



Reform of inheritance tax

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APPG for Inheritance & Intergenerational Fairness

Promoting understanding of the issues generated by inheritance and intergenerational fairness and facilitating discussion on methods of reform

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A. EXECUTIVE SUMMARY

Inheritance tax (IHT) is a tax on transfers of wealth, mainly levied on a person's death. It is often criticised as complex, ineffective, riddled with anomalies, distortionary and unfair. It is unpopular and ripe for reform. In an effort to offer potential solutions for such reform, the All-Party Parliamentary Group (APPG) for Inheritance & Intergenerational Fairness was established, under the Chairmanship of John Stevenson MP.

Having considered a number of options, many of which merit further exploration, the APPG suggests replacing the current inheritance tax regime (which combines a high flat-rate of 40% with an array of associated reliefs), with a flat-rate gift tax payable both on lifetime and death transfers. The APPG suggests a rate of 10% but accepts that policymakers should determine the appropriate rate as they have better access to the data necessary to determine the rate at which taxpayer behaviour changes. The key principle is that it should be low enough for the tax to be broadly based without the need for complex reliefs. A flat-rate gift tax with fewer reliefs would be simpler, more broadly based, lead to less avoidance and ensure the UK's competitiveness in attracting wealthy people to live (and die) in the UK. Aligned to this change, all reliefs other than spouse and charity exemptions would be abolished and the tax-free capital gains tax (CGT) uplift on death would be abolished. There would be a death allowance at a similar level to the current nil rate band to ensure that small estates not currently paying tax will remain unaffected by the changes. There would also be an annual lifetime allowance of £30,000 on lifetime gifts. The table and examples in section B set out how this would work in practice.

Why examine inheritance tax?

The APPG has been looking at inheritance tax since February 2019. Why is this issue important?

The current inheritance tax regime raises strong opinions across the political system and more widely among the public, due to its perceived unfairness and complexity. This is despite the fact that fewer than 5% of deaths actually result in payment of inheritance tax. There are 588,000 deaths each year, of which 275,500 are required to complete an IHT form; of these only 24,500 result in payment of tax.¹ We wanted to examine whether concerns over IHT were justified and whether there was a better way of taxing transfers of wealth. In Appendix 1, we analyse some of the common objections to inheritance tax and consider their validity.

Due to rising asset values and the decade-long freezing of the threshold at which inheritance tax starts being paid, a growing number of estates are affected by inheritance tax. HMRC collected a record sum of £5.4 billion in IHT for 2018/19. The average amount of IHT paid was £179,000.²

As reported by the Office of National Statistics (ONS) in December 2019, the total net wealth of private households in the UK has increased by 13% in real terms from April 2014 to March 2016, mainly due to increases in private pension (now £6.098 billion) and net property (now £5.090 billion) wealth.³ Despite the fact that the latest figures for total net wealth of private

¹ See OTS final report executive summary

² UK Government Statistics for 18/19.

³ ONS: Wealth in Great Britain December 2019.

households was recorded as £14,628 billion, surprisingly little is known about how such wealth is transferred and when.⁴

Nevertheless, it seems to be unequally shared: half of the total aggregate wealth in Great Britain is held by 12% of households,⁵ yet total wealth and wealth-related taxes⁶ as a proportion of GDP have not increased since 1965.

It is therefore a good time to question whether this tax works properly and to examine some of the principles behind it. The Government itself started this process of examination in January 2018 when the previous Chancellor asked the Office for Tax Simplification (OTS) to review the tax. The subsequent consultation generated OTS reports in November 2018 and July 2019 and garnered more responses than any other OTS review, demonstrating the strength of public feeling on this topic.⁷

The subsequent reports from the OTS came to a number of conclusions that the APPG was able to support. However, as reform, rather than replacing IHT, was the remit of the OTS the APPG decided to review the more radical options that were presented. One aspect that came through strongly in the OTS report is the complexity generated by the current seven-year gifting regime and the interactions with the nil rate band. Who bears the tax and when it is payable is not well understood by donors or donees, but there is a strong sense of injustice that comes through the responses – “the rich get away with not paying it” and it is perceived as a tax on hard working savers. The flat-rate gift tax removes many of these complications by removing the boundaries around which so much tax avoidance operates.

The aim is to ensure that the higher value estates that currently take advantage of so many reliefs and exemptions actually pay some IHT. As the OTS pointed out in its first report, the average rate of tax increases from under 5% for estates with a net value under £1 million, up to 20% for estates valued at £6-7 million, after which it falls to 10% for estates with a value of £10 million or more. This does not take account of lifetime giving, which probably increases the distortion still further, as people whose main asset is the family home cannot easily give it away during their lifetime.

As estates increase in value, they have proportionately more securities and assets that do qualify for reliefs such as business property relief. These assets not only qualify for 100% exemption, but are also easier to give away free of tax during someone’s lifetime. The flat-rate gift tax removes these anomalies by removing the boundaries that encourage avoidance and also ensures that long-stay foreigners will pay more tax.

⁴ This is due to the fact that most lifetime gifts of cash are never reported if the donor survives seven years.

⁵ See ONS report in December 2019

⁶ Including property taxes, inheritance taxes, capital gains

⁷ <https://www.gov.uk/government/publications/ots-inheritance-tax-review-simplifying-the-design-of-the-tax>

What are the options?

1. Retain

One option is for the Government to do nothing and retain the status quo. This is more or less the stance that has been adopted for the last 35 years by successive governments, as our brief history of inheritance tax in Appendix 1 at page 35 illustrates. Under this option, the Government would continue to garner over £5 billion a year in tax – or less than 1% of the total tax take – while affecting less than 5% of estates. The strength of public feeling voiced in the OTS consultation, and the intergenerational issues outlined at page 31, suggest this is no longer a tenable option.

2. Piecemeal reform

A second option is for the Government to tinker around the edges of inheritance tax and adopt some of the OTS recommendations made in July 2019. These recommendations are looked at in Section C below, in case this is a route the Government wishes to pursue.⁸ There are merits to many of the OTS recommendations and any efforts to simplify IHT are to be welcomed, although the OTS reports illustrated how difficult it is in practice to simplify IHT without radical reform, particularly given the complications of the nil rate band (NRB) and reliefs. However, as the OTS made clear, replacing IHT was a policy decision that was outside their remit. In the APPG's view, such a policy decision should be taken and it asks the government to be bold in replacing the outdated IHT regime with a more understandable alternative that reflects changes in modern society.

3. Replace

The third option is to introduce a replacement for IHT. Sections B and C consider various options in detail, including a flat-rate gift tax or, as an alternative, a tax on the donee, sometimes called the accessions tax. We suggest that both options should be considered by the Government as it is useful to compare the yield and pros and cons of each.

APPG methodology

The APPG held five evidence sessions between February and May 2019. The sessions themselves looked at the history of IHT; the types of IHT reliefs available; examples of IHT systems in other countries; and potential future reforms.

Representatives from organisations including the Law Society of England and Wales, the Law Society of Scotland, Chartered Institute of Taxation (CIOT), Society of Trust and Estate Practitioners (STEP), The Resolution Foundation, Institute of Public Policy Research (IPPR), PricewaterhouseCoopers (PwC), Intergenerational Foundation and Association of Taxation Technicians (ATT) gave evidence.

The evidence sessions provided a rich seam of information and material for the APPG. However, questions around increasing simplicity, how changes would affect individuals and

⁸ See also the Interim APPG report found at <https://www.step.org/appg>

their decision making, plus the needs of the Government, were prominent in each session. These themes run throughout the rest of this report.

What are the APPG's recommendations?

The APPG has two major recommendations.

Recommendation 1: *The APPG recommends that policymakers replace the current IHT regime with a tax on lifetime and death transfers of wealth, with very few reliefs and a low flat rate, likely between 10% and 20%. The CGT tax-free death uplift would be abolished.*

A flat-rate gift tax would operate on all lifetime gifts, with an annual gifts exemption of £30,000.⁹ This would take out most lifetime giving of smaller households where evidence suggests average lifetime gifts are under £5,000 per annum. There would be no nil rate band, which causes so many of the current complications. Instead there would be a death allowance, which could be set at a similar level to the current nil rate band of £325,000, but unlike the current nil rate band it would not be renewable every seven years as it would be available only on the death estate.¹⁰ The tax rate would be set at considerably lower than the current 40% IHT headline level, which would encourage less avoidance. Small estates would therefore not pay the gift tax, and larger estates could not avoid it as donors can do at present by making gifts and surviving seven years.¹¹ The main home would continue to be included in the tax base, as would all businesses and farms.

The APPG recommends a low rate of tax, such as 10%. A crucial aspect of the design is that the rate is low enough to ensure the incentives to plan around it are not worthwhile and the pressure to give reliefs reduces. Evidence to the APPG suggests that rates above 20% start to incentivise planning. In short, the rate has to be of an altogether different order from the present regime in order to allow the rest of the proposals to work properly.

Further investigation of this recommendation can be found in Section B along with examples. The table below summarises the proposals. We would also suggest that some comparative analysis is done between a flat-rate gift tax and a capital accessions donee-based tax, which many on the APPG also favoured. It would be a useful test to compare the two. A donee-based tax is discussed further in section C (page 28).

Recommendation 2: *The APPG recommends that HMRC and HMT are given greater powers to collect more meaningful data through compulsory electronic reporting of lifetime gifts over the current annual exemption of £3,000, even if they are not immediately taxed.*

There should also be better collation of data that is already reported (e.g. lifetime gifts into trust). Overall analysis of data held by HMRC and HMT about how much and when wealth is transferred must be improved. Most cash lifetime gifts do not need to be declared if the donor survives seven years. HMRC currently has limited information on quite basic issues such as

⁹ The level of this allowance is for consideration. The aim would be to keep small gifts out of the tax net.

¹⁰ The precise amount of the death allowance is for consideration, but for the purposes of the examples we have assumed it would be £325,000 and transferable as at present.

¹¹ The potentially exempt transfer (PET)

the number and value of lifetime transfers into trust benefiting from business property relief; the total value of untaxed lifetime gifts; the cost of the CGT death uplift; and the number of exempt settlements set up by foreigners where there is a UK beneficiary or other UK connection. It is suggested that all lifetime gifts over a *de minimis* limit (say, £10,000) should be reported, even if they fall within the lifetime allowance. This should eliminate reporting and tax on small everyday gifts to dependents and relatives and, in fact, would be a more useful and less onerous reporting regime. At present, when someone dies, the executors have to work out all gifts over £3,000 each year for the last seven, and sometimes 14 years, in order to work out how much of the remaining death estate is taxable. Under the new regime, lifetime gifts would not affect the tax payable on death, thus making the job of executors much easier. The higher annual allowance would take the majority of smaller gifts out of reporting and tax. However, as larger lifetime gifts over £30,000 per annum would be taxable and reportable immediately, the government would collect better data.

