

## Using related settlements

### (Lecture P1139 – 20.32 minutes)

Following the anti-pilot trust legislation in F(No2)A 2015, it may sometimes be appropriate to consider the possibility of using related settlements, i.e. settlements made on the same day by the same settlor (S62(1) IHTA 1984). As an anti-avoidance measure, S62 IHTA 1984 prescribes that, when measuring the chargeable value of any relevant property trust transaction, the initial value of any related settlement must also be taken into account (Ss66(4)(c) and 68(5)(b) IHTA 1984). Therefore, it is often argued that the deliberate creation of related settlements should be avoided. However, if the value of the intended trust property is likely to escalate over the next few years, there can be an advantage in deliberately creating, say, two discretionary settlements rather than just one.

#### *Example 1*

Mark, whose cumulative total stands at nil, wishes to settle property currently worth £200,000 on discretionary trusts.

Let it be assumed that, in 10 years' time, this property is worth £760,000 and that no distributions of capital have been made.

Using 2019/20 lifetime rates, the IHT payable in connection with the principal charge will be:

If only one trust is created the effective rate will be:

$$87,000/760,000 \times 100 = 11.447\%$$

The actual IHT liability is therefore:

$$11.447\% \times 30\% = 3.434\% \times 760,000 = £26,098$$

If two equal trusts are created the chargeable 10-year anniversary amount in each case is:

	£
Value of discretionary trust property	380,000
Add: Initial value of related settlement	<u>100,000</u>
	<u>£480,000</u>

The effective rate will be:

$$31,000/480,000 \times 100 = 6.458\%$$

The actual IHT liability for each trust is therefore:

$$6.458\% \times 30\% = 1.937\% \times 380,000 = £7,361$$

This makes a total sum payable of £7,361 + £7,361 = £14,722 compared with £26,098.

### *Consecutive trusts*

A variant on this situation might be to create the two trusts on consecutive days. In these circumstances, the related settlement rules would not apply, but, when the trust created second was being taxed, the settlor's previous cumulative total of chargeable transfers would be higher by the amount charged on the occasion of the first trust's creation.

### *Example 2*

Applying this to Mark's situation, the 10-year anniversary charge for the first trust (now worth £380,000) would be computed as follows:

The effective rate will be:

$$11,000/380,000 \times 100 = 2.895\%$$

This gives an actual IHT liability of:

$$2.895\% \times 30\% = 0.869\% \times 380,000 = £3,302$$

The 10-year anniversary charge for the second trust would have to take into account Mark's cumulative total of £100,000 (it is assumed that no exemptions were available) following the creation of the first trust. Thus:

	£
Settlor's chargeable transfers prior to second trust	100,000
Add: Value of property on 10-year anniversary date	<u>380,000</u>
	<u>£480,000</u>

Using 2019/20 lifetime rates, the IHT on £380,000 is:

	£
On 100,000 – 325,000 = 225,000 @ 0%	–
On 325,000 – 480,000 = 155,000 @ 20%	<u>31,000</u>
	<u>£31,000</u>

The effective rate is:

$$31,000/380,000 \times 100 = 8.158\%$$

The actual IHT liability is:

$$8.158\% \times 30\% = 2.447\% \times 380,000 = £9,299$$

This makes a total sum payable of £3,302 + £9,299 = £12,601 (which is even lower than the tax liability in the previous illustration).

*Contributed by Robert Jamieson*