# TAXREP 42/15 (ICAEW REPRESENTATION 116/15)

## Finance (No. 2) Bill 2015 Clause 9: Increased nil rate band where home inherited by descendants

ICAEW welcomes the opportunity to comment on the Finance Bill published on 15 July 2015.

This briefing of 8 September 2015 has been prepared on behalf of ICAEW by the Tax Faculty. Internationally recognised as a source of expertise, the Faculty is a leading authority on taxation. It is responsible for making submissions to tax authorities on behalf of ICAEW and does this with support from over 130 volunteers, many of whom are well-known names in the tax world. Appendix 1 sets out the ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark proposals for changes to the tax system.

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

The Institute of Chartered Accountants in England and Wales
Chartered Accountants' Hall
Moorgate Place London EC2R 6EA UK
**icaew.com/taxfac**

**T** +44 (0)20 7920 8646
**F** +44 (0)20 7920 0547
**E** taxfac@icaew.com

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 144,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.



For more information, please contact ICAEW Tax Faculty: taxfac@icaew.com

icaew.com

## WHAT ICAEW RECOMMENDS

1. Rather than a complex measure to give an extension to the nil rate band applicable to residential property passed to linear descendants the nil rate band should simply be increased; the increase could be incremental.

## WHAT THE CLAUSE IS INTENDED TO DO

2. The clause introduces an increase in the nil rate band specifically for a home being passed to a direct descendant of the deceased, the residential enhancement, on or after 6 April 2017. The residential enhancement starts at £100,000 in 2017/18 and increases in annual £25,000 increments until it reaches £175,000 in 2020/21.

3. The allowance against a residential property recognises the fact that house prices have increased disproportionately to general inflation and causes many “ordinary families” to be liable to inheritance tax simply because of the value of their home.

4. The residential enhancement is reduced by £1 for every £2 that the estate exceeds £2m.

### Our concerns

5. The measure is excessively complex; it would be simpler to just increase the nil rate band to £500,000.

6. It is discriminatory to only allow the relief to linear descendants; many godparents, aunts and uncles are as close to and have their lives as intertwined with godchildren, nieces and nephews as if they were the parents. It is unfair that they cannot have the additional allowance. For some the pain of being unable to have children of their own is compounded by knowing their estate will suffer a higher inheritance tax charge on devolution to their quasi child than if they had been able to have a child of their own.

7. If the measure is to apply in just a linear fashion it would be fairer if it applied to ascendants as well as descendants.

8. Residential property interest is defined as an interest in a dwelling house, but there is no definition of dwelling house so presumably it will take its definition from the Rent Act 1977 so will include a flat but it would be helpful for the general public if this was specified.

9. It would make sense if the definition of residence coincided with that used in relation to the principal private residence relief for capital gains tax purposes

10. The draft legislation refers to a person’s estate but we understand the intention is to include interests in the residential property via a trust structure under which the beneficiary is treated as if they owned the property; subsection 8J(2) should make it clearer that an interest via a trust is included within the relief.

# APPENDIX 1

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

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.

3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.

4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.

7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

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