

INHERITANCE TAX & GIFTS

Factsheet



We set out below the Inheritance Tax treatment of gifts and the exemptions relating to such gifts.

1. Exempt Gifts

Small gift exemption

You may give up to £250 per Tax year to as many individuals as you wish and these gifts will be totally exempt from Inheritance Tax. It must be stressed here that no individual must receive more than £250 in a given Tax Year otherwise the whole of the gift may be subject to Inheritance Tax, not just the excess over £250. However, other exemptions may still apply.

Annual Exemptions

An individual may give up to £3,000 per Tax year and this amount will be exempt. In this case, it does not matter if you give more than £3,000: the first £3,000 of the gift will be exempt. If you have not made any gifts in the previous Tax year then that year's exemption can be brought forward but the maximum amount of Annual Exemption is two tax year's worth.

2. Other Gifts

Of course, it is possible to make gifts in excess of the annual and Marriage gifts exemptions and the treatment of such gifts will depend on the recipients. Gifts to individuals will be treated as being potentially exempt and, if you survive the gifts by 7 years, they will be completely exempt. In the meantime, the gifts are treated as if they will become exempt gifts and no Inheritance Tax is payable immediately (Potentially Exempt Transfers – PETs). However, if you die within 7 years of the gift then the gift is chargeable and Inheritance Tax may be payable depending on the original value of the gift.

Gifts in consideration of Marriage

You can make such gifts and these will be exempt. If the gift is to a child of yours, then the maximum amount you can each give is £5,000. If the gift is to a remoter descendant, then the maximum sum you can each give is £2,500. You may each give £1,000 to any other person.

Regular Gifts out of income

You may make regular gifts out of income and these will be completely exempt. There are certain conditions for this exemption to apply and these, broadly, are that the gifts must be habitual expenditure, they must be made out of income and they must not affect your usual standard of living. The main problem with such gifts is that the prime witness is no longer alive when it becomes time to claim the exemption and so it is important for good records to be kept to enable it to be easily established that the conditions have been met.

Gifts to Trusts will be immediately chargeable to Inheritance Tax but Tax will only be payable if the value of the gift is in excess of the Nil Rate Band, currently £325,000. There are two basic forms of Trust: a Discretionary Trust and a Fixed Interest Trust.

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A Discretionary Trust is one where the Trustees have Discretionary Powers to decide who, amongst a class of Beneficiaries (you decide who are to members of the class), is to get what from the Trust. A Fixed Interest Trust is one where one or more Beneficiaries receive set

shares in the income produced by the Trust and, when the income Beneficiaries have passed away, the Trust Fund then passes to a different set of Beneficiaries.

Gifts of assets can also involve a charge to Capital Gains Tax although it may be possible to defer this by giving the asset into a Trust initially.

3. Conclusions

- Exempt gifts are possible but the amounts of such gifts are usually small.
- Larger gifts may involve a liability to Inheritance Tax depending on their size, the identity of the recipient and whether or not the Donor survives the gift by 7 years.
- Inheritance Tax charged on gifts is only payable at the end of the sixth month after the date on which the Donor died.
- Gifts in to Trust may be a useful way of giving away money or assets whilst retaining control of the ultimate destination.
- Gifts in to Trust may also be useful in deferring Capital Gains Tax on gifts of assets that have grown in value since acquisition.

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