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Pre-Owned Assets Tax Fact Sheet

What is Pre-Owned Assets Tax (POAT)?

POAT is an income tax charge introduced by the Finance Act 2004 and applies to anyone who used to own a particular asset (eg house, painting) then gave it away but still enjoys some benefit from it.

It was introduced by the Government to target those individuals participating in Inheritance Tax (IHT) mitigation schemes but can catch other people also.

Basic Principles

If you give away assets during your lifetime the gift will in most cases be a Potentially Exempt Transfer and will become completely free of IHT if you survive seven years after making it. However, if you continue to derive some benefit from the asset which has been gifted, for example, by giving your house to your children but continuing to live in it rent free, this will be a Gift with a Reservation of Benefit (GROB) and will not be effective for IHT mitigation purposes.

In recent years much of the tax planning for IHT has centred around schemes seeking to avoid the GROB provisions such as `double trusts' which enable continued occupation of the family home but removal of it from the estate for IHT purposes. The Government introduced the POAT provisions as a direct response to this.

When Does The Charge Apply?

The Income Tax charge applies where, in the case of:

- Land: the taxpayer occupies the land/property and either once owned it but gave it, or an interest in it, away. Similarly, if the taxpayer gave another person funds to purchase the land/property, or an interest in it, or owned other property which was sold and the proceeds used by another person, directly or indirectly, to buy the land/property then the charge applies.

- Chattels: the taxpayer possesses or has the use of the chattel and either once owned it, but gave it, or an interest in it, away; or gave another person the funds to buy it or an interest in it. Similarly, the charge also applies if they owned other chattels which were sold and the proceeds used by another person to buy the chattel in question.

- Intangible property: assets such as shares or insurance policies are held in a settlement/trust and the person who gave that property to the settlement may benefit from it.

Who Is Affected By The Rules?

The POAT charge was introduced in April 2005 but can apply to schemes that have been in place at any time since 17th March 1986. This means that pre-existing IHT mitigation schemes should be reviewed to see if POAT applies.

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There are a number of exemptions which may apply, the most significant of which is that it will not apply if a market rent is being paid for living in the property.

It will also be exempt if the total amount chargeable to POAT is less than £5000. If it exceeds this sum the whole amount is chargeable by as much as 40% if you are a higher rate taxpayer.

There are other exemptions which can be discussed with a member of our team to see if you qualify.

What Should I Do?

Under self-assessment, it is the taxpayer who must decide whether or not he is liable to the charge and arrange for the relevant valuation. However POAT and IHT in general is a complex area and professional advice should be sought before embarking on any course of action. A member of our Tax, Trusts and Estate team will be happy to discuss all tax and estate planning issues you may have.

This factsheet is intended to give a brief overview of the Pre-Owned Assets legislation. It has been produced on the basis of our understanding at the time of production and is not intended to provide legal advice. If you have queries regarding this topic please contact a member of the Tax, Trusts and Estate team.