

# Notes for completion of form C1 Confirmation Inventory and form C5(2006) HM Revenue & Customs Return

## **C1**

These notes will help you fill in form C1 for deaths on or after 18 March 1986.

## **C5(2006)**

Use this version of these notes only when the deceased died on or after 1 September 2006 and you are filling in form C5(2006) with a version date of 01/11 or later. (You will find the version date on the bottom right of form C5(2006).)

If the deceased died on or after 1 September 2006 and you have a form C5(2006) with an earlier version date, to get the correct version of the form:

- go to **[www.hmrc.gov.uk](http://www.hmrc.gov.uk)**
- phone our helpline on **0845 30 20 900**

If the deceased died before 1 September 2006, you will need the correct form C5 and booklet C3 for the date of death. These are also available from our website and helpline.

Read these notes carefully as they will help you fill in the forms correctly. You may make yourself liable to financial penalties if the information you give in the forms is incorrect, incomplete or false.

This guide is designed to help you fill in forms C1 and C5(2006) and help you to follow the correct procedure to apply for confirmation.

We hope that the guide will answer most of your questions. It is not meant to cover all situations. If you need more help about confirmation, please phone your local Sheriff Clerk's Office. For contact details for your local Sheriff Clerk's Office:

- go to [www.scotcourts.gov.uk/locations/index.asp](http://www.scotcourts.gov.uk/locations/index.asp)

For help with form C5(2006) or Inheritance Tax:

- go to [www.hmrc.gov.uk/inheritancetax/](http://www.hmrc.gov.uk/inheritancetax/)
- phone our helpline on **0845 30 20 900**
- if calling from outside the UK, phone **+44 115 974 3009**

Once you have completed the Inventory, the guide will take you through the informal return, form C5(2006), which will also let you know if the estate is one which requires submission of a formal account instead.

**Form C1 is only for deaths on or after 18 March 1986. If the person died before this date, you will need to complete form A3 available from the helpline.**

Inheritance Tax is administered by HMRC Trusts & Estates, Inheritance Tax.

If you need to write, the address (including DX address for solicitors and banks etc) is:

HMRC Trusts & Estates  
Inheritance Tax  
Ferrers House  
PO Box 38  
Castle Meadow Road  
Nottingham  
NG2 1BB

DX 701201  
Nottingham 4

### **Where do I send the forms?**

#### **Non-excepted estates**

If the estate is not an excepted estate or an exempt excepted estate you should send form C1 and form IHT400 *Inheritance Tax account* to HMRC Trusts & Estates at the address above. Guidance on filling in form IHT400 and the procedures to follow are in booklet IHT400 notes available from our website and helpline.

#### **Excepted Estates**

If the estate is either an excepted estate or an exempt excepted estate you should send both the C1 and the C5(2006) to the appropriate Sheriff Clerk or Commissary Office (see page 5).

**Do not send forms for excepted estates C5(2006) and C1 to HMRC Trusts & Estates**

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### Some definitions

In this guide we refer to the person who has died as “the deceased”.

A “spouse” is someone who is legally married to someone else. In this guide it is used to refer to the husband or wife of the person who has died. Where a surviving partner has raised an action of declarator of marriage through cohabitation with habit and repute, the exemption normally granted to a spouse will only be extended when a decree has been granted by the court.

A “civil partner” is someone who has legally registered a civil partnership with another person.

## Introduction

If you have decided not to consult a solicitor and wish to administer the estate yourself, you can obtain a useful guide “What to do after a death in Scotland” from the Scottish Executive or, if you have access to the Internet you can download it from the website:

**[www.scotland.gov.uk/library5/social/waad-00.asp](http://www.scotland.gov.uk/library5/social/waad-00.asp)**

Before you can act as an Executor of any estate in Scotland you normally need to obtain confirmation. If the deceased was domiciled (see below) in Scotland, this enables you to administer the assets throughout the United Kingdom. If, however, the deceased died domiciled in England or Wales or in Northern Ireland you will need to obtain probate there. For guidance in obtaining probate please contact the Probate and Inheritance Tax helpline **0845 30 20 900**

Confirmation is granted by one of the following:

- The Sheriff Court of the Sheriff Court District in which the deceased was domiciled at the date of death, or
- The Commissary Office, 27 Chambers Street, Edinburgh, EH1 1LB if any of the following apply:
  - the deceased was domiciled in the Edinburgh Sheriff Court District,
  - the deceased was not domiciled in the United Kingdom
  - the deceased had no fixed or known domicile except that they were domiciled in Scotland.

