TAXREP 39/13

(ICAEW REP 109/13)

ICAEW TAX REPRESENTATION

INHERITANCE TAX: SIMPLIFYING CHARGES ON TRUSTS – THE NEXT STAGE

Comments submitted on 23 August 2013 by ICAEW Tax Faculty in response to HM Revenue & Customs consultation document published on 31 May 2013

Contents

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INTRODUCTION

1. ICAEW welcomes the opportunity to comment on the consultation document *Inheritance Tax: Simplifying Charges on Trusts – the next stage* published by HM Revenue & Customs (HMRC) on 31 May 2013.

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

3. On 19 July 2013 we attended a meeting with HMRC in which we were able to discuss the major issues in the consultation paper and outline our key concerns (as set down in the Key Point Summary herein).

4. Information about the Tax Faculty and ICAEW is given below. We have also set out, in Appendix 1, the Tax Faculty's Ten Tenets for a Better Tax System by which we benchmark proposals to change the tax system.

WHO WE ARE

5. ICAEW is a professional membership organisation, supporting over 140,000 chartered accountants around the world. Through our technical knowledge, skills and expertise, we provide insight and leadership to the global accountancy and finance profession.

6. Our members provide financial knowledge and guidance based on the highest professional, technical and ethical standards. We develop and support individuals, organisations and communities to help them achieve long-term, sustainable economic value.

7. The Tax Faculty is the voice of tax within ICAEW and is a leading authority on taxation. Internationally recognised as a source of expertise, the faculty is responsible for submissions to tax authorities on behalf of ICAEW as a whole. It also provides a range of tax services, including TAXline, a monthly journal sent to more than 8,000 members, a weekly newswire and a referral scheme.

KEY POINT SUMMARY

Support for the initiative

8. We welcome the undertaking by HMRC to simplify the Inheritance tax (IHT) rules in relation to the taxation of relevant property trusts. We agree that this is in the interests of the good administration of the tax system. In particular we strongly support the consideration of proposals to:
   - 8.1. Simplify the calculation of IHT trust charges including the consideration of charges on certain death in service pension schemes;
   - 8.2. Align filing and payment dates for ten yearly and exit charges with the self-assessment framework the treatment of accumulated income – insofar as this is possible with the caveat that all should be aligned to 31 January.

9. We are, however concerned that the proposals need significant changes in order to achieve the stated objectives.

10. Whilst in principle we support consideration of the treatment of accumulated income we think this is a complex area that can be considered in isolation within the IHT regime.

Simplifying the calculation of IHT trust charges

11. The current rules are known and understood by both HMRC and the tax advisory community but as noted in our response to the July 2012 consultation, TAXREP 50/12 there are some areas that require improvement. We recognise that HMRC might want to introduce some changes to protect tax revenues and where this is the case the consultation should be open about this.

12. We are concerned that the proposals in the consultation document will simply replace one set of complex rules with another that are potentially even more onerous.

13. We do not think that a one size fits all approach works in this scenario and think that there are grounds for having a simplified set of rules for small trusts and a more sophisticated set of rules for larger trusts.

14. A simplified basis of accounting and reporting for inheritance tax purposes should be introduced (possibly on an elective basis) for the vast majority of trust cases where the amounts involved are small, the fact patterns and history are relatively simple and the overall tax yield comparatively immaterial. This would clearly benefit all concerned, rather than retain a system where the cost in professional time in calculating the tax due often outweighs the tax at stake. However, our view is that rules along those currently in place should be retained for larger trusts where the fact patterns are often complex, and the tax yield larger, ie no change to the current regime.

Standardising the treatment of accumulated income

15. We do not support the consultation document proposals in this area.

16. Whilst we consider that there may be grounds for introducing a simplified set of rules as regards the accumulation of income, we consider that imposing a rule that states that income received and retained by trustees will automatically become capital after 2 years is insufficiently flexible and inequitable. We would suggest that the 2 year period is replaced with one of 21 years, or alternatively a twin track approach is adopted, with a simplified rule applying in relation to all trusts, save in respect of those who elected out of the new regime and seek to apply the existing legal rules under which for IHT purposes the maximum period of time that income could remain without accumulation is 21 years.

Aligning filing and payment dates for ten yearly and exit charges with the self-assessment framework

17. We are generally in favour of aligning filing and payment dates for inheritance tax purposes, and linking these with filing and payment dates under the self-assessment rules with the proviso that the filing date for the IHT forms should align with that for filing SA returns online, ie 31 January, rather than the paper filing deadline because online is the most common method of filing SA returns; 31 January is the date most trustees and advisors will work towards.