B. FLAT-RATE GIFT TAX

Summary table

Relief/exemption/rate	Current regime	Proposed regime
Rate and lifetime gifts	40% above £325,000 unless a relief or exemption applies. 40% above £1 million on last death of many spouses/civil partnership unless relief such as BPR applies. No tax on most lifetime gifts	10-20% above £325,000 (or above £650,000 on last death of spouse or civil partnership) Tax at 10% on all lifetime gifts above £30,000 each year
Spouse exemption	Yes	Yes, but value of spouse exemption is less given rate of tax is lower
Charity exemption	Yes, with a reduced rate of 36% on remaining estate if more than 10% given to charity	Yes, but no reduced rate on remaining estate on death if more than 10% given away
Nil rate band of £325,000	Yes available against lifetime gifts in last seven years and on death estate. Renewable every seven years. Transferable between spouses/civil partners	No, a death allowance of something like £325,000 available only on death estate and not against any lifetime gifts. So not renewable every seven years. Transferable between spouses/civil partners so £650,000 exempt estate for married couples/those in civil partnership
Agricultural and business property reliefs – businesses taxed?	100% APR available on farms after two years if farmed “in hand” and on let land after seven years. 100% BPR available if business is more than 50% trading. This means many businesses and farms not taxed on death. AIM investments not taxed if held for two years	No reliefs. Option to pay tax on death or lifetime transfers in ten year instalments or until earlier sale if assets comprise land, business. Businesses and farms/AIM investments/homes therefore all taxed at the same rate
Lifetime gifts reliefs: annual exemption of £3,000; small gifts exemption of £250, gifts out of maintenance; gifts in consideration of marriage; normal expenditure out of income.	Yes	All abolished. Only exemption is an annual gifts allowance that cannot be carried forward. Suggested level is £30,000. After that, lifetime gifts taxed at 10% immediately
Main home still taxed on death if over thresholds	Yes	Yes
Residential nil rate band currently £175,000 from April 2020 and transferable between spouses/civil partners	Yes, means a married couple’s estate can be exempt up to £1 million on last death subject to certain conditions	No, means that the estate is exempt only up to £650,000 (two death allowances) on last death
PET and chargeable transfer regime – taxing lifetime gifts into trust at 20% but gifts to individuals are tax free if the donor survives	Yes	All abolished – all lifetime gifts taxed at 10% immediately on the gift whether to trust or individual and tax paid by donor; no

seven years and retains no benefit in the gifted property. Taper relief available after three years of survival		grossing up required as no loss to the estate principle so £100,000 gift taxed at 10% = £10,000 tax. No cumulation with other transfers to that donee and no benefit if donor survives one or ten years.
Cumulation principle and grossing up which aggregates certain lifetime gifts going back 14 years to the death estate and grosses up chargeable gifts in the Will when remaining estate is exempt	Yes	No. In order to stop certain types of manipulation where some estate left to charity and some to chargeable beneficiaries, the tax would be levied on the chargeable gift on death even if coming out of residue.
Trusts	20% on lifetime gifts to most trusts if gift over £325,000 and 6% every ten years.	Trusts taxed in the same way as gifts to individuals and no nil rate band. Closure of loopholes that move property between beneficiaries in a trust. Annual fixed rate tax on trusts with discretionary beneficiaries and when property comes out of the trust
CGT position on death and on lifetime gifts	Tax free uplift of assets to market value at death so heir inherits the assets at their value at death with no CGT. On lifetime gifts CGT is often payable immediately on the gain by donor as disposal deemed to take place at market value	No tax free uplift. No immediate tax on death of donor, but on death, the donee inherits at the donor's base cost. No longer any difference between lifetime and death gifts. In both the gain is held over until the donee sells the asset
Foreign domiciliaries. Connection to the UK required for IHT to be payable	Currently foreigners only pay IHT if they die leaving UK situated assets or they have been UK resident for more than 15 out of the last 20 years. Even in the latter case IHT exemption is retained on trusts set up by foreigners before the 15-year limit. Those born with a UK domicile of origin may still have to pay IHT, even if not resident here for many years.	Domicile abolished as a connecting factor for IHT and instead based on years of UK residence/whether assets are UK. Suggested connection is ten years' out of last 15 residence. Trusts set up by foreign domiciliaries are no longer protected if a UK resident can benefit and the settlor has been UK resident for more than ten out of 15 tax years
Reservation of benefit and pre-owned assets income tax rules. These are anti-avoidance rules to stop the donor giving away property during their lifetime in order to avoid IHT on death but still benefiting from it.	Yes, complex and can be penal in nature. Tend to hit those whose main wealth is tied up in the home they live in as they cannot give it away during their lifetime and avoid tax as they need to live in it.	Abolished as all lifetime gifts taxed anyway. Someone who gives away the home can still live in the property although on a later sale by the donee the home would not be eligible for main residence relief on that post-gift period of occupation

1: What is it and how would it work?

The APPG's preferred option is to retain a tax on transfers of wealth but abolish the current inheritance tax regime. There would be a 10% flat rate on all lifetime gifts over £30,000 per annum, 10% flat rate on gifts on death up to £2 million (possibly 20% thereafter). There would be no difference in rate even if the donee had already received other inheritances and no reliefs other than (probably) the charities and spouse/civil partnerships exemptions. There would be no residential nil rate band allowances and no Business Property Relief (BPR) or Agricultural Property Relief (APR). The current plethora of smaller reliefs would be amalgamated into the (significantly higher) annual exemption.¹²

Key provisions

1. All lifetime gifts (other than probably to spouse or charity) would be taxed when made at 10%, subject to a £30,000 annual allowance.¹³ There would be a death allowance of something similar to the current nil rate band of £325,000, available only on death to individuals and not to trusts. All the complications of allocating lifetime gifts to the unused nil rate band if the donor dies within seven years would disappear, and there would be no taper relief as it is irrelevant how long the donor lives. The arbitrary deadline of seven years is abolished.
2. If the gift was cash, then 10% would be withheld by the donor. If the gift was of an illiquid asset, then the donor would have the option to pay over ten years in interest bearing instalments (although in the case of businesses and farms this could be interest-free instalments).
3. The donor would have an annual gifts exemption (or annual allowance) of (say) £30,000. All other reliefs such as gifts in consideration of marriage and normal expenditure out of income relief would be abolished. Any gifts over £30,000 per annum would be taxed at 10% immediately and the annual allowance cannot be carried forward. (The annual allowance is set at £30,000 to reduce IHT compliance on relatively small amounts but may need to be refined. It is suggested, though, that all lifetime gifts over £10,000 should be reported on a simple form so that better data is collected). Unlike the current position, lifetime gifts would have no effect on the rate of tax payable on death.
4. There would be no need for the reservation of benefit rules or the pre-owned assets (POAT) code, as all lifetime and death gifts would be taxed. This would abolish many pages of tax legislation and guidance.¹⁴
5. Gifts into trusts would be taxed in just the same way as gifts to individuals, i.e. at 10% once the donor had exceeded his or her annual £30,000 allowance (see example 5). The loss to estate, cumulation and grossing-up principle would be abolished. There would be no nil rate band available to trusts. There would be no gift of £325,000 tax free to trusts every seven years. Discretionary trusts would pay an annual charge and

¹² The annual exemption would need to be reviewed and kept in line with inflation.

¹³ The level is for debate

¹⁴ Although there could still be some advantage in making lifetime gifts if it captured the lower 10% rate for larger estates. This partly depends on the rates set.

gifts to, say, a life tenant would be treated as a gift to an individual (and taxed on the gift into trust and on that life tenant's death).

6. All pension funds left at death would be taxed at the flat rate of 10% (or added to the estate and excess taxed at 20% if the value was over £2 million) unless passing to the spouse.
7. Tax would be payable on death at 10% on the worldwide estate unless either it was over £2 million (in which case the rate might increase to 20%) or exempt due to the spouse/civil partnership and the charity exemption. Indeed, it is for discussion whether even spouse exemption is necessary if IHT is only levied at 10%/20%. The main reason for gifts to spouses is to help preserve the family wealth while the surviving spouse can enjoy it and specifically avoid selling the family home. However, it is recommended that overall the spouse/civil partnership exemption is retained. The abolition of the CGT uplift on first death and tax on lifetime gifts reduces many of the current avoidance opportunities in relation to the spouse exemption. Generally, the harsh distinction between no exemption for cohabitants and 40% inheritance tax and complete exemption for spouses/civil partnership would be tempered as rates are lower (see example 2).
9. It is also recommended that the exemption for charities is retained. A gift to a charity can be seen as, in effect, a voluntary 100% "tax" on the part of the donor, which ends up in the overall public realm. Many charities rely heavily on legacy-giving and anything which disincentivises charitable legacies is likely to be strongly resisted and counter-productive. However, the reduced and complex rate of 36% on the remaining chargeable estate where 10% or more of the estate is given to charity would be abolished.
10. Foreign domiciliaries. Some of the design features in this point are discussed in section C at 1.1 and 1.2. Currently a foreign domiciliary pays no IHT on wealth held in trusts, provided the trusts were funded by the foreign domiciliary when they had not been UK resident for more than 15 out of the last 20 years and provided also the trust holds no UK assets directly. The personal estate situated outside the UK of a foreigner is also free of UK IHT for the first 15 years of UK residence. However, foreign domiciled status is itself often subject to dispute and uncertainty. It is recommended that domicile is abolished as a connecting factor and instead residence becomes the main connecting factor. Hence, those who have been UK resident for more than ten out of the last 15 years would pay tax on all subsequent lifetime gifts and transfers on death on a worldwide basis at 10%/20% just like UK-born persons. Trusts set up by foreigners who have been UK resident for more than ten years would be subject to the annual tax if any UK resident could benefit.¹⁵
11. Finally, the CGT death uplift would be abolished on all assets and they would pass on a no-gain no-loss basis; gains on all lifetime gifts of assets could also be held over. The playing field between lifetime and death gifts would be equalised. The heir would

¹⁵ It would be for consideration whether trusts would only be caught by such a provision if the settlor was UK resident for more than ten years, but it may be preferable to avoid cliff-edge effects. Some care would be needed on an annual tax on the whole capital value where a UK resident only benefits on a discretionary basis and never actually receives anything

therefore eventually pay CGT on the gain and a small amount of IHT on inheritance. The practical implications of this are set out in example 1.

Advantages of the flat-rate gift tax

Those who spread lifetime gifts over a number of years at less than £30,000 per annum will be better off under the new regime. Those making larger lifetime gifts would be worse off as they would be paying tax earlier (and more tax than if they made the gift and survived seven years). However, the differences may be marginal in the end, as their remaining estate is taxed at a lower rate. There is relatively little data about the pattern of lifetime giving. The OTS considered HMRC research into lifetime giving that suggested that 27% of the population gave £1,000 or more away, with the majority (65%) giving less than £5,000 away. They would be unaffected by the tax on lifetime giving.

In 2015/16, 4,860 estates (about 20% of the total number of taxpaying estates) recorded lifetime gifts being made less than seven years before death. HMRC data refers to gifts of £870 million in value being made in the seven years prior to death. There is virtually no meaningful data on gifts made more than seven years before death¹⁶ and it would not be unreasonable to assume that the majority of larger lifetime gifts are made at a time when the donor *does* survive seven years.

As example 3 illustrates below, those with larger liquid estates are potentially substantially better off for inheritance tax purposes under the new regime if it is a flat rate of 10%; however, this does not take account of the fact that the CGT uplift on death will no longer be available and that large lifetime gifts are now taxed. It may be thought preferable that the rate of tax on the death estate is 20% on the excess over £2 million and all lifetime gifts are still taxed at 10%.

As the CGT death uplift would be abolished on all assets, those whose estates show large unrealised gains, but are exempt from IHT on death due to spouse exemption or BPR or APR, will be worse off. See example 4.

Discretionary trusts could be taxed every year at a specified percentage rate of the total value of the trust assets (tax to be carried forward in the event that the assets are illiquid). Processes would need to be established to make this as administratively as easy as possible. Consideration would also need to be given to whether further IHT should be paid on distributions out of trusts. There would be special rules for disabled trusts. Gifts to interest in possession trusts would be taxed in the same way as a gift to the individual beneficiary outright, i.e. with a 10% charge on the gift. Changes to the interest in possession held by the life tenant beneficiary would be treated as a further gift at that time made by the beneficiary on which tax would be payable by the trust (and the trust would have no separate £325,000 allowance, which is only available to individuals on death).

The tax could be linked to residence in the UK for a minimum number of years rather than domicile. Someone resident in the UK for, say, ten out of the last 15 years, would then have to pay tax on a worldwide basis. It is for consideration how trusts set up before that deadline should be taxed going forward if the foreigner is UK resident for the minimum length of time

¹⁶ The recording of gifts made up to 14 years is only required if there is a particular combination of chargeable and exempt gifts and most gifts made prior to seven years before death are not reported even if death occurs, say, in the eighth year

and therefore pays inheritance tax on his worldwide free estate. Example 5 assumes tax will be paid on trust assets if the settlor is UK resident for the minimum length of time if s/he or another UK resident beneficiary can benefit from the trust.

The high thresholds would mean that no more people would be brought into reporting on death than is currently the case, except that the [£325,000] death allowance would be a total limit available only on death and transferable between couples if unused on the first death. Estates of £650,000 or less would be unaffected provided lifetime gifts were less than £30,000 each year. Those making larger lifetime gifts or those with estates of more than £650,000 would have to pay some tax of 10%. See example 1.

