



**Chartered
Institute of
Taxation.**

Dormant Assets Clause 31 and Schedule 6

Executive Summary

This clause and schedule ensure that when assets are transferred into the Dormant Assets Scheme (DAS) a disposal for Capital Gains Tax (CGT) purposes does not immediately arise (but it may arise if a previously untraceable owner appears and makes a claim against the Scheme).

The legislation represents a practical approach to the issue. However, as those making a DAS claim are unlikely to be familiar with the tax consequences, it is essential that adequate and accessible guidance be issued.

1 Overview

- 1.1 The existing Dormant Assets Scheme (DAS) enables banks and building societies to channel funds from dormant bank and building society accounts towards good causes. Dormant accounts are accounts that have been unused for 15 years and where the owner cannot be contacted. The owner of the funds has the right, even after they have been deemed dormant, to come forward at some future point to reclaim the current value of their investment from the DAS.
- 1.2 The Dormant Assets Bill currently going through Parliament will expand the scheme to include a wider range of dormant assets, such as pensions, investment products and shares.
- 1.3 Without changes to the Capital Gains Tax (CGT) legislation, when the monetary value of the dormant assets is transferred into the DAS it would be deemed a disposal for CGT purposes. As the asset owner cannot be located and does not know that the transfer to the scheme has occurred, it is not appropriate or feasible for tax to be paid by the individual at the point of transfer to the scheme, or for a claim to a loss to be made.
- 1.4 This clause and schedule ensure that:
 - (a) where assets are transferred into the scheme the individual's rights in those assets remain unchanged for CGT purposes;
 - (b) where a CGT charge does arise, it will only accrue at the point when a dormant asset's proceeds are reclaimed and received by an individual, and;

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(c) where a loss is made the individual is not out of time to make a claim for a loss. These changes broadly ensure that individuals remain in the same position for tax purposes as they would have been in had the assets not been transferred into the DAS.

2 CIOT Comments

- 2.1 The mechanism introduced by these changes represents a practical and sensible approach to ensuring the expansion of the DAS does not lead to unfair CGT results.
- 2.2 As members of the public making a DAS claim are unlikely to be familiar with either the DAS or its tax consequences, it is essential that HMRC provide adequate and accessible guidance to help them understand the CGT aspects of their claim, and their compliance duties.
- 2.3 Claims are likely to arise in such circumstances as a Deputy being appointed or an Attorney under a Lasting Power of Attorney taking control in respect of a person who has lost mental capacity, or a Personal Representative winding up a deceased person's estate. In many cases arising from mental incapacity the original paperwork will have been discarded or lost, and the person claiming will be faced with the practical difficulty of ascertaining (for CGT base cost purposes) when the original asset was acquired and its cost. The DAS does not pose unique problems for these categories of claimant; but good guidance would reduce the risk of them inadequately reporting the CGT disposal deemed to be made on the recovery.

3 The Chartered Institute of Taxation

- 3.1 The Chartered Institute of Taxation (CIOT) is the leading professional body in the United Kingdom concerned solely with taxation. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it – taxpayers, their advisers and the authorities. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries. The CIOT's comments and recommendations on tax issues are made in line with our charitable objectives: we are politically neutral in our work.

The CIOT's 19,000 members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

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