HMRC - CH81168 - Intentions Of Another Person - Examples

You must check the date from which these rules apply for the tax or duty you are dealing with. See You must check the date from which these rules apply for the tax or duty you are dealing with. See for full details.

Example 1

Elizabeth submitted an IHT account in respect of her late father’s estate. The estate exceeds the amount of the IHT “nil rate band” and is wholly non-exempt. It consists of her late father’s own property and a qualifying interest in possession in a settlement.

Elizabeth approached the Trustees of the settlement for information for the IHT account because she did not have access to the settlement’s books and accounts. The Trustees deliberately did not tell her about a bank account containing £50,000. They

knew that Elizabeth needed the information to complete the IHT account

knew that if they withheld details of the bank account the IHT account would be wrong, and

knew that not including the bank account would understate the IHT due.

Elizabeth submits the IHT account on the basis of the information she was given by the Trustees. Some time later we discover the under-statement.

The Trustees are liable to a penalty.

In this example Elizabeth took reasonable care, to the best of her ability, to check that the information given to her by the Trustees was accurate and complete, because it was not possible for her to independently check if the details the Trustees gave her were correct.

If she had also failed to take reasonable care, she may also be liable to a penalty for the inaccurate IHT account - see CH81125.

Example 2

DD Glazing Ltd (DDG) sells UPVC replacement windows and doors. Customers purchasing glazing can also buy an insurance policy to cover them in the event that DDG goes out of business and is unable to complete the installation. The insurance is provided by Homesure Insurance Ltd.

Homesure charges £30 for the insurance. It has agreed with DDG that DDG will add a £70 commission charge, meaning that the cost of an insurance policy to the customer is £100. The charge to the customer represents the “gross premium” and Homesure must account for Insurance Premium Tax (IPT) on this amount, not just the amount it actually receives.

DDG sends a report to Homesure each month detailing the number of insurance policies sold and the payments due to the insurer (£30 for each policy, plus IPT due on £100). DDG keeps the balance of the commission payment. Homesure uses the information from the monthly report to compile its IPT return.

However, Homesure later discovers that DDG has actually been charging customers £200 for the insurance. Homesure should have accounted for IPT on £200 and has under-declared its tax liability.

DDG continued to send the insurer the IPT payments due on £100. It deliberately failed to disclose the additional amounts to Homesure on the monthly reports, knew that Homesure used the information from the reports to compile its IPT return and, as a result, knew that Homesure’s IPT return would be incorrect.

DDG is liable to a penalty.

Homesure has to account for the tax under-declared, but provided it can show that it has taken reasonable care, see CH81125, to check the accuracy of the information provided by DDG it will not be liable to a penalty.

Previous page

Next page