



DUKES & TAXES

Inheritance can be highly taxing

Summer is finally over and things can start returning to "normal". The months of summer were always referred to as the "silly season", when the British press struggled to keep their readers' attention with a succession of frivolous news stories – Loch Ness monster or Lord Lucan sightings were perennial favourites – while Parliament was in recess and the courts were not sitting. But now, it seems that "hard news" has stopped taking a summer holiday.

The Brexit vote and all the ensuing political turmoil set the ball rolling and, what with the US elections, the fighting in Syria, terrorist outrages, attempted coups, not to mention the Olympic Games, it has continued to roll right through the summer. So much so, in fact, that one of the sadder stories, the untimely passing of Gerald Cavendish Grosvenor – who also happened to be the sixth Duke of West-

minster and one of Britain's wealthiest men – attracted only brief coverage. His vast estate was estimated to be valued at some £9 billion, including some of London's finest real estate.

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But what is it about the passing of this particular gentleman that makes it so noteworthy for a financial column? The answer is to be found in the famous quotation: "Tis impossible to be sure of anything but death and taxes." In succumbing to the first, the sixth Duke presented the press with plenty of material in respect of the second. The big question was how much would his estate pay in inheritance tax (IHT for short)?

After all, according to *The British Tax System* – a 1980s textbook co-authored by future Bank of England Governor Mervyn King – "the largest sum ever paid in death duties, by a considerable

margin, was the £11 million (more than £200 million in today's terms) paid on an estate estimated at between £40 million and £60 million on the death of the third Duke of Westminster" in 1963. It seems the Grosvenor family did not repeat the error. When the fourth duke died four years later, the declared estate was now just £4 million.

I did not know the sixth Duke personally, still less of any financial arrangements he and his family might have made. But we can safely assume some things, I think. Under UK tax law, "death duties" are charged at the penal rate of 40% on an individual's assets – subject to a "nil rate band" of £325,000. In theory then, if his reported £9.35 billion fortune had been in the form of personal assets, then the taxman would indeed have been due the best part of £4 billion.

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No doubt, some IHT will be due on assets

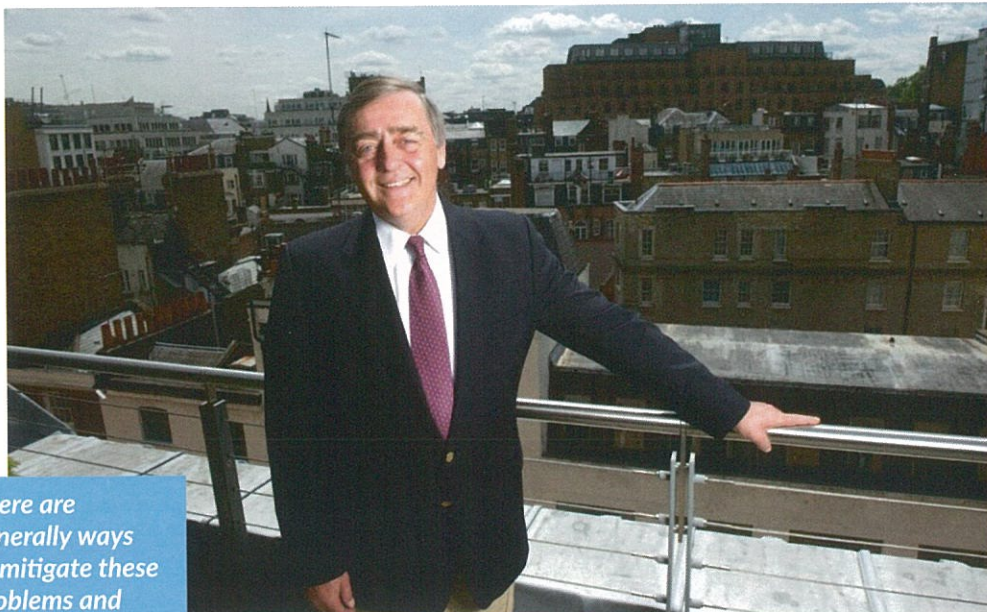
held personally by the Duke, but the bulk of the Westminster fortune is now owned by a series of trusts. As a result, the assets are legally owned by the family as trustees, not individually, which means they are not subject to tax when a family member dies. As the late Duke himself once said: "I would rather not have been born wealthy, but I never think of giving it up. I can't sell. It doesn't belong to me."