SUPPORTING ANALYSIS

Simplifying the calculation of IHT trust charges

18. Whilst we favour the objective to 'simplify the calculations and reduce the unnecessary burdens for trustees and practitioners' we do not think that the current proposals will meet this objective. In fact we think that the proposals will impose a significant burden on many trustees and their advisers and will only meet the policy objectives in the most simple trust situations. We are also concerned that for many small trusts the proposals will result in inadvertent non-compliance as the need to take life assurance/death in service trusts into account will not be understood.

19. There are a large number of trusts already in existence, and more trusts are established each year. These will includes pilot pension trusts (established to receive death in service benefits), insurance trusts, family trusts, trusts created by the trustees of existing settlements, those established under Wills and by the operation of the intestacy laws. The definition as to what constitutes a settlement is set out at s43(2) IHTA 1984, and it is particularly wide as is the definition of "settlor" in s44 IHTA 1984. For example, we consider that the term "settlor" is sufficiently wide to include cases where beneficiaries meet the professional costs of trustees who are unable to do so because of insufficient liquidity. The current proposals do not take into account either the widespread prevalence of trusts or how easy it is to become a settlor within the terms of the statutory definition.

20. A further factor that we do not think has been taken into account sufficiently is that the value held by trusts covers a very wide spectrum. At one end, we believe that there are a very large number of relatively small, including negligible value, trusts and at the other end of the spectrum there are a relatively small number of trusts which hold more appreciable wealth. We would expect that very little IHT is paid by trusts in the former category, whereas much higher rates of tax are suffered in the latter. We would also expect that IHT is sometimes inadvertently over looked where individuals with no experience of tax act as trustees of small family trusts without any professional help. This is because the IHT trust rules are relatively complex. Where professional advisers are involved in such cases, the professional cost of ensuring that the correct amount of tax paid is often disproportionately high.

21. This suggests that a simplified system could usefully be introduced to deal with the vast majority of such small trusts. As regards the larger trusts in existence, we consider that the current rules work largely in a satisfactory manner and in a way that both HMRC and professional tax advisers understand. However, we consider that the rules could be improved upon, and recognise that there may be some aspects that HMRC would like to address, but we do not see that there is any justification for introducing a major overhaul of the current rules especially where this would impose onerous burdens on trustees and their professional advisers.

22. The consultation document outlines proposals for ignoring historical information and non-relevant property to reduce the complexity in arriving at the tax due. In principal we would welcome reducing the need to maintain historical records of this nature. Instead of the current position HMRC proposes splitting the nil rate band (NRB) between the number of settlements created by the settlor and using a rate of 6% for periodic and exit charges. Under HMRC's proposals for the first ten year charge the NRB is split between all relevant property settlements made by the settlor and in existence at any time between the date the trust concerned was set up and the time of the charge. This would include any settlements which had been wound up before the date of charge. For subsequent 10 year charges the NRB is split between all relevant property settlements made by the settlor and in existence at any time between the date of the previous 10 year anniversary and the date of the current charge.

23. The emphasis on continuously monitoring the situation will place an unduly onerous obligation on trustees from the point of view of maintaining records. For example, it is relatively common for substantial family settlements to establish separate trusts for the benefit of different branches of the family. In order for the trustees and professional advisers involved to be able calculate the tax due on exit and periodic charges in relation to their own trusts; they would need to know what new trusts had been established and what trust had been wound up. There is no legal obligation on any of the parties to share this information, and some trustees may refuse to share on the grounds of confidentiality. There are likely to be particular problems where offshore trustees are involved who may regard enquiries by UK tax advisers acting for other trustees as simply trying to indirectly enforce UK tax obligations which they do not recognise as being applicable.

24. A further problem is where beneficiaries have paid the fees or other costs of family trusts; this often arises where the trusts have insufficient cash to pay. It does not cause any significant other tax issues because sums are often small and the cash once added is immediately expended, but it does represent an addition for the purposes of the settlement. Will it be necessary to review all such cases in order to establish the total number of settlements an individual has created within a ten year period?