Disadvantages of the flat-rate gift tax

There would be no BPR or APR, on the basis that the 10% (20% if the higher rate is adopted on estates of more than £2 million) payable on transfers of family businesses and farms could be funded over ten years by interest-free instalments. Family businesses and farmers may object to the loss of 100% BPR and APR, but the 1 or 2% a year could generally be funded out of net income. As example 4 illustrates, those with farms and businesses are worse off under the new regime, particularly as they will lose the tax-free CGT death uplift, but the overall tax burden is still small. Currently, 16,380 estates are expected to benefit from BPR and APR on death over the next five years at a total cost to the Exchequer of £5.85 billion, but this does not take into account the cost of the reliefs on lifetime transfers. Nor does it measure the cost of the CGT uplift on death (which effectively means a business or farm can be free of both CGT and IHT even if sold shortly after death). The OTS estimated that abolishing APR and BPR entirely would fund a reduction of the main rate of IHT from 40% to 33.7%, but this assumed (unlike our proposal) that the CGT relief on death remained unchanged and ignored the value of BPR and APR on lifetime transfers. Nor did it take account of our proposal that lifetime gifts should be taxed immediately, irrespective of surviving seven years. It suggests that there could be room to reduce the rate still further without loss of revenue if all our suggestions are adopted.

It is unknown how people will respond to the up-front lifetime gift charge of 10%, but the common consensus of the APPG was that simplification of the rules and enhanced and transparency in this way would be accepted.

There would be no CGT uplift on death, but as the inheritance tax rate is relatively low, then it should not matter that some inheritance tax is payable on death and CGT on a later disposal by the heir. No CGT is paid unless and until the donee inheriting the business makes an onward disposal. See example 4A.

The examples suggest that the additional tax on lifetime transfers and the abolition of reliefs may not compensate for the loss of revenue by the reduction in rate from 40% to 10/20% on death, although, as the level of lifetime giving and the cost of the CGT uplift is unknown, this is speculative.

It might be objected that the heirs of those who die with very large liquid estates will, on paper, be much better off. They will only pay 10%/20% rather than 40% over the initial £650,000. The pragmatic answer to the latter point is that, at present, the government does not always manage to levy tax effectively on a very high value estate anyway: either it is wealth held in business or a farm and exempt, or it may be given away during the donor's lifetime tax free if the donor survives seven years. As mentioned at the start of this report, the OTS noted the

effective rate of tax for very large estates over £7 million falls to about 10% anyway at present due to reliefs.

Conclusion

Key advantages to these proposals are that the low rate of tax allows a considerable simplification of the code, the abolition of reliefs, and a widening of the tax base. There is also less incentive to avoid a tax that is set at such a low rate or for foreigners to leave after 15 years. The removal of the PET regime in its present form means that assets over a certain limit cannot pass tax free just by surviving seven years. Further research on the likely revenue and behavioural impacts is still required, and consideration will also need to be given to well-thought through transitional provisions.

A table of the impacts is set out below before we illustrate with examples.

Example	Current position	Revised position	Revised position after likely behavioural impact
Married couple worth up to £650,000	Nil	Nil	N/A
Married couple worth £1 million, including main residence left to children (see example 1)	Nil	Modest tax bill – effective rate of a few percentage points	May be able to reduce the IHT on their deaths to the extent they can give away £30,000 per annum
Unmarried couple (not Civil Partners) (see example 2)	More tax than married couples in the same position	Potentially significantly less than at present. Aligns more closely with married couples	Some scope to reduce further with lifetime gifts
Wealthy married couple, say £2-5 million wealth (see example 3)	Potentially significant IHT – potentially mitigable if they can afford to reduce assets to below £2 million through gifts more than seven years before death	Significant savings compared to present position. Similar tax position to those who currently can mitigate through gifts	Limited scope to reduce tax further with lifetime gifts
Very wealthy, with business and/or agricultural assets (see example 4)	Potentially little or no tax at present due to business/agricultural reliefs	Significantly more tax, but spread over ten years	Limited scope to reduce tax further with lifetime gifts
Foreign domiciliary with trusts (see example 5)	Generally tax free but if a foreign dom has no trusts, the worldwide estate is taxed heavily at 40% after 15 years which may lead to that person's departure	May still be tax free, but opportunities for avoidance reduced and 10/20% rate may be acceptable for long-stay foreigners	Limited opportunities to plan out of the new rules. Trusts have some advantages but after ten years' residence could be subject to an annual charge

2: Practical examples of the flat-rate gift tax

Example 1: The married couple with joint assets of £1 million mainly tied up in the house

Married couple John and Janet die with joint assets of £1 million, of which £650,000 is tied up in their main house. They have each made limited lifetime gifts of £3,000 a year. Janet dies leaving everything to John. John then dies leaving everything to their children. No business property or farm is owned. The remaining assets apart from the house comprise shares showing a significant gain on death.

Current position: No tax payable on either death. Janet's estate on her death is covered by spouse exemption. John's estate is covered by two nil rate bands and two residential nil rate bands. All unrealised gains are wiped out on each death. Assets are rebased to market value on each death. Lifetime gifts have no effect on the IHT position as they fall within the annual exemption.

Total tax is nil

New regime: No tax on first death due to spouse exemption. No CGT uplift so if John sells Janet's shares during his lifetime then he could pay more CGT. On John's death, IHT payable will be £35,000 (being the excess of £350,000 over £650,000 taxable at 10%). On John's death the house would pass at cost to his children, although it is suggested that to align the position with lifetime giving and to reduce compliance costs they can carry forward his main residence relief for the period during which it was John's main residence. E.g. if John occupied it throughout his ownership for ten years as his main residence, and on John's death the children let it and then sold it five years later, then approximately two-thirds of the gain on sale would qualify for main residence relief.

The shares would not be rebased to market value on John's death. The children would inherit at the base cost of Janet or John and CGT would be payable on a later sale.

Total tax on death is £35,000. Effective tax rate on death is 3.5%. CGT may be payable not on death, but on later sale of the assets.

Example 1A: The married couple with £1 million, but who have made modest annual lifetime gifts

As above, but John had made three lifetime gifts of £30,000 to his children in each of the three years before his death. He dies still holding £1 million.

Current position: No tax payable on any of the lifetime gifts, but (unless normal expenditure out of income could be claimed which is likely to be controversial) there would be more tax payable on John's death as £81,000 was given away in excess of the annual exemption¹⁷ and would therefore use up part of his nil rate band. This would mean £32,400 IHT payable on John's death, assuming his estate is still worth £1 million at death.¹⁸ Note that if the gifts were of assets rather than cash and the assets showed a gain then John would pay CGT on the gain when making the gift. Total tax is £32,400

¹⁷ £90,000 less 3 x £3000 = £81,000

¹⁸ Available NRB is £650k less £81,000 = £569k + RNRB of £350,000 so £919K is not taxed. This leaves £81,000 taxable at 40%

New regime: no tax payable on any of the lifetime gifts as they do not exceed £30,000 a year. Gains can be held over. On John's death, tax payable will be as in example 1 - £35,000. John's house and other assets would pass at cost to his children.

Total tax is £35,000

The above illustrates the relative simplicity of the new regime as lifetime gifts have no effect on the tax payable on death but are separately taxed in their own right. More CGT is likely to be payable as the assets are not rebased on each death.

Example 2: The cohabittees

Peter is single living with his partner George (but not married or in a civil partnership). They each die leaving everything to each other and then on the last death the joint estate passes to charity. Estate of each is £500,000, mainly held in the jointly owned house and lifetime gifts are £3,000 pa. George dies first. Total estate is £1 million.

Current regime: No tax on lifetime gifts. £70,000 IHT is payable on George's death (his £500,000 estate gets the benefit of the nil rate band of £325,000 but not of the residential nil rate band as the house does not pass to children. So £175,000 is taxable at 40%). On Peter's death there is no tax as it passes to charity. NB – it makes no difference if Peter is given a life interest on George's death and then it passes to charity. Charitable exemption is only available on the last death. Base cost uplift in house for CGT purposes on George's death and then Peter's.

Total tax is £70,000 payable only on George's death

New regime: IHT of £17,500 is payable on George's death (10% of £175,000). No IHT is payable on Peter's death due to charitable exemption.

Total tax is £17,500 payable on George's death

Note the above illustrates that under the new regime there is less distinction between married and unmarried couples. Cohabitees are better off, as the rate of tax is lower than at present and therefore the reliefs available to married couples are worth less. In addition, the burden of tax on the first cohabitee to die leaving everything to the second is much less, which is important in relation to the family home.

Example 2A: As above, but on Peter's death, everything is left to the relatives of George and Peter

Current regime: £70,000 payable by each of them on each death.¹⁹ CGT uplift.

Total tax is £140,000

New regime: £17,500 is payable on each death. No CGT uplift.

Total tax is £35,000

¹⁹ £500,000 - £325,000 NRB = £175,000 chargeable at 40% = £70,000

Example 2B: Facts as in example 2A above, but ten years previously, Peter had given away £300,000 to his relatives

Current regime: No tax on lifetime gifts.

Total tax remains £140,000

New regime: £27,000 payable at date of gift (after deducting annual lifetime allowance of £30,000).

Total tax is £27,000 + £35,000 = £62,000

Example 2C: Facts as in example 2A above, but Peter gives away £30,000 every year for ten years prior to his gift = total £300,000 (deduct £3,000 annual exemption each year for the last seven years, leaving chargeable gift of £189,000²⁰)

Current regime: No tax on lifetime gifts as only the last seven gifts are counted and they fall within the nil rate band (leaving £136,000 nil rate band available on Peter's death). Therefore £364,000²¹ is chargeable on Peter's death so tax is £145,600.

Total tax is £215,600 ²²

New regime: No tax on lifetime gifts as they each fall within the lifetime allowance.

Total tax remains £35,000

Note: the above illustrates the simplicity of the new regime as the death allowance of £650,000 is not deducted against lifetime gifts. These are just taxed at 10% if they exceed the £30,000 each year. It also shows the benefits of spreading gifts over a period of time rather than lumping them into one year. In addition, there is no arbitrary cut off point of seven years. The lifetime gifts are all taxable over the annual limit of £30,000 and it does not depend on the gamble of surviving seven years. Taper relief and other complexities become irrelevant.

Example 3: Large estate. Civil partnership and children

Miriam and Jane are in a civil partnership and have a joint estate of £2.5 million. They make no lifetime gifts and they leave everything to each other and then to their children.

Current regime: Tax of £740,000 payable on last death (deduct two nil rate bands leaving chargeable estate of £1.85 million taxed at 40% = £740,000). No residential nil rate band is available as their estate is too large.

Total tax is £740,000

New regime: Tax of £185,000 payable on the last death. Even if tax on values over £2 million was 20% then tax would remain the same as death allowance reduces estate to £1.85 million.

Total tax is £185,000

²⁰ $7 \times £27,000 = £189,000$

²¹ £500,000 - 136,000 remaining NRB leaving chargeable estate of £364k

²² £70,000 on George's death and £145,600 on Peter's.

Note, as in all the examples, it is not clear what the CGT difference would be as the assets would not be rebased on death and therefore it will depend on the gains realised in the course of the lifetime of the donor.

Example 3A: Facts as above except that they each make lifetime gifts of £500,000 in one year to bring their estate under the threshold to qualify for the RNRB. They die within seven years of each other. On last death the estate is worth £1.5 million

(a) Assume they both survive the gift by seven years

Current regime: No tax on lifetime gift. Tax on last death reduced to 40% x £500,000 = £200,000 as they now qualify for the residential nil rate band so the first £1 million is not taxed.

Total tax is £200,000

New regime: Lifetime gift is taxed at 10% = tax of £97,000 (£1 million less £30,000 = 970,000 x 10%). Tax on last death is £85,000²³

Total tax is £182,000.

(b) Assume they each die within two years of their gifts.

Current regime: Each lifetime gift becomes chargeable as to £175,000. (The first £325,000 of each gift falls within each of their nil rate bands and the balance is chargeable at 40%). Tax is £70,000 each. On the last death there is no available nil rate band. £1,150,000²⁴ is chargeable at 40% = £460,000 tax

Total tax is £600,000

New regime: Position unchanged as lifetime gifts are taxable at 10% and the couple's death allowance is unaffected.

Total tax is £182,000

Example 4: Very large estate comprising mostly farms and business property

Phil a widower dies leaving his son a working farm worth £2 million (currently qualifying for 100% BPR and APR). He leaves his daughter a portfolio of AIM listed shares worth £3 million owned for two years all qualifying for BPR. The family business worth £1 million is left to both children equally along with some cash and house worth together around £650,000. His deceased wife left everything to him and made no gifts. Total estate is £6.650m.

