ATT and CIOT secure legislative change on inheritance tax charitable giving rules

Inheritance Tax and trusts

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Following representations from ATT, CIOT and other bodies, the government is making changes to ensure that a technical barrier does not prevent estates with pension assets from accessing the reduced IHT rate connected to charitable giving.

When proposals to bring unspent pension assets within the scope of IHT from April 2027 were announced, one of our many concerns was the impact on access to the reduced rate of IHT for charitable giving. The government is now legislating through the current Finance Bill to remove this technical barrier, addressing an important concern raised during the consultation.

Background

Where an estate includes gifts to charity, some or all of the remaining estate may benefit from a reduced rate of IHT, provided that the gifts are large enough. The reduced rate of 36% was introduced in 2012, to encourage individuals to consider making charitable gifts in their wills.

To qualify for the 36% rate, the gift must be more than 10% of a 'baseline' amount. Broadly, this is the net estate after the deduction of allowances such as the nil rate band. The test is not applied to the estate as a whole. Instead, the estate is divided into three components: the amounts left by survivorship, the settled estate and the general component.

An estate may meet the test in one component and benefit from the reduced rate for that component alone. Alternatively, a charitable gift can be large enough that an election can be made to extend the reduced rate in one component to one or more of the other components.

HMRC's view was that any notional pension property subject to IHT would form part of the general component. To ensure that individuals were not discouraged from making charitable gifts on their death – or did not miss out on the reduced rate because their gifts were not sufficient to meet the tests once pension assets were factored in – the ATT and CIOT made a number of representations to ask for pension assets to be treated as a separate 'component' for the purposes of the reduced rate. We are delighted that the government has now taken up our recommendation.

Outcome

The amendments in clause 43 of the Finance Bill should protect access to the reduced rate for those who have planned to make charitable gifts under the existing rules, while providing greater flexibility for those wishing to make charitable gifts.

Without the change, it could have been harder for estates to qualify for the reduced rate because a deceased's will does not control how a pension is distributed.

ATT's representation can be viewed at: tinyurl.com/mreewm45

CIOT's representation can be viewed at: tinyurl.com/mv47pm74

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