25. The way that tax is calculated under the proposals can produce distortions, and an element of double counting is involved. This can be seen in Example 7 (page 18) of the Consultation Document. Under the current rules an exit charge will apply where a distribution has been made and, when calculating the next periodic charge, the NRB will be reduced by the amount of such distribution. This general pattern is followed under the new proposals. However, there is an element of double charge involved in calculating the periodic charge under both the existing and proposed rules but in the case of the current rules its effect is softened because of the way that the reduced NRB is used to calculate the estate rate to be applied. Under the new rules the impact is much more apparent because any reduction in the NRB will feed directly into establishing a 6% tax charge on the amount by which the NRB is reduced. This means that the element of double counting which exists under the existing rules becomes more pronounced, and potentially more unfair.

26. The following examples demonstrate how the proposals have serious practical failings as well as being potentially arbitrary and unfair in their application:

Example 1
It is unclear how long the trustees of all of the settlements concerned would have to monitor the position and maintain records. For example, Mr A has three children and establishes a family trust for an amount in excess of the NRB in 2014 for his son B and his family. He establishes a further trust in 2022 for the benefit of his daughter C and her family, and another one in 2030 for his youngest daughter D. Do all of the 3 sets of trustees have to be aware of what trusts are in existence or whether any new trusts have been established by any of those existing settlements until Mr A dies, or does this obligation go on after his death?

The impact of these rules could be that trustees have to continue to monitor the position for at least as long as Mr A is alive and other trusts are in existence. Is this intended?

Example 2
John created a marriage settlement for the benefit of his wife and future children at the time of his marriage in 1943. He asked the trustee to distribute the funds to his wife on their 20th wedding anniversary in 1963 (the Marriage Settlement).

In 1950, John set up in business and was advised to use a company and to put some of the shares in the company into a settlement for his family (the Family Settlement). John has two children, Tom who was born in 1945 and Emma who was born in 1948. At the time of Tom's birth, John put money into trust for Tom's benefit which was invested in a series of insurance policies designed to produce the funds to pay Tom's school fees. John entered into a similar arrangement on Emma's birth. The assets of both trusts were exhausted by the time the children left school (The two School Fees Settlements).

John's father died in 1988. He left heavy debts and most of his estate had to be sold to meet them. This meant that John's 90-year old mother would become homeless. John created a settlement in 1990 to buy a house for his mother's occupation. After her death in 1994, the house was sold and the proceeds reverted to John as settlor under the terms of the trust (Mother's trust) (assumed to be a relevant property settlement for the purpose of this example).

Emma had her first child in 1970 and John decided to put the funds into a discretionary trust for the benefit of his grandchildren. The trust is discretionary and is for Tom's children as well as Emma's (the Grandchildren's' Trust).

All 6 trusts have existed at some time since 1950, so the NRB for the Family settlement is £325,000/6 = £54,166.

As the Marriage Settlement ceased 50 years ago, the School Fees Settlements 45 plus years ago and the Mother's trust 30 years ago, it is highly unlikely either that the trust deeds exist or that John remembers when they were created; he probably does not even remember that they ever existed. Unless John or his wife are trustees of the Family Settlement, the trustees almost certainly have no knowledge that these defunct settlements ever existed and have no means of finding out either.

The Marriage Settlement and the School Fees Settlements ceased before 1970. Accordingly the Grandchildren's' trust is one of three related settlements with the Family Settlement, and the Mother's Trust. Its NRB is therefore £325,000/3 = £108,333. As the Mother's Trust was a revertor to settlor trust, the money temporarily settled is now again owned by John, so why should it reduce the NRB of any of the trusts?

It is not clear from the consultation document if the referral to "the first ten year charge" in para 55 means the first under the new regime or the first ever. This example assumes it to be the first under the new regime. If it is not the first under the new regime this example would still be valid if the Family Settlement was a flexible life interest trust that only entered the relevant property regime after the introduction of these proposals.

Example 3
Jane created a settlement for her family in 1960. In 1988 she was advised to take out life insurance to repay her mortgage should she die within the following 20 years. Her financial advisor told her that this needed to be written in trust for her children. He suggested that she should set up 10 "pilot" trusts on successive days and put £10 into each. That would create flexibility in dealing with the insurance proceeds. The £100 paid into the 10 trusts has disappeared in bank charges over the years.

The NRB of the Family Settlement is £325,000/11 = £29,546, even though there is no money in the pilot trusts, never has been (apart from the £10) and never will be, because the insurance is no longer in place.

It would be fairer for the NRB to be divided between trusts only where the separate trusts were created for tax avoidance purposes. For instance, 10 pilot trusts would have to share a NRB, but trusts created at a different time for a completely different reason should not have to do so. Alternatively, only trusts with a value above a de minimis level should be included in the calculation such that for example life insurance trusts with no value are excluded.