Current regime: No tax on Phil's death. The chargeable assets of £650,000 (house and cash) fall within the two nil rate bands of him and his widow. The rest of the estate at £6 million qualifies for BPR or APR. Children inherit the assets free of tax and at a rebased CGT value.

New regime: total estate is £6.650 million. After deducting £650,000 death allowance, 10% is payable on £2 million = £200,000 and the balance of £4 million is taxed at 20% = £800,000

²³ £1.5m less £650K = £850,000 x 10%

²⁴ £1.5 million less residence nil rate band of £350,000

funded over ten years in interest free instalments. £100,000 pa. There is no rebased CGT value so on later sale of the business CGT is payable on the total gain since Phil's acquisition.

Total tax is £1 million compared with nil

The above illustrates that on a large estate of £6.65 million currently qualifying for reliefs, the tax would be greater, as there are no reliefs and the CGT position would be worse. However, if Phil's wealth was held in an investment portfolio rather than in qualifying assets, the tax on his death currently would be £2.4 million, but would be unchanged from the above tax of £1 million under the new regime.

Example 4A – business property gifted during lifetime.

Assume that Phil makes a lifetime gift of his farm worth £2 million to his son (also a farmer) and survives three years.

Current regime: No tax on Philip's death. Although he has died within seven years, full APR is available, provided the son has retained the farm. The gain on lifetime gifts of agricultural assets can be held over. Position on death should be unaffected.

New regime: no CGT on lifetime gift. Gain held over. However, £200,000 tax payable on the lifetime gift at 10% in ten yearly instalments. After deduction of two nil rate bands, £4 million is chargeable to tax on death, of which £2 million is charged at 20% and £2 million is taxed at 10%.

Total tax is £800,000

By handing the business on early, the rate of tax is less than keeping it until death – at 10% rather than 20%. The CGT position is the same on death or lifetime transfers. By contrast, the current tax regime encourages businesses to be retained until death to obtain the CGT death uplift as well as IHT exemption.

Example 5: Taxation of foreign domiciliaries

Foreign-domiciled widower Ajay dies UK resident. He has lived in the UK for 11 years. Ajay dies with a personal estate of £10.650 million, of which only £650,000 is UK situated.

Current regime: no tax on his death, as foreign assets are excluded from IHT, and £650,000 is covered by his and his late partner's nil rate bands.

New regime: tax is £200,000 on the first £2 million and £1.6 million (being 20% on the remaining £8 million chargeable estate) as tax is levied on his worldwide estate of £10 million (after deducting the £650,000 death allowance) after ten years of UK residence.

Total tax is £1.8 million

If Ajay had set up a trust prior to his death then, under the current regime, there would be no tax on trust assets provided they were non-UK situated. Under the new regime, Ajay would pay 10% if the trust was set up after his tenth year of UK residence and annual charges thereafter. If he set it up before ten years had elapsed, then from the point he has been here ten years, the trust starts paying annual charges if any UK resident person can benefit.

C. THE OTHER OPTIONS

In this section we discuss:

1. Key design issues
2. The case for a wealth tax
3. Extending the CGT base
4. Piecemeal reform of IHT
5. A capital accessions tax

1. Key design issues

There are some key design issues against which any change needs to be tested. Unlike income tax or even CGT, there is great international variation both in the design of wealth taxes and in the taxation of common vehicles used to hold wealth (such as trusts and foundations). However, a common feature of all wealth taxes is that the yield is almost universally small. Only Japan, France, Belgium, Iceland, Luxembourg, Switzerland and Norway derive more than 1% of total tax revenue from wealth and transfer taxes. Common problems for all jurisdictions seem to be disclosure, international tax competition, dealing with the globally mobile wealthy, valuation issues, and practical administrative issues. Therefore any design needs to address these issues.

1.1 *The tax base. Arriving and leaving*

All governments want to attract the wealthy to live in their country and pay taxes. The UK headline IHT rate of 40% is off-putting for many foreigners, particularly those coming from regimes such as Sweden, Italy, India, Pakistan, Canada, New Zealand and Australia where there is no or little IHT. Key considerations in this regard include whether, and for how long, any exemptions should be given to those who first arrive here: should the foreigner arriving in the UK for the first time be immediately subject to UK IHT on all their worldwide assets if they happen to die here in the first year of residence?

Currently, the UK has two connecting factors – residence and domicile. Foreigners who have been here for less than 16 out of the last 20 tax years only pay IHT on UK assets, and even after 15 years, they will not pay IHT on foreign assets settled into trust before the 16-year deadline. However, domicile is also a connecting factor. UK domiciliaries pay IHT on their worldwide estates wherever resident. Domicile is an uncertain and old-fashioned concept.

The Canadian model deals with the problem by imposing CGT, not IHT, on death and rebasing the assets to market value when the person first arrives in Canada. Hence, only post-arrival gains are taxed. France has a five-year run off period before full IHT or wealth tax becomes payable.

Similar issues arise when someone leaves. For example, suppose a long-term UK domiciliary decides to become non-resident and dies a year later based in Germany. Is it fair that they should have to pay IHT? Currently they would need to do so and may also pay in Germany (with only limited double taxation relief as there is no treaty). An exceptionally long IHT tail currently operates under UK law for UK persons with a UK domicile of origin who leave. The connecting factors need to be considered in more detail and some proposals are set out in section B so that the foreigner is only taxed on UK situated assets for the first ten years of residence and thereafter on their worldwide estate. Trusts set up in the first ten years of UK residence are free of tax in that period, but thereafter would be subject to an annual charge. The domicile concept, which is often difficult to apply in practice, is abolished. For leavers, gift tax could be imposed if they

have been UK resident for more than five years and die within ten tax years of leaving the UK.

1.2 ***What connecting factors should be used?***

Typically countries tax wealth by reference to the situs of the asset, the residence or domicile status of the donor or the residence and domicile status of the donee. (See for example Ireland). In the UK a foreign-domiciled donor who leaves foreign assets to a UK person can currently make the transfer of wealth entirely free of UK IHT, even if the donee then sells and reinvests in UK assets. Trusts set up by foreign domiciliaries can hold assets indefinitely for many generations without suffering any IHT, even if all the beneficiaries are UK resident and domiciled and even if the settlor becomes UK domiciled. As example 5 makes clear, this is modified under the flat-rate gift tax option.

1.3 ***Should special reliefs apply to different assets?***

Currently the UK gives tax breaks for certain types of business, such as trading, and the government would need to consider whether these should continue and whether the main residence should qualify for any special relief on death. It is currently unclear whether these reliefs are good value for money or who monitors them.

1.4 ***How do you deal with trusts and foundations?***

Trusts, foundations, usufructs and other similar structures can provide benefits to people without actually transferring ownership of wealth to them, hence wealth transfer taxes can potentially be circumvented or mitigated. It is therefore difficult to obtain consistent tax treatment between the common-law concept of a trust and the more continental ideas of a usufruct or foundation. Currently, UK lifetime trusts generally suffer a 20% entry charge and 6% every ten years with some tax on capital distributions. If the donor reserves a benefit in a trust he or she settles, there is an additional 40% IHT payable on their death but otherwise no tax on the death of a beneficiary. The regime for will trusts is different. Should trusts pay inheritance tax by reference to the “principal beneficiary’s status”, e.g. the life tenant or should trusts be “personified” so that they pay a periodic tax? Currently the UK does a mixture of the two.

1.5 ***Hypothecation***

Hypothecation could be an option for wealth taxes on the basis that it might make the tax more popular and less prone to avoidance if it could be seen to pay for a particular cause such as care for the elderly. However, it may increase unpopularity on the basis that people would argue that tax on their hard-earned savings was subsidising those who had not saved enough for their own old age.

1.6 ***Other taxes***

The APPG discussed whether there is a case just for wealth transfer tax or whether other taxes such as an annual wealth tax or an extension of CGT to transfers on death should be considered. This is discussed below.

1.7 ***Rates***

The tax rates could be progressive or flat. Low rates might mean fewer reliefs but would bring greater simplicity.

2. The case for a wealth tax²⁵

A tax on the holding of wealth is often cited as producing greater horizontal equity because it suggests equal treatment of those with the same taxable capacity and superficially takes account of the advantages brought by wealth which income tax alone cannot do. It taxes valuable assets that yield little income, but confer significant benefits, such as art and houses. It is sometimes said that the beggar and the lord have the same income but very different taxable capacity and advantage in terms of independence and security.

A wealth tax is also said to promote vertical equity by constraining inequality and redistributing wealth. For this reason there has been renewed interest in a recurrent wealth tax.²⁶ There is also an argument that it encourages greater efficiency in asset use by encouraging non-yielding assets into greater productivity. It avoids a lock-in effect as the wealth is taxed each year and not on realisation. Countries such as Cyprus, Iceland and Spain have introduced temporary wealth taxes following the financial crisis in 2008. This has been popular, as the wealthy are seen to be “paying their way” in times of adversity. A wealth tax can also provide valuable data about the wealth of a population, which can inform future policy making and counter avoidance.

However, an annual wealth tax faces significant practical problems. The Organisation for Economic Co-operation and Development (OECD) 2018 report stressed it cannot be assessed in isolation as it will depend on the country’s overall tax system and economic circumstances. The idea was proposed in the manifesto of the Labour Party in the two 1974 general elections and then taken forward in a Green Paper in 1974, but Healey abandoned it for many of the practical reasons discussed below.²⁷ It is worth noting that of the 16 OECD countries that operated a wealth tax in 1995, only five still have it on any permanent basis. Sweden abandoned it. The German federal courts declared it unconstitutional. France has now largely restricted it to real estate. The OECD Report in 2018 concluded that from both an efficiency and equity perspective, there is little need for a net wealth tax in countries with broad-based personal capital income taxes and well-designed inheritance and gift taxes. A wealth tax is an imperfect substitute for taxes on personal capital income, capital gains or on wealth transfers.

2.1 *Why is a wealth tax problematic?*

- 2.1.1 It is administratively complex as valuations have to be done each year, which is burdensome. Compliance costs are high and even in France the yield has been fairly low. A five-year revaluation could be adopted with the taxpayer effectively self-assessing the position (as they do under annual tax on enveloped dwellings tax or ATED) but this can be unfair if the assets later fall in value.
- 2.1.2 Some assets are hard to value, such as unquoted shares, art, and minority interests in businesses. This can lead to endless debate and enquiry, and high administrative costs.

²⁵ The pros and cons of a wealth tax are discussed in greater detail in the Mirrlees report.

²⁶ See OECD Role and Design of Wealth Taxes in the OECD 2018. The current debate in the US and recent proposals from Labour in 2019 to impose a 20% property tax on acquisitions by non-resident companies and trusts.

²⁷ A detailed discussion of the design problems surrounding a wealth tax can be found in Sandford/Willis and Ironside’s *An Annual Wealth Tax* published by the IFS in 1975.

- 2.1.3 Wealth tax was abolished in countries such as Austria and Germany because it was seen as fundamentally unfair as it is impossible to have comprehensive coverage and precise valuation. Some assets, such as pension pots, are never subject to wealth tax, whereas a family business, where the owner is relying on the business for his pension, will be.
- 2.1.4 Wealth tax is a dry tax and can be hard to fund on illiquid assets, although this problem could to some extent be dealt with by allowing deferral (with interest) until the death. However, the fact that wealth taxes are imposed irrespective of the actual returns that taxpayers earn on the asset can be distorting. It can discourage private businesses and start-ups that may be productive, even if low yield. The mansion tax proposed by the Labour Party and Liberal Democrats in 2015 was objected to on the basis that the elderly living in large homes would be forced to sell. Although, in such a case, the sale of the house might be favoured by some²⁸, nevertheless it is likely to be deeply unpopular with those holding illiquid assets.
- 2.1.5 Saving is discouraged as it gets taxed annually.
- 2.1.6 It imposes an additional burden on income that is earned and saved so is another form of double taxation that is arguably harder to justify than IHT. The person being taxed here is the person who originally earned the money.
- 2.1.7 Disclosure can be difficult and avoidance and evasion relatively easy. For example, the value of an asset can be reduced by artificial debt.
- 2.1.8 It can be seen as unfair, as the person who inherits a £5-million house will pay the same amount of wealth tax as someone who buys the same house with their earnings that have been subject to income tax. Moreover a house with a mortgage could be subject to the same amount of wealth tax as a house free of mortgage. This could cause hardship for those with the mortgage. Although this problem could be catered for by only taxing people on their net wealth after borrowing, this is likely to increase avoidance.
- 2.1.9 Finally, it is seen as a capital drain in deterring rich people from remaining in a country or coming there in the first place. This was one reason for its abolition in Sweden (which also has no IHT on death). Switzerland retains quite an effective wealth tax, but there seems to be a greater link between the amount raised and the benefits received by the local population (so a sort of hypothecation). The current political debate in the United States about wealth taxes is interesting but may not be as relevant to the UK. US taxes are linked to citizenship, not residence or domicile, and if citizenship is surrendered then tax has to be paid at that point.

