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Acceptance in Lieu

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For those of us who remember Tony Benn in his Parliamentary heyday, it will come as no surprise that when he died in March 2014, his estate included an enormous collection of source material, diaries, papers, photographs, political files, press cuttings, audio diaries and videos.

His archive chronicles a lifetime of 90 years, spanning WWII, his 47 year long career in politics as a member of the Labour party and government minister, his renunciation of his inherited peerage, allowing him to remain a member of the House of Commons, and his own particular brand of left-wing politics. This is, of course, a veritable treasure trove for historians and commentators.

Following his death, as recently announced by Arts Council England, the Benn family has successfully offered this archive in settlement of part (£210,000) of the inheritance tax (IHT) bill arising on the estate. Arguably a denigration of some of the politician's dearly held views, nonetheless the net effect of this arrangement is that the Benn archive, valued in excess of £500,000, will end up in the British Library, accessible to the general public.

Other collections that have famously been the subject of this arrangement are the Lady Margaret Thatcher archive, now held by Churchill College, Cambridge, and the paintings of Sir Winston Churchill, the bulk of which are at his home in Kent, now owned by the National Trust.

The Acceptance in Lieu scheme is, however, not limited to famous politicians. It is available for use by any person who may be liable for IHT, and applies in relation to (a) land and (b) objects, although unsurprisingly the IHT rules set out tight parameters for property that may qualify.

Accordingly, land must be of outstanding scenic, scientific or historic interest. In relation to buildings, there must be outstanding architectural or historic interest. And as regards objects, there are two main categories which may qualify namely (i) those which are pre-eminent for their national, scientific, historic or artistic interest and (ii) those which may be of lesser quality but which are kept in a building which has itself been accepted in lieu, or otherwise falls within certain categories of other important, often public, buildings.

The public policy reason for the scheme is, of course, that it encourages the retention in the UK and enjoyment by the public of heritage properties and objects. Particularly in an era of austerity and cuts to budgets, it continues to be an important source of support for the UK's national museums and charities, the annual budget for this scheme and the

Cultural Gifts scheme (which may be applied to other taxes such as income tax, capital gains tax and corporation tax) being of the order of £27 million.

For the taxpayer, the imperative to make use of the scheme lies in its tax-efficiency. Put simply, the property accepted substitutes for an amount of tax due, at a "special price" represented by its agreed net market value after IHT, plus a so-called "douceur" or sweetener, which is a percentage of the value of the notional tax, 25 percent in the case of an object, and 10 percent in the case of land and buildings. So, if an object worth £1,000,000 is offered, its net value after notional tax of £400,000 is £600,000, but a douceur of £100,000 will be added (25 percent of the notional tax) so £700,000 of other IHT may be covered. Had the owner simply sold the item to settle the IHT bill, there might in addition be capital gains tax and/or VAT to pay, and the douceur would not apply.

For families that do not have the advantage of owning heritage property, it may be worth considering the possibility of lifetime transfers of assets which, subject to capital gains tax considerations, and the seven year survivorship requirement, remains the simplest way to reduce the incidence of IHT. Even where no lifetime gifting has happened, it may be possible to reduce the IHT bill posthumously by varying the estate to include a 10% charitable bequest. Itself exempt, the gift will reduce the rate of IHT applicable to the remainder of the estate from 40 percent to 36 percent, so that the overall loss to the family is, in any event, less than 10 percent.

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