Consideration might alternatively be given to allowing the settlor to make an irrevocable election as to how the nil-rate band should be split between the trusts that he has created.

27. The proposals to split the NRB fails to differentiate between those that have created trusts at regular intervals over a number of years (say one every seven years) as compared to those who have created a very large number of settlements over a short period of time (similar to that undertaken in Rysaffe Trustees Co (CI) Ltd v IRC [2003] S.T.C. 536). The effect of these proposals will amount to a reversal of that decision. It is of course entirely open to Parliament to enact targeted provisions to achieve this objective, but we would suggest that altering the way that IHT trust tax rules operate in the manner proposed would be a disproportionate response if this is a key factor behind the current proposals. If, despite our representations, it is decided to enact these proposals we would suggest that the NRB should only be split in relation to new trusts created after a future specified date, unless the trustees elect for the new rules to apply.

28. Similarly if the proposals are adopted despite the points we make here, we think that provisions should be introduced which have the effect of ignoring trusts which hold incidental value. In the HMRC Trust and Estate Manual at TSEM1405 there is an exemption for reporting the existence of trusts where there is no income and no likelihood of income or gains thereby saving on administration for all concerned, but the inclusion of all trusts in the splitting process potentially undoes this administrative simplicity as well as being inequitable. We also think that trusts ending in the ten year period should not be included as unfair situations could arise, e.g. if assets are transferred from an existing trust into a new trust then two trusts result for the splitting calculation, also trusts may end at the start of a ten year period and new trust(s) be started at the end of a ten year period, quite unrelated, yet both be counted in the splitting calculation. It would be simpler and fairer to take trusts into account at the end of a ten year period, although there may be a small loss of future tax revenue we do not think there would be manipulation of the rules to gain a tax advantage.

29. We think there are grounds for introducing a simplified regime for small trusts, but we think imposing a 6% charge would be unfair in such circumstances, and it would be more realistic to apply a reduced rate such as 4%. Defining what is small for these purposes will be difficult but might include trusts that do not exceed £50,000 in value and where the settlor has established no more than 5 trusts, ignoring trusts of negligible value such as life insurance trusts, in total during his or her lifetime.

30. The issues associated with death in service schemes is addressed at paragraphs 65 to 68 of the consultation document. One point of difficulty that could be addressed going forward is where individuals establish pilot relevant property trusts to receive death in service benefits. The difficulties exist under the current rules, rather than being a feature off the proposed changes, and the background to it can be found at IHTM17084 where the following example is set out:

> "Example
>
> • Hilary became a member of a trust based pension scheme on 15 May 1974
>
> • She set up a new discretionary trust on 2 September 2007 with £100 and completed a letter of wishes nominating the trust to receive any death benefits from the pension scheme
>
> • Hilary died on 3 January 2012
>
> • The death benefit is paid at the discretion of the pension scheme trustees to the new trust on 4 August 2012.
>
> The lump sum death benefit is relevant property from the date of payment on 4 August 2012. However, the ten year anniversary is based on the date Hilary joined the pension scheme on 15 May 1974, so will first apply to these funds on 15 May 2014. The ten-year anniversary charge relating to the initial £100 used to set up the trust is based on the date the trust was set up, so it will first apply on 2 September 2017."

The problem with this type of arrangement is that IHT might be suffered where the lump sum is paid to the trust just before a ten year charge, so that an IHT charge might then apply. A solution to this might be to extend the relief under s58(2A)(b) IHTA 1984. Extending the relief to this type of situation would allow the pension scheme trustees a two year period in which to make the payment to the trust and should help obviate this difficulty.

Standardising the treatment of accumulated income

31. We recognise that HMRC has to deal with a very large number of trusts each year, and that it would be administratively easier for there to be a standard set of rules dealing with accumulation of income. However, we think that it would be a mistake to look at this aspect solely from the point of one tax, because there are income tax issues as well as capital gain tax implications. For example, where income is distributed it will carry a 45% tax credit, which is lost where the income is accumulated. Income that is capitalised is often invested, so that any capital profits suffer tax at 28%. Treating income as having been capitalised after only two years will mean that it will be subject to IHT in relation to exit and ten yearly charges. The effect will be to increase the tax burden on trusts.