2.2 Council tax and property taxes

One area where reform could be introduced is in relation to council tax, which could be seen as a very poor form of wealth tax. It is regressive, has many regional and distributional inequities, and falls particularly harshly on younger people. The Resolution Foundation produced a detailed paper recommending a number of reform options in March 2018, including the possibility of abolishing Council tax and replacing it with a progressive property tax.²⁹

²⁸ On the basis that it is an inefficient use of resources for a large house to be occupied by a single person

²⁹ <https://www.resolutionfoundation.org/app/uploads/2018/03/Council-tax-IC.pdf>

It may be more practical to introduce an annual wealth tax only on real estate, where valuation is easier particularly as the UK already has something similar (ATED) that applies to companies holding residential properties above £500,000 in value when occupied by a shareholder or connected person. In that case, land valuations occur every five years.

In short, there may be a case for a more progressive form of property tax rather than any wider wealth tax. However, as noted above, this could be seen as unfair if it does not distinguish between the person inheriting a mortgage-free house and the one who has a mortgage on it. Taxing only the net equity is likely to lead to avoidance.

The Government may feel that property, particularly residential property, has already borne the brunt of increased taxation in several respects in recent years (particularly in the case of higher stamp duty land tax on residential property) and it may not wish to add further to that.

3. Extending the CGT base

Currently there are two major reliefs for CGT (excluding those such as entrepreneurs' relief and rollover relief on businesses which are not discussed here). The first is the principal private residence relief (PPR), which costs approximately £27.2 billion in lost tax. The APPG discussed recent papers released from National Archives, which show that Chancellor Lawson and his advisers considered extending CGT to houses, possibly combined with abolishing IHT, in the run up to the 1989 budget. The low estimates given by policy advisers then of the tax likely to be raised by abolishing PPR proved woefully inadequate.³⁰

The second CGT relief is the effective exemption and rebasing of all gains on death, which is sometimes called "the step-up". Thus, if someone dies holding an asset pregnant with gain, it is currently rebased to market value on death free of CGT. This opens up a stark contrast between lifetime gifts of assets (where the disposal is treated as taking place at market value and gains are taxed on the donor³¹) and transfers on death (where there is no CGT). Hence, there can be a double tax charge, CGT and IHT, on lifetime gifts if the donor dies within seven years, and zero CGT and IHT on death if the donor dies holding business property. The cost of the CGT uplift is unknown, as HMRC no longer record the figures.³²

Option 1 – no gain no loss transfer on death

This option was debated. It does not impose CGT on death but simply removes the exemption so that the donee inherits at the donor's base cost.

The OTS recommended in their second report that there should be no CGT uplift on death to the extent that assets were not subject to IHT on death. Instead the assets would pass on a "no-gain no-loss" basis.

This no-gain no-loss transfer basis would apply on death in the following situations:

³⁰ It was noted there that 'to put CGT on houses is the sort of thing that could easily prove a recipe for your early retirement'.

³¹ Subject to limited reliefs such as hold over relief which applies only if the gift is chargeable to IHT or is a gift of certain business assets

³² It was apparently £640m in 2010/11

- Where spouse exemption is given on death. On later sale or disposal by the recipient spouse CGT would be payable on the original base cost of the deceased. This follows the same approach as lifetime transfers between spouses.
- On transfers of assets qualifying for 100% BPR or APR.
- On the death of a foreign domiciliary where no IHT is paid on the foreign property.

While this option has some significant attractions in terms of eliminating the distortions between lifetime giving and transfers on death it is not without complications:

- If part of a business does not qualify for the full 100% BPR relief on death then the proportion of the business that receives a CGT uplift would need to be calculated. In some cases only 50% BPR is available; in others there are excepted assets.
- It means that record keeping is more onerous. The person who inherits will need to know the deceased's original base cost and find out when they acquired it. However, even now the heir will need to ascertain the value at date of death.
- It is difficult when an asset is split between a spouse and a child with some of it chargeable to IHT and some which is not. Should only the fractional interest received by the exempt beneficiary receive no gain no loss treatment?
- The position on the main home needs consideration. If it passes on a no gain no loss basis does the donee inherit any of the main residence relief that the deceased might have had? Example 1 in section B above sets out the options.

Option 2 – Taxing unrealised gains on death and abolishing IHT

Another option considered by the APPG was to abolish IHT altogether and impose CGT on the death of any UK resident or any individual (wherever resident) who owns UK real estate. This would follow the Canadian model, which abolished gift and estate tax and introduced a tax on capital gains that included a deemed realisation on transfers of property by gift or at death.

The argument in favour of substituting IHT with CGT is that it simplifies the tax system as it means people only have one tax to deal with; it seems to have more public legitimacy in regimes that run this model. It taxes gains rather than absolute values so people do not see it as double taxation. It is not a tax that penalises saving. All the administrative machinery is already in place to collect the tax. The system can relatively easily deal with taxpayers leaving and arriving by rebasing to market value the assets of all persons arriving in the UK and imposing an exit charge on those who leave. This is broadly the approach adopted by Canada.

However, there are some disadvantages in having CGT and not IHT charged on death (as opposed to option 1 above which just involves having a no gain no loss disposal with no CGT uplift on death to market value but with the gain deferred until actual sale).

3.1 Practical disadvantages of CGT on death

- 3.1.1 It is sometimes said that people's main asset – their home – would effectively not be taxed at all on death due to principal private residence relief (PPR). However, PPR could be limited to lifetime disposals and is not needed on a transfer on death. The main point of PPR is to allow people to trade on to their next property. By definition that does not apply on death. Even assuming PPR was not available on death transfers, the OTS estimated that replacing IHT with CGT on death would still only

raise £2.8 billion compared with over £5 billion for IHT.³³ Of course, the rates of CGT could be increased from 20% to 40% to make up this shortfall or you could have a different rate for different assets (for example, the current practice of taxing residential property gains at 28% could be adopted).

- 3.1.2 Imposing CGT on death would impact a much larger number of people than IHT currently does as the number of tax paying estates would rise to 182,000 rather than 28,500. The threshold to pay CGT is much lower than that of IHT. Presumably on transfers between spouses on death there would be no immediate CGT but a deferment so that the assets would pass on a no gain no loss basis (as currently occurs on lifetime transfers.) However, historic records would still need to be kept. As noted above, one question is what happens if the deceased person would have qualified for this relief: is it carried forward to the heirs. Example 1 illustrates some of these issues.
- 3.1.3 For executors making disposals, they would now need to worry about CGT and need two figures: the historic base cost and the value at death. Even if there was just a deferment of CGT until eventual sale, they would need the historic records.
- 3.1.4 Unless indexation was reintroduced it would potentially tax paper gains. (To some extent this is typically dealt with by having a lower rate of CGT, for example, 28% rather than 45% income tax.)
- 3.1.5 There would likely still need to be reliefs for businesses and land which are illiquid and where the historic gains are often significant. The point about taxing a gain realised on death (as opposed to any type of voluntary sale or gift during the taxpayer's lifetime) is that the deemed disposal arises as a result of something over which the taxpayer has no control – his death. It is a dry charge if he cannot sell the asset. Hence businesses will still demand reliefs. In Canada, there is a deferral of CGT on death for qualifying businesses.

3.2 Theoretical problems of CGT on death

- 3.2.1 The position for trusts would need to be considered as trusts do not die. Thus, the tax would be avoided on, for example, valuable pictures or houses simply by retaining these assets in a trust. To stop this sort of tax avoidance, a disposal could be deemed to occur every few years, with the trust given a final credit for past tax paid when the asset is actually sold, but this is likely to complicate matters and lead to avoidance.
- 3.2.2 It fails the horizontal and vertical equity tests. First, inherited as opposed to earned income would no longer be taxed at all if received in cash. Second, it is much less redistributive than IHT as it taxes only a fraction of wealth transfers. A person inheriting £1 million cash will pay no CGT on death. The burden is shifted to smaller estates and away from the largest estates, so reduces progressivity.

Many OECD countries therefore retain wealth transfer taxes. At least 22 OECD countries have a wealth transfer tax in some form or other today, although there are some notable exceptions such as Canada, New Zealand, Austria, Sweden, Australia, India, Pakistan, and Hong Kong.

³³ See July 2019 OTS report.

4. Piecemeal reform

One option is to build on the more limited reforms mentioned in the first interim report of the APPG and by the OTS in their second report. For example, the following could be considered:

- 4.1 The introduction of a no gain no loss option for assets when no IHT is paid on death so that there is no automatic CGT uplift. This follows the OTS recommendations. This does pose the complications mentioned above. It also does nothing to simplify the current system. However, it does eliminate some of the distortions between the donor making lifetime gifts rather than leaving property on death.
- 4.2 Have more progressive rates, perhaps with a 20% starting rate and a higher nil rate band, and increasing rates to over 40% for the larger estates. However, 40% is already the fourth highest headline rate in the OECD³⁴. This, again, is going to complicate the current system, and how would lifetime gifts be taxed where the donor died within seven years?
- 4.3 A reduction in the business property and agricultural property reliefs to 50% rather than 100%. Again, this is likely to increase the need for valuations and thus expense for HMRC and delay for the taxpayer, but will it raise much more money? Alternatively, a cap has sometimes been suggested, whereby BPR and APR are capped at £5 million or £10 million. However, on the latter point, it is difficult to see why an inefficient small farm or business should be taxed less than an efficient large business or farm. One could impose a requirement that the business has to be retained for a minimum period after death to ensure that the relief only goes to help long standing family businesses but this can distort commercial decision making and lead to avoidance. The OTS suggested aligning the CGT and inheritance tax tests for business property relief and abolishing BPR in relation to AIM listed companies. It is not clear whether there is any policy rationale for doing this. CGT and IHT tax different events, so there is no particular reason why the reliefs should have the same conditions. CGT is largely voluntary, in that the person sells the business and has the cash to fund the tax. Inheritance tax on death is not voluntary or planned.
- 4.4 Another limited reform is to introduce hypothecation. This is the carrot rather than stick approach: to try and increase buy-in, culturally, to the notion of paying inheritance tax by making it hypothecated (for example, it would be ring-fenced to pay for part of the costs of social care). This may legitimise the tax and discourage avoidance. It offers greater clarity to taxpayers on how their inheritance is being spent by the government (which seems to be an important factor in some countries as to whether wealth taxes are popular). There is greater accountability and broader public engagement. As currently IHT raises relatively little money, this may be one tax where the disadvantages of hypothecation are rather less. However, some may object to “paying twice” if they have saved for their own care home fees and then get taxed on death to pay for other peoples.

The difficulty with all the above options is that they tend to increase, rather than decrease, complexity, and one of the main objections from the public that came out in the OTS report was the perceived complexity of IHT. Moreover, they do not really address a key objection to

³⁴ Only Japan at 55%, South Korea at 50% and France at 45% have higher headline rates.

the current structure, which is that those who can afford to do so will make lifetime gifts and avoid IHT altogether.

There are no easy solutions, which is why other countries vary in approach, and why UK governments have tended to leave IHT alone since 1986.

5. Capital accessions tax

This is the option often suggested by reformers and academics³⁵ and has been adopted with some modification in Ireland. It is often seen in civil-law countries that have forced heirship: lower rates are paid by donees if the assets pass to closer family members. However, it is not a necessary design feature of the tax that lower rates are imposed if wealth is inherited by children as opposed to friends, although Ireland has adopted this model. It could be a simpler model, which just bases the rate of tax on the level of inheritances received by the donee from all sources over their lifetime.