Where do I start?

You should begin by making a thorough search of all the papers about the deceased’s financial affairs. Make a list of the assets, investments and other financial interests as well as the debts they owed when they died.

If the deceased had to fill in Self Assessment tax returns, there may be records amongst the papers to help fill in those forms and these may give you some pointers. Bank statements and building society pass books will help you to know which institutions to contact and may help you to discover whether any gifts of money were made. Remember that although certain assets such as ISAs are not liable to income tax, they are liable to Inheritance Tax.

You may also find it useful to ask others what they know of the deceased’s financial affairs. People who might be able to help are

- any solicitor or accountant who dealt with the deceased’s affairs,
- anyone named in the Will who might have knowledge of the deceased’s finances,
- any close business associates of the deceased,
- the deceased’s close family (especially to discover gifts). Although gifts should not be listed on form C1, they must be added in to calculate the gross estate for Inheritance Tax.
- the deceased’s bank, stockbrokers or other financial advisors (the bank may have papers or other valuables lodged with them for safekeeping).

When checking with a bank or building society about a known bank account remember to ask whether the deceased held any other account (or items in safe custody) with them. Remember also to ask about standing orders. This may alert you to other bank accounts (or gifts for Inheritance Tax purposes), policies for which these payments were premiums or to debts for which they represented repayment instalments.

You will need to make detailed enquiries so that you can find out everything that made up the deceased’s estate. It is very important that you as Executor

provide full and accurate information because you may make yourself liable for a financial penalty if you provide information about the assets or their values that is incorrect, incomplete or false.

Before you can obtain confirmation, you must pay any Inheritance Tax which is due, or be able to show that there is none payable. If there is tax to pay, or if the affairs of the deceased do not meet certain conditions, you will have to make a formal return of the estate to us. However, in most estates this is not necessary. Form C5(2006) together with this guide will take you through the various conditions that apply and help you to decide whether or not you need to send in a formal account to us.

## Obtaining Confirmation

What form should I use?

You must complete a form C1 in order to obtain confirmation. We tell you below how to complete a C1. If the deceased's death occurred before 18 March 1986 you should use a form A3. Please contact HMRC Trusts & Estates on **0845 30 20 900** for a copy of this form and for assistance in completing it, if necessary.

Form C1

If the gross total value of the following:

- the heritable and moveable (and real and personal) estate of the deceased, wherever that is situated,
- the deceased's share of property jointly held with another person, but NOT property where the title is held to pass to "the survivor",
- assets that have been nominated to another person during the deceased's lifetime, but which are part of the estate, for example, friendly society funds or a death benefit,

is less than £30,000 you can obtain Confirmation under the Small Estates Act. The Sheriff Clerk will help you to complete the C1 if you ask him or her.

## Completing the Inventory form C1

Please use only black ink or type your answers. The information on pages 1 to 3 plus any supplementary pages is part of the public document of the Certificate of Confirmation, but page 4 will not be made public.

Page 1

Applicant

Fill in the name, address and reference (if appropriate) of the person to whom the form should be returned.

HMRC reference

Please leave this blank unless you have had previous correspondence with us about this estate and have been given a reference.

Surname and forename(s)

Give only the first two forenames of the deceased and their last name. Any further names should be given at box 1 on page 2. If the deceased was known by a name other than that shown in the Will, please show it here, e.g. John Smith otherwise known as Jack Smith.