32. There is also a legal dimension that has to be taken into account in that trustees often retain income for the future needs of their income beneficiaries knowing that it will be required for use within a set period of time, for example to pay school or university fees. Treating it as being capitalised after only two years for IHT would seem to be at variance with the way that the trustees might undertake their duties. Imposing a set procedure for the imposition of an IHT charge appears to us to be unattractive where it does not follow the underlying legal position. That is not to say that we do not recognise the practical difficulties faced by HMRC in dealing with such a large number of Trust cases. Accordingly we would suggest that a two year period is imposed for all trusts, except those that make an election to accumulate income in accordance with the general law, and that it is recognised that retained income cannot remain unaccumulated for more than 21 years for inheritance tax purposes.

Aligning filing and payment dates for ten yearly and exit charges with the self-assessment framework

33. We strongly support the suggestion that filing and payment dates should be aligned, and consideration should be given to the integration of IHT on trusts into self-assessment. Tax could be collected under the self-assessment payment process, and the penalties and interest rules could also be integrated.

34. In the proposals set out in the consultation document IHT forms would be submitted by 31 October after the end of the tax year in which the charge arose, and the IHT payment would be due by the following 31 January. In principle, aligning the filing dates with those of self-assessment would make it easier for both professional trustees and their tax advisers; it may generate increased cost savings and efficiencies. The alignment should be to 31 January after the end of the tax year in which the charge arose for the filing of the forms and the payment of the tax.

35. We do not support the proposal set out in the consultation document that IHT forms should be submitted by 31 October after the end of the tax year. The 31 October deadline will not give sufficient time for the work to be done in many cases and practitioners work to the 31 January deadline for the filing of self-assessment returns so the alignment should be to this date.

RESPONSES TO CONSULTATION QUESTIONS

Questions on the simplification of inheritance tax (IHT) trust charges

Q1: Do these proposals meet the objective of reducing complexity and administrative burdens and in what way(s)?

36. We support the initiative but do not think that the current proposals meet the objectives. Further thought and significant modifications are required to make the proposals workable, proportionate and fair.

Q2: Does a single rate of 6% present any difficulties, particularly for smaller trusts?

37. We consider that the rate of 6% will increase the tax burden for most trusts. In our view the simplified regime should only apply to smaller trusts. The rate should be lower, say 4%.

38. There is rationale for reconsidering the basis of the 6% tax rate, children are being born later and average lifespan has increased, so the approximation to a lifetime charge over a period equating to a generation has perhaps changed. A fairer approach might be to halve the rate of tax overall.

39. Alternatively there is a persuasive argument for cutting out exit charges altogether: the assets are then in the hands of beneficiaries so within IHT at death (or lifetime) rates in the normal way.

Q3: How much time would the simplified method save trustees and practitioners, on average per trust?

40. Most respondents to the ICAEW have said the proposals will result in additional time for trustees and practitioners, but as all trusts are different it is difficult to quantify the additional anticipated time.

Q4: Will there be significant costs to trustees and practitioners familiarising themselves with the new system and if so can you quantify these?

41. The major costs are not likely to arise so much from practitioners familiarising themselves with the new rules, but in applying the rules to individual cases and converting the tax history into format that can be used going forward. This is not likely to be an issue with the vast majority of trust cases that have no significant involvement with professional tax advisers and which do not pay any appreciable amount of tax under the current rules (though these trusts may be inadvertently compliant under the new regime as a result of not appreciating the width of the definition of settlor and settlement). However it is likely to impact on those trusts which do hold appreciable wealth, and involve professional tax advisers and IHT is paid. It is likely to result in increased research and interaction with settlors and trustees of any other settlements established by them in order to establish what the position might be. This is likely to be time consuming and may result in irrecoverable time costs. It is not possible to estimate this at the current time.

Q5: Do HMRC's proposals in paragraphs 54 - 58 on the way in which the nil-rate band should be split for ten year and exit charges provide the right balance between fairness and the risk of manipulation?

42. It is our view that the current do not strike the right balance between fairness and risk of manipulation. The proposals seem to have been drafted on the basis that all trusts could be used for manipulation and are revenue-raising proposals.

43. As recognised in HM Revenue & Customs Research Report 25 – Research on Trusts: Experience of Setting up and Running Trusts (see http://webarchive.nationalarchives.gov.uk/+/http://hmrc.gov.uk/research/report25.pdf) family trusts are frequently created for reasons other than tax. The key finding being that:

> *"…the main motivation for setting up a trust related to having the ability to control assets. Examples of controlling assets included: passing them on to children or grandchildren; providing for a beneficiary in a particular way; withholding assets until children reach a certain age; and ensuring money stays within the 'bloodline'.*

44. It is our view that these revenue-raising proposals are inappropriate and a targeted tax avoidance measure would be more appropriate to tackle any abuse.