A capital accessions tax is essentially a comprehensive donee-based tax. The rate of tax on transfers of wealth, whether on lifetime or death, is governed, not by the value of the donor's estate, but by how much wealth the donee has inherited or been given during his or her lifetime from all sources. The donee can be taxed as if they had received income or (more commonly) at a separate rate. Thus, the system embraces lifetime and death transfers and is cumulative over a donee's lifetime. The argument is that it encourages more equal distribution of inherited wealth and for wealth to be spread more widely. Hence, an estate of £1 million left to one heir will be more heavily taxed than an estate of £1 million left between four assuming those four have not inherited from elsewhere.

As the tax is graduated to the size of inheritance, it is argued that it is more likely to reduce wealth inequality. As noted above, the inheritance can be taxed as the income of the donee, or more commonly at separate rates which increase the more the donee inherits over his or her lifetime. As it can effectively take account of the economic circumstances of the donee, it is seen as fairer. It taxes those who enjoy the wealth and not those who leave it behind, and the requirement for lifetime record keeping and accountability gives valuable information on wealth transfers. It is seen as fairer, as the rich cannot avoid it by making gifts earlier, and allows for some flexibility.³⁶

However, there are significant administrative and compliance costs in a donee-based system, particularly where the accessions tax operates over the whole lifetime of the donee; in fact,

³⁵ See Duff and Sandford cited elsewhere

³⁶ For further discussion on this approach see the Mirrlees Report on Wealth transfers cited above and also An Accessions Tax by Sandford/Willis/Ironside 1973 IFS which still remains one of the most thorough explorations of the subject.

A capital accessions or donee based tax is favoured by many think tanks e.g. see the final report of IPPR Commission on Economic Justice: Prosperity and Justice; <https://www.ippr.org/research/publications/prosperity-and-justice>. The Resolution Foundation recommendations cited above at <https://www.resolutionfoundation.org/publications/passing-on-options-for-reforming-inheritance-taxation/> Institute for Public Policy Research (IPPR) see A Wealth of Difference <https://www.ippr.org/files/2018-10/cej-a-wealth-of-difference-sept18.pdf>

Ireland has abolished the lifetime model, although retained a complicated system of different rates depending on who the inheritance is from.

Some of the administrative complications that made it unattractive when it was discussed by academics such as Sandford and by politicians in the 1970s would be more easily solvable now through technology. However, consideration needs to be given as to how it interacts with CGT, for example whether the donor pays CGT on gains from the transfer of an asset, and whether the donee pays capital accessions tax. How would it work on death? Ireland gives a tax-free CGT uplift on death. What rates should be imposed on the donee? What about gifts to trusts, which then retain the asset for the benefit of future generations? Would there need to be an annual charge on such trusts? What would the scope of the tax be? Should it be imposed only on donees living in the UK who receive inheritances ignoring all inheritances received when they were non-UK resident and should transfers of UK assets such as property be subject to capital accessions tax even if the donor and donee are both outside the UK? How is HMRC to monitor this? There are clearly many questions to answer on this option for reform but given the potential benefits, it is one that policymakers should explore further alongside the flat rate gift option.

D. APPENDIX 1: BACKGROUND

1. Wealth inequality, impact on economy and fairness

Developed economies recognise that an individual's right to dispose of their assets according to their wishes should be protected; however, unrestricted inheritances and transfers of wealth can lead to dynastic concentrations of wealth, create inequality of opportunity and vertical and horizontal inequities. It is unfair that someone should pay no tax on wealth they inherit and yet pay up to 45% on income they earn. The alternative view is that transfers of wealth should be encouraged not least as an incentive for saving and to encourage growth: "if private sector wealth is allowed to cascade down the generations then everyone, including those who find employment in the private sector without owning significant wealth themselves, will benefit. The public sector will also benefit, because economic growth will lead to an increased tax base, making it easier to raise funds for public services."³⁷

Although some forms of wealth disparity can have a positive impact on an economy, when the divide becomes more pronounced, there can also be negative consequences. This is demonstrated by figures from the OECD, which showed that rising levels of inequality in the United States between 1990 and 2010 lessened the nation's cumulative GDP per capita by around 5%³⁸. As Tocqueville famously wrote, "*what is important for democracies is not that great fortunes should not exist but that great fortunes should not remain in the same hands.*" Our current system of taxing wealth fails this criteria.

In 2015 the Office for National Statistics (ONS) highlighted the levels of wealth inequality in the UK, showing that the richest 10% of UK households owned around 44% of the wealth, whilst the lowest 50% owned just 9%.³⁹ In 2019 the ONS reported that total wealth inequality in Great Britain is broadly unchanged in the most recent period though it has increased in terms of net property wealth and net financial wealth. The OECD has commented that wealth inequality is far greater than income inequality and that there is evidence to suggest that wealthy inequality has increased in recent decades.⁴⁰

Once a wealth gap has been established, without some form of redistributive taxation it can become more pronounced with those on the richer side of each successive generation retaining and accumulating more wealth.⁴¹ In short wealth accumulation operates, as the OECD has commented "*in a self-reinforcing way and is likely to increase in the absence of taxation. High earners are able to save more, meaning that they are able to invest more and ultimately accumulate more wealth. Moreover, investment returns tend to increase with wealth, largely because wealthy taxpayers are in a better position to invest in riskier assets and generally have higher levels of financial education, expertise and access to professional*

³⁷ Institute of Directors, Capital Gains and Inheritance Tax, 2007, p9

³⁸ Organisation for Economic Co-operation and Development, *Trends in Income Inequality and its Impact on Economic Growth*, 9 December 2014: https://www.oecd-ilibrary.org/social-issues-migration-health/trends-in-income-inequality-and-its-impact-on-economic-growth_5jxrjncwv6j-en;jsessionid=CVqbgntKYU4O6892GUpBm97.ip-10-240-5-56. See also OECD Tax Policy Studies: the Role and Design of Net Wealth Taxes in the OECD 2018.

³⁹ Institute of Public Policy Research, *Wealth in the twenty-first century: Inequalities and drivers*, 2017, p. 6: <https://www.ippr.org/files/2017-10/cej-wealth-in-the-21st-century-october-2017.pdf>.

⁴⁰ See OECD summary report in 2018 on Taxing Wealth

⁴¹ Still Torsten Bell: Resolution Foundation Sept 2019 in response to the Brexit party's proposal for the abolition of IHT

investment advice."⁴² Individuals able to draw on inherited wealth will find it much easier to build up further assets than those relying more heavily on their incomes. Torsten Bell of the Resolution Foundation noted in September 2019 that young people with property-owning parents are now three times as likely to have homes of their own as those without such parents.⁴³

Wealth can also dictate the quality of education a child receives. Wealthier parents can pay for their children to have a better education. This can have an impact on the rest of an individual's life with those who have had access to higher quality education and unpaid internships more likely to obtain better paid or more influential jobs. Even with a good job a UK person paying 45% income tax will struggle to reach the same level of wealth as someone who inherits wealth. Research by the Institute for Public Policy Research (IPPR) has also demonstrated how inequality can impact on access to housing and in particular home ownership.

2 Intergenerational issues

The concept of intergenerational fairness, whereby younger generations struggle to realise the same access to secure employment, affordable housing and valuable benefits as their older counterparts, has become a major policy issue for governments around the world.

Between the Second World War and the 2008 financial crisis the idea of an *intergenerational contract*, where the younger generation funds the provision of benefits and public services for older generations on the understanding that they will receive similar treatment, has been strengthened by successive generations attaining progressively higher wages and better living standards. Although all generations suffered a drop in their hourly wages due to the 2008 financial crisis, younger people were often those who suffered the most marked decline in their incomes.⁴⁴ This decline in wages has often been coupled with changes in the national welfare systems, making them less generous to the young, partly in order to pay for the increasing financial burden of an ageing population, acerbating resentments. These factors have combined to place the so-called intergenerational contract under strain.

Identifying ways of tackling intergenerational fairness has rapidly become an area of major debate amongst governments, civil society, think tanks and other stakeholders. Over the last three years in the UK there have been two major parliamentary inquiries into intergenerational fairness and how to solve it.^{45,46} In 2015, the Welsh Parliament passed the *Well-being of Future Generations Act*, making it the first jurisdiction to address explicitly the problem of intergenerational fairness in legislation. The Act mandates that public bodies consider the long-term impact of their actions on younger generations.

⁴² 2018 report.

⁴³ <https://www.resolutionfoundation.org/app/uploads/2019/09/Inheritance-tax-spotlight.pdf>

⁴⁴ Resolution Foundation, *An Intergenerational Audit for the UK: 2019*, <https://www.resolutionfoundation.org/app/uploads/2019/06/Intergenerational-audit-for-the-UK.pdf>

⁴⁵ House of Commons Work and Pensions Committee, *Intergenerational Fairness*, 2 November 2016: <https://publications.parliament.uk/pa/cm201617/cmselect/cmworpen/59/59.pdf>.

⁴⁶ House of Lords Select Committee on Intergenerational Fairness and Provision, *Tackling intergenerational unfairness*, 25 April 2019: <https://publications.parliament.uk/pa/ld201719/ldselect/ldintfair/329/329.pdf>.

Some commentators have suggested that encouraging inheritance might help redress the balance between generations. In response, others argue that younger generations will not be able to expect an inheritance until later in life and that it will help to exacerbate other inequalities already present in society, with wealthier parents being able to pass on more at an earlier stage than others. Inherited wealth is growing due to demographic change but inheritance may not happen until later in life, if at all, and the average age to inherit wealth is estimated to be 61 years old, although this statistic may be wrong as the extent of lifetime transfers of wealth through the PET regime described below is largely unknown.⁴⁷ Attention has now turned to how intergenerational transfers can be accelerated and broadened out to benefit a wider range of people. Equally the lack of hard data on how many people are actually passing on wealth during their lifetime and by how much in the form of cash gifts makes informed policy making difficult.

Some solutions attempt to encourage transfers of wealth between generations, with those perceived to have greater levels of assets being encouraged to pass it on to those that do not. In Australia the Grattan Institute advocates a form of estate tax, to be levied on what it deems to be unearned income⁴⁸. Two UK-based think tanks, the Institute of Public Policy Research (IPPR) and the Resolution Foundation, have suggested the creation of a lifetime receipts tax in place of IHT; the additional revenue it is projected to raise could fund a £10,000 “citizens inheritance” for younger people⁴⁹. The Cato Institute, a US think tank, also advocates a type of cash grant but has argued it should replace pay-as-you-go pensions rather than IHT⁵⁰.

These conflicting views on how to deal with inherited wealth are reflected in the different approaches of governments round the world. Some, such as Japan, have high rates of IHT to pay for the ageing population. Others such as India, Austria, Hong Kong, Sweden, Canada, New Zealand and Australia have no inheritance tax on death at all. Ireland has since the 1980s opted for a donee based or capital accessions tax discussed in section B above.

3 Historic dislike of IHT

IHT is a deeply unpopular tax. In its first report on inheritance tax the Office of Tax Simplification (OTS) called the measure “*almost uniquely unpopular*”⁵¹ It has also been described more bluntly as “*Britain’s most hated tax*”⁵².

⁴⁷ Resolution Foundation, *Passing on options for reforming IHT*, Adam Corlett 2018
<https://www.resolutionfoundation.org/publications/passing-on-options-for-reforming-inheritance-taxation/>

⁴⁸ Grattan Institute, *Taxing inheritances might be unpopular, but it’s fair*, 19 December 2018:
<https://grattan.edu.au/news/taxing-inheritances-might-be-unpopular-but-its-fair/>.

⁴⁹ See reports by IPPR and Resolution Foundation, e.g. *A New Generational Contract: The final report of the Intergenerational Commission*, 2018:
<https://www.cato.org/publications/commentary/proposal-fix-welfare-fight-intergenerational-unfairness>.
Just Tax: Reforming the Taxation of Income from Wealth and Work. Sept 2019.
<https://www.ippr.org/files/2019-09/just-tax-sept19.pdf> Our Common Wealth.
<https://www.ippr.org/research/publications/our-common-wealth>

⁵⁰ Cato Institute, *A Proposal to Fix Welfare and Fight Intergenerational Unfairness*, 21 May 2018:
<https://www.cato.org/publications/commentary/proposal-fix-welfare-fight-intergenerational-unfairness>.

