



ICAEW REPRESENTATION 24/16

TAX REPRESENTATION

Inheritance tax: main residence nil rate band and the existing nil rate band – Clause 44

ICAEW welcomes the opportunity to comment on the draft [*Finance Bill 2016 clause 44*](#) published by HM Revenue & Customs on 9 December 2015.

This response of 28 January 2016 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

We should be happy to discuss any aspect of our comments and to take part in all further consultations on this area.

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MAJOR POINTS

Key point summary

1. We have commented previously in [TAXREP 57/15](#) and [TAXREP 42/15](#) about the complexity of the proposal to introduce a nil rate band specifically for residences inherited by direct descendants made more complicated by its phased introduction and the added provision to preserve the extended nil rate band where the residence has been downsized on or after 8 July 2015. We are still extremely concerned about the complexity and the points made in our earlier representations still stand.
2. It is still our view that personal representatives of modest estates will require professional help just to work out the value of the nil rate band.
3. We also think a “one million pounds” exemption from inheritance tax could have been achieved more simply by just extending the nil rate band.

General comments

4. It was inevitable that this added twist for downsizing would be required otherwise the elderly would have felt compelled to remain in their family size residence rather than downsize making the family residence available for a younger generation. However, the stamp duty land tax costs remain a significant deterrent to downsizing.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see via <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/tax>).