being held as a trust interest (for example, as an immediate post-death interest (IPDI)). An IPDI is becoming increasingly common to safeguard the interests of children from a first marriage when a parent enters into a second. Typically, the home (solely owned by the husband) is left on a life interest basis to his widow, with the remainder going to his children. The widow goes into care and the trustees wish to sell the property.

Amendments introduced to Sch 15 result in the downsizing addition being available when:

- trustees dispose of the former residence or a person's life interest comes to an end, and/or
- an individual has more than one interest in a former residence and disposes of those interests when they downsize or cease to own the former residence.

HMRC also confirmed that the effect of the new s 8FE is not to freeze the allowance at the time of downsizing. Rather, the amount of RNRB 'lost' at downsizing is converted into a percentage of the allowance the person would have had then. This percentage, rather than the amount, is applied to the RNRB which would have been available on death, thus allowing for increases in the RNRB after the downsizing.

The full text of the CIOT submission can be found on the CIOT website.