⁵¹ Office for Tax Simplification, *Inheritance Tax Review – first report: Overview of the tax dealing with administration*, November 2018:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/758367/Final_Inheritance_Tax_Report_-_web_copy.pdf

⁵² Financial Times, *Inheritance Tax: what does the future hold*, 11 July 2019:
<https://www.ft.com/content/10370c58-a235-11e9-974c-ad1c6ab5efd1>

Dislike of IHT has been voiced across the political spectrum, with organisations such as the Fabian Society⁵³, the Brexit Party and the Taxpayers' Alliance⁵⁴ calling for it to be scrapped, although not necessarily agreeing with the alternatives. The tax is perhaps most resolutely opposed by those who are least likely to pay it.⁵⁵

In a 2015 YouGov poll of UK voters 59% of respondents felt that IHT was unfair, compared to just 22% who thought it was fair.⁵⁶ This made it the most unpopular measure on a list of 11 major taxes, including income tax and VAT. Other polls have produced similar views about the IHT system. In 2006 a Populus poll showed that 73% of people felt IHT was an unfair way of governments raising money. Opposition to the tax is often couched in moral terms. Some of these objections are examined below. Not only politicians and think tanks but also academics differ as to the correct approach.⁵⁷

The unpopularity of the measure has been deployed effectively by politicians; in 2007 Shadow Chancellor George Osborne pledged to raise the inheritance tax threshold to £1 million. The perceived popularity of the move apparently caused the then Prime Minister Gordon Brown to halt his plans for an early election.

4 Common objections to IHT

4.1 *It is unfair because it is a "double tax".* Why should someone who has already paid tax on their income have to pay a second tax on assets which have been saved out of that income? However, this objection assumes the person who pays the IHT is the person who earned the income. In the case of a capital receipts tax on the donee this would of course not be true. Even with an estate tax of the UK type, the donor does not actually pay it because they are dead. In effect it is paid by the recipient because they receive less. Moreover, this objection is not customarily raised in respect of other taxes: we pay VAT for goods and services out of taxed income. Indeed, in the case of the UK, one might dispute whether there is much double taxation. At least one reason for the rise in IHT yields has been the rise in the value of people's residences, and that gain hardly ever gets taxed at all due to the main residence exemption. The double taxation objection seems weak.

4.2 *It penalises saving.* It is unfair because it penalises virtuous behaviour such as saving and passing wealth on to others or preserving a family business. People who choose to use their wealth in different ways, for example, by spending it, do not get taxed. However, spending down wealth in itself might involve paying different taxes such as sales taxes. Is

⁵³ The Fabian Society, *The Tax Detox: Winning public consent for radical tax reform*, December 2015, p. 4: <https://www.fabians.org.uk/wp-content/uploads/2015/12/The-Tax-Detox.pdf>

⁵⁴ The TaxPayers' Alliance, *Inheritance Tax, December 2017*: https://www.taxpayersalliance.com/inheritance_tax_briefing#

⁵⁵ Polls carried out by the Fabian Society and other groups suggested this.

⁵⁶ YouGov, *Voters in all parties think inheritance tax unfair*, 19 March 2015:

<https://yougov.co.uk/topics/politics/articles-reports/2015/03/19/inheritance-tax-most-unfair>

⁵⁷ See for example, Lee Inheritance [Tax an Equitable Tax No Longer - Time for Abolition Legal Studies](#) 27(4) A pro IHT view is espoused by Stuart White OUP 2018 Moral Objections to Inheritance tax. For a US perspective and one in favour of a capital receipts tax see David G Duff Alternatives to the Gift and Estate tax. 2016. The issues are summarised in (2007); Boadway, Chamberlain and Emmerson: Taxation of wealth and Wealth Transfers in J Mirrlees et al Dimensions of Tax Design. <https://www.ifs.org.uk/uploads/mirrleesreview/dimensions/ch8.pdf>

See also Chamberlain - [Capital Taxes- Time for a Fresh Look](#) [2015] BTR 679 and review of BPR and APR – 2016 BTR issue 5

it in fact more virtuous to save than to spend the wealth on what might be charitable or economically productive activities rather than handing it on to the next generation? The prospect of inheriting wealth may actually be counterproductive for that generation by discouraging them from working. So maybe saving is not inherently virtuous if it is done merely to hand on wealth.

- 4.3 *The rate is too high.* The headline 40% rate can seem disproportionately high to UK taxpayers many of whom pay a lower rate of income tax. In particular, the incidence of the tax is seen as unfair as estates above the £6m mark pay at a lower average rate than lower value estates. The answer may be to lower the rate and remove some of the exemptions and reliefs. However, it should be noted that the average effective tax rate paid on all estates is generally much less than 40%. For example, a £1 million estate which attracts no relief other than the £325,000 NRB will have an effective IHT rate of 27%, which breaks down as 0% on the first £325,000 and 40% on the remaining £675,000. If the £1 million estate is that of a married couple, then with two NRBs and two residential NRBs on the last death there may well be no IHT to pay. It is true, however, that the high flat rate of 40% encourages complexity because the government is forced to hand out reliefs. Would it be better to have a lower rate and fewer reliefs? This is discussed in section B.
- 4.4 *Unfair.* It is seen as an easy tax to avoid, and is often referred to as a “voluntary tax” principally because of the PET regime (i.e. making lifetime gifts and surviving seven years). The PET regime is also sometimes seen as benefiting only wealthier people who can afford to make lifetime cash gifts. Those whose main wealth is tied up in their home cannot easily give it away as they are caught by anti-avoidance legislation such as reservation of benefit rules which prevent them continuing to live in the home after the gift. Wealthier people can also invest in assets qualifying for business property and agricultural relief which give 100% exemption on death. Hence this leads to perceptions that the rich do not actually pay the tax. In short it could hardly be said that IHT is redistributive or fair in its current form. This objection seems reasonable.
- 4.5 *Complex* Linked to point 4 some detractors view the tax as overly complex and inconsistent; particularly the exemptions and reliefs that have built up around it and in relation to the taxation of trusts. The OTS’ second report of July 2019 revealed there are many areas where “Inheritance Tax is either poorly understood, counter-intuitive, requires substantial record keeping, creates distortions, or where the application of the law is simply unclear.”⁵⁸
- 4.6 *Difficult to pay.* IHT on death is usually mainly levied at a time when those most affected by it are grieving; something that can help to aggravate the other issues causing dissatisfaction. It is not possible to obtain the grant of probate without first paying the tax and in some cases estates are forced to borrow to do so as the executors do not have access to the inheritance until after the grant of probate is obtained.
- 4.7 *Difficult to raise much money.* It is politically unpopular for little fiscal gain. It is not perceived to be worthwhile since it raises so much less revenue than taxes such as income tax, NI or corporation tax. Even CGT raises more money.

The Mirrlees Review summarised the general perspective by stating that the “status quo involves complexity, unfairness and significant economic costs.”⁵⁹ The continued outspoken

⁵⁸ <https://www.gov.uk/government/publications/ots-inheritance-tax-review-simplifying-the-design-of-the-tax>, page 6

⁵⁹ Institute for Fiscal Studies, The Mirrlees Review: Conclusions and Recommendations for Reform, 2011, p357 Boadway, Chamberlain and Emmerson

dislike of IHT has also led to the tax being labelled toxic; some commentators see it as being beyond any repair or rehabilitation and argue instead for it to be replaced with alternative measures.⁶⁰

5. Arguments in favour of taxing wealth transfers

However, there are respectable arguments in favour of some form of taxation on wealth transfers. The most obvious are:

- Horizontal equity: there should not be an arbitrary difference in the tax burden depending on whether taxpayers receive transfers from others in the form of earnings or gifts and inheritances.
- Morally is it right that someone who does not work to earn their money pays less tax on inherited wealth than a person who only builds wealth up through their earnings?
- Promotion of equality of opportunity: greater wealth creates greater economic opportunities in the form of access to schooling, connections, etc. IHT is seen as one way of helping to neutralise that inequality.
- It raises revenue for cash-strapped governments. Perhaps it could be designed to raise more revenue?

6. Some history on IHT

Before advocating reform it is worth revisiting the past. Politicians have not found this an easy tax to manage. Estate duty was described by Roy Jenkins, a former Chancellor of the Exchequer as a “voluntary levy paid by those who distrust their heirs more than they dislike the Inland Revenue.”⁶¹ Yet capital transfer tax raised even less money. Denis Healey noted in his autobiography:

“I replaced the estate duty which had become a laughing stock since no one who could afford an accountant ever paid it, with a capital transfer tax which covered gifts made before death as well. From the start I excluded money inherited by a man’s widow from the tax. This piece of natural justice was long overdue...but in the end I had to accept so many other special cases for exclusion that when I left office four years later, the CT was still raising less revenue than the avoidable Estate Duty it replaced.”

The Conservatives toyed with the idea of an accessions tax in 1972⁶² where the donee pays the tax (and the more widely wealth is spread the less overall tax is paid.) This option was adopted by Ireland and is widely advocated by those who want to reform IHT today, albeit there is undeniable administrative complexity if inheritances are to be cumulatively taxed over

⁶⁰ See IPPR report A Wealth of Difference. <https://www.ippr.org/research/publications/a-wealth-of-difference> 2018 and Resolution Foundation, *Passing On: Options for Reforming inheritance tax*, May 2018, p. 19: <https://www.resolutionfoundation.org/app/uploads/2018/05/IC-inheritance-tax.pdf>

⁶¹ Budget Debate Hansard 19 March 1986 when arguing against the replacement of capital transfer tax with IHT and a return to something similar to estate duty in 1986

⁶² See the Green Paper *Taxation of Capital on Death: a possible IHT in place of Estate Duty*. Cmnd 4930 March 1972

a donee's lifetime.⁶³ This option is discussed in more detail in section C above. What is clear is that given IHT is not an annual tax but a once in generation event some political consensus and long term stability in this area is required. Otherwise people will just wait for a change in government before making gifts.⁶⁴

⁶³ For example, it is Liberal Democrat Party policy; both the IPPR and the Resolution Foundation favoured this option. See earlier citations and their respective 2018 reports.

⁶⁴ There is some evidence that this is what happened under CTT – initially a cradle to the grave tax, its effect was gradually watered down and eventually lifetime gifts were allowed after 1986 free of IHT

E. APPENDIX 2: DISCUSSION OF THE INTERIM APPG RECOMMENDATIONS (MAY 2019) AND THE OTS REPORT (JULY 2019)

The APPG took evidence from various stakeholders between February and May 2019 and produced some recommendations which were set out in its interim report, a paper submitted to the OTS in May 2019.⁶⁵ The recommendations proposed a number of ways in which certain aspects of the current inheritance regime could either be removed or altered to improve the current situation.

1. The residence nil rate band and the nil rate band

The most significant APPG recommendations were in relation to the Residence Nil Rate Band (RNRB) and the Nil Rate Band (NRB).

The RNRB legislation is very complex. It applies only to those who own or used to own a qualifying residential interest and have lineal descendants. The downsizing conditions are particularly complicated to operate and contain anomalies. If an individual does decide to claim the RNRB then they will usually require legal advice (particularly if they have sold their home by death as is common), the cost of which is often disproportionate to the value of the relief being claimed. The unused proportion of the band can be transferred to the surviving spouse but this provision usually requires legal advice to administer correctly.

There was widespread consensus in the APPG hearings that the RNRB should be abolished in conjunction with the NRB being increased to £500,000 per person. The APPG suggested in May 2019 that the additional cost of this could be met by tapering the NRB away for higher value estates over £2 million, with the taper perhaps operating to a greater degree so that the NRB would be reduced to below £325,000 (potentially to zero, although it may be felt that everybody should be left with a minimum nil rate band – perhaps £200,000) on higher value estates. The only difference is that this relief would be available to those without issue and would not necessitate complicated records linking it to the downsizing provisions.

Alternatively, one could simply substitute an additional NRB of £175,000 for those leaving their estates to their heirs with the relief tapered away as at present. The only difference is that it would no longer be explicitly linked to present or past ownership of a home. This would simplify the relief that the government is trying to provide for home owners and the net cost would surely be the same as most people who benefit from the RNRB (because they have an estate in excess of the NRB of £325,000) would surely at some time in their lives have owned a residential home and therefore qualified for RNRB. It is disappointing that the OTS did not make any suggestions on RNRB except to keep it under review.