All very interesting but, dear reader, how and why does this worry us in Gibraltar? After all, don't I keep praising the benign tax regime that operates here, on the Rock? There is no VAT, no Capital Gains Tax and, to come to the point of this piece, no IHT either. But that is definitely not the end of the story, read on.

Whilst a Gibraltarian resident is not liable to IHT locally, one has also to consider the location of any assets held abroad and, even more crucially, your nationality. You may reside in Gibraltar but you could still be "domiciled" – another way of saying where you are originally from – in another country, perhaps England or Spain. Domicile is a tricky area and something to return to in a future article. But for now, let's consider an all too typical example.

Mr Bloggs is a successful businessman, now widowed, who has lived in London all his life. He leaves England and retires to Gibraltar, leaving assets in the UK valued at £2,325,000. He enjoys the good life on the Rock rather too much and sadly survives for only a couple of years. In this simple example, his estate will almost certainly be liable to UK IHT because he has property in England and is still UK-domiciled too.

The UK government helpfully allows a £325,000 allowance – known as the "nil rate band" that does not suffer the tax. But on the rest (in Mr Bloggs' case, the balance is £2 million) tax is charged at a single rate of 40%. So for every £100,000 in its value, the estate suffers tax of £40,000 – a cool £800,000 for the Bloggs estate and, by this stage, there is no escape. The Westminster case shows that action can be taken in advance but that is a subject for



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another day. The point of this piece is to alert readers to the danger of doing nothing.

IHT is charged in many countries and whilst the terms and tax rates differ widely, the principle is broadly the same. The tax is generally levied on an estate before the beneficiaries receive any benefit. Like stamp tax, it is a simple and highly effective revenue raising mechanism and the figures involved are staggering. The UK revenue garnered £4.7 billion in the last financial year from IHT alone. This record figure compared to £3.8 billion the year before. A recent survey has shown that IHT bills have risen by more than 90% since 2010.

Gibraltarian residents should take heed. They may well fall into the scope of this tax should they own property in the UK or, of course, if they are originally from the UK and have not taken steps to establish a domicile of choice elsewhere. It is also important to note that the same problems exist across the border in Spain. In fact, the tax payable on Spanish assets can be much higher because the nil rate band equivalent is even lower.

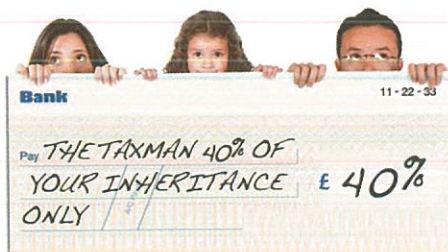
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rules operate in many civil and Shari'a law countries. Again, this is a very wide subject and professional advice is always recommended.

There are generally ways to mitigate these problems and they can be fairly creative. In respect of trusts, I am reminded of a well-known advertisement by a famous Swiss watch company, which informs us that we never own one of their timepieces – we merely look after it for the next generation. And for those managing wealthy estates, it may be possible to donate valuable assets to the "nation" in lieu of IHT. An 18th century portrait by Sir Joshua Reynolds

has recently been accepted – saving the donor's estate **£4.7** million in hard cash.

So, be aware; Gibraltar may not charge IHT but that is not the end of the story. When writing or reviewing our will – as we should all do from time-to-time – we should check on current legislation and allowances, the current status of our residence and domicile and whether changing asset values should cause us to rethink things. Death and taxes may not be very pleasant subjects but neither can they be ignored, for both are indeed certain.



In the UK, it is possible for a couple to combine their allowances so that assets worth up to £650,000 may be protected. From April 2017, parents will each be offered a further £175,000 "family home allowance" to enable them to pass residential property on to children tax-free after their death. In Spain, the tax free allowance is much lower and the position is further complicated because the tax rates vary depending on the relationship of the beneficiary to the person making the bequest. Such so-called "forced heirship"



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