45. Including all trusts in the splitting calculation will be unfair. We suggest that there is a de minimis level of asset value below which trusts are ignored, e.g. £1,000 or at least a carve out for certain types of trust such as life insurance trusts. This will then exclude pilot trusts that are not in use. The very existence of the splitting rule will not encourage the bringing into use of such trusts due to the cost. If a trust has assets within agricultural or business property relief such that no IHT applies then splitting the NRB gives an unfair result.

46. Under HMRC's proposals for the first ten year charge the NRB is split between all relevant property settlements made by the settlor and in existence at any time between the date the trust concerned was set up and the time of the charge This would include any settlements which had been wound up before the date of charge. For subsequent 10 year charges the NRB is split between all relevant property settlements made by the settlor and in existence at any time between the date of the previous 10 year anniversary and the date of the current charge. The proposed rules will result in the existence of trusts being taken into account for at least as long as the trusts are in existence and the settlor is alive, and possibly after his or her death. This seems excessive and unworkable.

47. For the reasons already set out we do not think the proposals in their current form should be enacted, they are inequitable and disproportionate. If the proposals do progress they should include transitional provisions.

48. Where there are already multiple trusts benefitting from the rules as they currently stand for the availability of NRBs the proposals will result in a higher charge, so the proposal retroactively counteracts the current case law position. Some transitional rules or relief should be considered for trusts already in existence.

49. If the new rules did result in action being needed in relation to existing pilot trusts this may not be possible if the settlor is now in poor health or not mentally capable; the long time span inherent in many family trust situations can make varying trusts difficult.

Q6: Are there any other ways that the nil-rate band could be split that would not risk a loss to the Exchequer?

50. We believe that an effective alternative would be to borrow from the rules that apply for capital gains tax purposes as regards the division of the capital gains tax annual exemption where a settlor has set up a number of settlements. We think that the NRB should be divisible by a maximum of 5. In addition, and in contrast to the capital gains tax provisions (that we think should be modified in this respect) the existence of certain types of trust, such as insurance trusts, should be ignored (preferably) by reference to the asset they hold or (alternatively) the small sums involved.

Q7: Would applying the new rules from a set date cause trustees and practitioners any difficulties?

51. The proposed rules are fundamentally flawed and in many respects as they currently stand they are unworkable from a practical perspective.

Q8: In what other way could the new rules be implemented?

52. Rather than a complete change of regime a twin track approach could be adopted so that a simplified regime applied to smaller trusts at a reduced rate of tax, and that the current rules could continue to apply (either by opting in or opting out) to the larger and complex trust arrangements.

53. Another option that might be considered is that trustees could be offered the choice of continuing to apply the existing rules, perhaps until the settlor created another relevant property trust.

Questions on income that may be accumulated

Q9: Are there any issues with using this method as a practical way of dealing with accumulations?

54. We think that the option has only been considered from an IHT perspective and should be reconsidered. We think that it would be a mistake to introduce rules simply to calculate the IHT charge without regard for the underlying legal position, or the interaction with other taxes.

Q10: Do you anticipate any additional administrative burden resulting from the proposed changes to the calculation of IHT on accumulated income? If so, what would you estimate to be the average cost per trust?

55. It is not possible to estimate the cost involved, but the proposals will not make the task of administering larger trusts easier.

Questions on aligning filing and payment dates

Q11: Are there any issues with bringing IHT within the concept of Self Assessment?

56. We support the alignment, but it should allow for use of 31 January filing date for electronic returns; October will be too tight a deadline for many trusts, and part of the rationale of simplicity of alignment is lost if ordinary trust returns and accounting are carried out to 31 January deadline if the IHT returns have a 31 October deadline.

Q12: How much time will trustees and practitioners save as a result of the payment and filing dates being aligned with the SA framework?

57. This is impossible to estimate but we consider that savings could be significant especially if the rules were not simply aligned but integrated although we appreciate that integration will take longer.

Q13: What would the impact be on trustees and practitioners' clients?

58. We would hope that the workload would be reduced, and cost savings and efficiencies made.

Q14: Will alignment bring benefits to customers in terms of reduced fees?

59. We think that alignment coupled with integration will ease costs, but it is not possible to provide any form of estimate as no two trusts are the same.

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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 icaew.com/en/technical/tax/tax-faculty/~/media/Files/Technical/Tax/Tax%20news/TaxGuides/TAXGUIDE-4-99-Towards-a-Better-tax-system.ashx)