Another alternative suggested by APPG was to abolish RNRB and reduce the NRB but have a lower IHT rate of 20%. However, this would bring more estates into the net and done in isolation is likely to lose revenue. It is also more regressive.

⁶⁵ <https://www.step.org/appg>

2. IHT reliefs and exemptions

There was strong consensus by the APPG in May 2019 that the IHT exemption between married and registered civil partners should be retained as well as the IHT exemption for charities.

It could be argued that the married and civil partnership exemption should be extended to cohabiting couples. In 2018 data released by ONS showed that the number of cohabiting couple families was up by 25.8% over the decade.⁶⁶ The overall number of families in the UK has continued to rise in line with the growth of the UK population over the decade. However, the ways that people live have also been changing. Cohabiting couples are the fastest growing family type, representing 17.9% or 3.4 million of the country's 19.1 million families by 2018.

Following the campaign and court case run by Rebecca Steinfeld and Charles Keidan⁶⁷, Theresa May's government changed the law so that with effect from 31 December 2019 opposite sex couples can enter into civil partnerships for the first time along with same sex couples, and therefore benefit from the civil partnership IHT exemption as well as other tax benefits and legal rights. One question is whether cohabiting couples generally (perhaps after a certain period of living together) should be able to benefit from the same spouse and civil partnership tax exemptions, including the IHT exemption, and it should not be necessary for them to have to go through either a marriage or a civil partnership process before accessing those tax exemptions. Other areas of the tax system (usually dealing with avoidance)⁶⁸ do treat cohabittees and spouses in the same way. An alternative is to say that there should be no spouse exemption at all rather than to extent it to cohabittees as this would further reduce the yield from IHT. These issues were not discussed in detail by the APPG last May.

The value of the annual IHT allowance is recognised as outdated at £3,000 per annum. This figure was implemented in 1984 and inflation should have aligned it to approximately £9,500. If the annual exemption is retained the APPG proposed in its interim report that the threshold was increased to at least £10,000 per person in line with inflation. Alternatively, if the annual exemption is retained but other exemptions such as normal expenditure out of income and gifts in consideration of marriage are removed it is recommended that the annual exemption should be increased to £30,000 per person. However, some have considered this too generous.

The small gifts allowance is also very outdated at the fixed figure of £250 since 1984. The aim of this relief is to ensure that executors do not need to investigate every small cash gift in the last seven years prior to death and calculate if these all exceed the annual exemption and therefore use up the NRB. The interim paper proposed that the small gifts exemption should be increased to £500 for inflation and compliance purposes.

Some of these recommendations were also found in the OTS second report published in July 2019 which suggested simplifying the undergrowth of IHT lifetime exemptions by replacing the

⁶⁶ Office for National Statistics, *Overview of the UK Population*, November 2018.

⁶⁷ Rebecca Steinfeld and Charles Keidan tried to form a civil partnership at their local register office, only to be told they could not because they were not of the same sex. In 2018 they won a long court battle in the Supreme Court to overturn this. Theresa May's government has since changed the law to allow opposite sex couples to enter into civil partnerships, and benefit from the almost identical rights in terms of property, inheritance and tax entitlements afforded to same sex civil partnerships since 2005.

⁶⁸ E.g. the definition of relevant person in the foreign doms legislation IT s809M.

various lifetime exemptions with an overall personal gifts allowance. As a package of minor reforms we broadly agreed with many of their suggestions and would support reform of the taxation of lifetime gifts along these lines provided the personal gifts allowance is set at a high enough threshold to justify removing all the other small lifetime reliefs.

3. Potentially exempt transfers (PETs)

The APPG agreed that there are some common misconceptions amongst taxpayers as to how taper relief for PETs should be applied and these difficulties are heightened when the NRB needs to be considered as well. The seven year time frame requires meticulous record keeping by the donor. It can be onerous for executors to locate these records and they can be liable to personal penalties if HMRC deem them to have taken insufficient care. This can be very daunting for a lay executor. The interim report proposed five possible options in relation to PETs.

Option 1: The seven year period should be reduced to five years and taper relief should be abolished. Provided that a higher annual exemption is offered of say £30,000 the NRB could be allocated only against the death estate. Some trusts could be brought within the PET regime – see below. The annual exemption could then be pro-rated between all lifetime gifts made in the same year with the donee remaining primarily liable for any additional IHT in the event that the donor died within five years. The abolition of taper relief and the reduction of seven to five years was broadly the option favoured by the OTS in their second report although the OTS had different suggestions on allocation of liability for failed PETs.⁶⁹

Option 2: As an alternative to option 1, if a donor gifts property or cash during their lifetime over the (higher) annual exemption then they will be required to pay 10 per cent IHT, immediately withheld from cash gifts at source and payable on the value of non-cash gifts that are illiquid by instalments if so desired. If the donor survives a year no further IHT is payable. If he dies within 1 year or makes the gift on death then 40% is payable.

A 10 per cent one off charge on all lifetime gifts to individuals and trusts would level the playing field and ensure that some revenue is actually collected on lifetime gifts as well as ensuring better reporting (and therefore better policy making). This would incentivise earlier lifetime giving. Even if no tax is levied APPG favoured reporting all lifetime gifts over the annual exemption with the form being a simple online form that can be downloaded or submitted electronically. This would greatly assist in developing policy by providing more accurate information as to lifetime transfers of wealth.

Some may see this option negatively because it removes the potential to avoid IHT altogether, the key hallmark of the PET regime. But surely many people will be attracted in time to the benefit of having only a one year “tail” in order to avoid the normal 40% rate?

Option 3: As an alternative to Option 2 the donor could make the choice whether

- (a) to pay the 10% IHT immediately on the gift of property or cash with no more tax payable if he survives a year. If he dies within a year or makes the gift on death then the full inheritance tax is payable; or

⁶⁹ <https://www.gov.uk/government/publications/ots-inheritance-tax-review-simplifying-the-design-of-the-tax>

- (b) choose to apply the existing PET rules so that after five/seven years the gift would become exempt from IHT with no tax payable upfront. Otherwise the rules would operate as at present, i.e. full 40% payable if he dies within three years and taper thereafter.

This has the benefit of maintaining the potential “no IHT” route as the alternative, albeit subject to the five/seven years’ run-off. However, it is not favoured generally as being too complex and arbitrary.

Option 4: Irrespective of whether option 1 or option 2 (or 3) is adopted, the interim report recommended that consideration should be given to gifts to younger people having beneficial treatment provided the capital was ring fenced for certain purposes similar to a child trust fund. This was seen as helpful in promoting intergenerational fairness.⁷⁰

Option 5: Irrespective of whether option 1 or option 2 is adopted, the interim report suggested that gifts to trusts where a specific individual is entitled to the trust income (life interest trusts) should be taxed on the same basis as gifts to individuals (i.e. as PETs). This would largely replicate the pre-2006 regime. The trust assets would need to form part of that individual’s estate on death or on any lifetime transfer. This would encourage earlier giving to future generations. The existing 20 per cent IHT entry charge for trusts is rarely paid as the experience of practitioners since 2006 has been that people will very seldom settle assets into trusts where there is an immediate IHT charge and effectively therefore is a dead letter, simply deterring sensible provision for young people through trusts.

4. Business property relief and agricultural property relief

100% Business Property Relief (BPR) for Alternative Investment Market (AIM) shares in trading companies is seen by many as anomalous. Such shares can readily be sold on the market in contrast to illiquid shareholdings in private, family trading companies. The business risk with the latter is seen as far greater. The ability to dispose of AIM shares on the market also means that funds can be raised to pay the IHT; this option is not easily available for private family companies.

Having said that, some felt it was desirable to encourage equity investment in higher risk ventures and investment in AIM shares already receive CGT and income tax incentives. The OTS suggested a review of this aspect in their second report and in the interim report APPG also suggested that BPR relief in AIM companies is separately examined to see if it is delivering value for money for taxpayers and whether the conditions for AIM investment should be modified or be made more restrictive in the case of non-controlling shareholdings. APPG did not favour extending BPR to holiday lets as the OTS has subsequently suggested.⁷¹

The general industry consensus is that the 100% APR regime is important for working farmers and their families and it works efficiently although there are some difficulties in practice due to its complex provisions. Moreover there is some criticism that it distorts land values.

⁷⁰ See recommendations promoted by IPPR and Resolution Foundation cited earlier.

⁷¹ The Patient Capital Review looked at BPR in its November 2017 review and suggested that BPR on AIM shares was helpful in supporting growth businesses but more work needs to be done in this area.

Both in relation to BPR and APR the APPG recommended previously there should be no CGT uplift on death to the extent that such property qualifies for the full 100% relief from IHT on death. There would be no actual tax charge on death but simply a no gain no loss transfer so the inheritor would acquire the asset at the base cost of the deceased. There would be no need to value the asset on death for CGT purposes. The position where partial 50% relief is available would need to be considered. This recommendation on removing the CGT uplift for business assets was also put forward by the OTS in their July 2019 report although they extended it to all transfers that were exempt from IHT on death.

BPR is sometimes said to be crucial for the support of the family business sector and it is generally well understood by business owners. It also incentivizes younger family members to become involved in the family business and become invested in its success. However, there was agreement in the APPG that the legislation could be clarified in some areas and that the inheritance tax/CGT rules are not sufficiently aligned between lifetime giving and the position on death.

To the extent that the business has qualified for BPR on death, the thinking is that the CGT tax free uplift should not be available. There would be a “no gain no loss” transfer on death and the gain would then be taxed on a later sale of the business by the heirs (or executors). This would better align the position between lifetime and death transfers of wealth and also ensure that if there was a sale by the family soon after the death, CGT would still be paid. At present it is possible for the business to be exempt from IHT on death and sold shortly thereafter with no CGT payable and the heirs walk away with tax-free cash. This does not seem to justify the policy aim of encouraging the retention of family businesses. Rather than building in artificial minimum periods during which the business has to be retained after death to qualify for BPR (as occurs in Ireland and Germany) the APPG thinks it is better to align the tax position with lifetime gifts and simply defer the gain until an actual disposal occurs after death.

F. THE EVIDENCE SESSIONS

1. An IHT introduction and overview was held on 12 March 2019 2-4pm. A technical overview of IHT was provided, discussions around why it has always been unpopular and why inherited wealth has grown so significantly. Speakers included:
 - Law Society of England and Wales
 - Resolution Foundation
 - Society of Trust and Estate Practitioners (STEP)

2. IHT reliefs and exemptions were discussed on 23 April 2019 3-5pm alongside potential areas for more nominal reform. Speakers included:
 - Law Society of Scotland
 - Office of Tax Simplification (OTS)
 - Society of Trust and Estate Practitioners (STEP)

3. The session on 30 April 3-5pm was focused on the APPG's interim report – a paper submitted to the OTS in May 2019 – see Appendix 2. Speakers included:
 - Chartered Institute of Taxation (CIOT)
 - Intergenerational Foundation
 - Law Society of England and Wales

4. The international perspective session on 15 May 2019 3-5pm reviewed other countries that have successful and more radical IHT systems. Speakers included:
 - PricewaterhouseCoopers (PwC)
 - Society of Trust and Estate Practitioners (STEP)

5. The future reforms session on 11 June 2019 10.30-12.30pm discussed the two most popular radical reform options – capital accessions tax and the flat-rate gift tax. Speakers included:
 - Institute for Public Policy Research (IPPR)
 - Intergenerational Foundation
 - Resolution Foundation,
 - Society of Trust and Estate Practitioners (STEP)

G. GLOSSARY OF TERMS

APR – agricultural property relief

BPR – business property relief

CGT – capital gains tax

IHT – inheritance tax

NRB – nil rate band being the amount that can be given away tax free every seven years – currently for the last ten years £325,000.

RNRB – residential nil rate band

PPR – principal private residence relief

PETs – potentially exempt transfers generally being outright gifts from one individual to another individual which is potentially exempt and then becomes fully exempt if the donor survives seven years. If the donor dies within seven years then the tax becomes payable but is tapered off if the donor survives more than three years.

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- Intergenerational Foundation
- Chartered Institute of Taxation (CIOT)
- PricewaterhouseCoopers (PwC)
- Institute for Public Policy Research (IPPR)
- Association of Taxation Technicians (ATT)
- Octopus Investments
- Institute of Family Business (IFB)