

INHERITANCE TAX EXEMPTIONS AND RELIEFS

GENERAL EXEMPTIONS - applying both on death and in lifetime

Nil Rate Band - Although strictly speaking not an exemption as such, from 5 April 2009 the first £325,000 worth of “chargeable transfers” (for example a person’s estate at death) is taxable at nil per cent and so, effectively, is free of tax. This is called the “Nil Rate Band”. Since October 2007, the unused Nil Rate Band of one spouse or civil partner can now be transferred on death to the survivor.

Spouse/Civil Partners Exemption - Transfers between husband and wife, or between civil partners, are exempt from Inheritance Tax (“IHT”). This is without limit except in the case where one spouse or partner is UK domiciled and the other is not. In that case the exemption is limited to £55,000. To qualify the couple must be legally married or have registered a civil partnership.

Gifts to Charities - All gifts to UK Registered Charities are exempt from IHT.

Gifts to Political Parties - Without limit these are exempt from IHT. The Political Party must have at least one Member of Parliament for it to qualify.

Gifts for Public Benefit/National Purposes/Gifts to Organisations and of Standard Items of Public Importance - can be exempt. This is a specialist topic. Please come back to us if advice is needed on this area.

Gifts for the maintenance of family - Any gift for the maintenance of a child who is either under 18, over 18 but in full time education or training, or is dependent upon you because he is physically or mentally disabled, will be exempt from IHT. The gift must be reasonable for the child’s needs.

LIFETIME EXEMPTIONS

Potentially Exempt Transfers - Unlimited amounts can be given to individuals and these will be exempt provided the donor survives the gift by seven years. Taper relief, reducing the amount of tax payable, may be available if the donor does not survive the full seven years. The donor must not “reserve a benefit”. This means that he must not continue to benefit from the item given away. If he does then he will need to pay full market rent for any occupation or use if a gift with reservation is to be avoided.

Annual Exemption - An individual can give away up to £3,000 in a year free of IHT. He does not have to survive seven years for the gift to be exempt. If he has not used his exemption from the previous year, then it can be carried forward so that the current year exemption is increased to £6,000, but any unused exemption can only be carried forward one year.

Small Gifts - Up to £250 in any tax year can be given to any number of individuals, but such gifts are only exempt if the total given to any one person in any tax year is not more than £250.

Gifts in consideration of Marriage or Civil Partnership- You can make the following gifts free of Inheritance Tax on a person getting married or entering into a civil partnership:

- £5,000 if you are a parent.
- £2,500 if you are a grandparent.
- £1,000 in any other case.

To qualify, the gift must be made on or shortly before the marriage or registration, to one or both parties, and exemption only becomes fully effective when the marriage or registration takes place.

Normal expenditure out of income - an individual can make regular gifts free of IHT provided these are made out of income and leave you with sufficient income to maintain your usual standard of living. This can be a very valuable exemption and is often overlooked, but you should take advice before making the first gift to ensure that you qualify.

RELIEFS

These may reduce the value of the gift/transfer for IHT purposes by either 50% or 100% - 100% relief effectively makes the assets exempt from IHT.

Business Property Relief - Most shares in private trading companies, or interests in unincorporated businesses as either a sole proprietor, or as a partner, will receive 100% business property relief ("BPR") and so, in effect, be exempt from IHT.

If assets are used in the business but owned outside the business by a proprietor or shareholder, or by a trust in which he is a life tenant, then 50% BPR will usually be available.

Agricultural Property Relief -Agricultural land, together with farm houses, cottages and other farm buildings of "a character appropriate" to the agricultural land may receive Agricultural Property Relief ("APR") either at 100%, and so, in effect be exempt from IHT, or at 50%.

There are complex rules associated with both of these reliefs, however, so it is essential that you take advice early to ensure that you qualify.

This note is based upon the law as of February 2010.

For advice relating to your specific circumstances please contact any of the Solicitors in the Wills, Probate, Tax & Trusts Department.