Dates of birth and death

These should be shown as numbers. For example, 8<sup>th</sup> March 1949 becomes 08/03/1949.

Address	<p>Only the last known address is required. The address should be set out in the following way and the postcode included in the space provided</p> <p>24 My Street Anytown Fife</p> <p>KY28 5FR</p> <p>Any former address referred to in the Will or codicil must be shown in the Declaration in the box at the top of page 2.</p>
Title and occupation	<p>“Title” is “Mr.,” “Mrs.,” “Dr.,” “Rev.” etc. Please give the deceased’s occupation and say whether or not they were retired. If they were retired please give their previous occupation (retired). If the deceased did not have an occupation, please say “none”.</p>
Testate or Intestate	<p>If the deceased died having made a valid Will, the estate is testate and the assets listed for confirmation usually pass according to the deceased’s wishes. If there was no Will, the estate is intestate and will pass according to certain rules laid down by statute. You can obtain a leaflet setting out these rights of succession from the Scottish Executive or, if you have access to the Internet, by downloading the leaflet “Rights of Succession” from the website <a href="http://www.scotland.gov.uk/library/documents-w10/ros-00.htm">www.scotland.gov.uk/library/documents-w10/ros-00.htm</a></p>
Total estate for Confirmation	<p>Please show the gross value of the estate for which confirmation is required. This is the total value of the estate shown in the Inventory part of the form.</p>
Executors	<p>Please include the names and current addresses of all the Executors. “Nominate” means appointed by the Will. If no person who is named in the Will is to act as executor, or if the deceased died without leaving a Will, the Executor(s) will be Executor(s) Dative as appointed by the Sheriff Court.</p>
Page 2	
Declaration	<p>Please enter the full name and address of the executor who is applying for Confirmation (the declarant). This must be the executor who signs the form at the foot of page 2.</p>
Paragraph 1	<p>Show here the full name of the deceased, including any forenames omitted on page 1 of the form. The name should correspond to the name used in the Will.</p>
Domicile	<p>If the domicile is in Scotland, give the name of the Sheriffdom and add “...in Scotland”, or if the residence and therefore the Sheriffdom is uncertain write “Without any fixed or known domicile, except that the same was in Scotland.” If you are uncertain of the Sheriffdom, telephone the local Sheriff Clerk whose telephone number is available from directory enquiries.</p> <p>Do not say that the deceased simply “died domiciled in Scotland”.</p> <p>If the domicile was outside Scotland give the name of the country and state or province.</p>
Paragraph 2	<p>Fill in here the full title of the Declarant Executor and describe the documents (Will etc) which appointed him/her. All the relevant deeds must be sent to the Sheriff Clerk.</p>

Please say whether the Declarant is Executor Nominated, Executor Dative (in which case give the capacity and the date and description of the decree) or is making the Declaration in some other capacity. If it is made by an attorney, or an authorised officer of a company etc on the executor's behalf, describe the document giving that authorisation.

If there are any other executors, add "...along with ..." and give their full names, current addresses and all previous addresses as given in the Will etc in the order shown in the Will or deed which appoints them.

If any executors have died, please say so. If any of the executors have declined to act as executors, please give details of any writings relating to their declining to act.

Please describe the Will, i.e. give the date and, if there were any codicils or associated documents, say what they are and give their dates. If such deeds were recorded, please say when and where.

All Wills, Codicils, Informal Writings etc that you mention in this paragraph must be sent to the Sheriff Clerk, or, if any of the documents have already been recorded, extracts of them must be produced. All such documents must be docquetted as follows:- "Referred to in my declaration of this date to the Inventory of the estate of the late...(full name of the deceased)" and have the docquet signed by the Declarant.

- Paragraph 3 State the full name(s) of any other executor(s). If there are none, leave this box blank.
- Paragraph 4 Make sure that all documents relating to the deceased's estate are described in paragraph 2 and send them to the Sheriff Clerk.
- Paragraph 5 Enter the number of the last page of the Inventory of the estate, i.e. the last page of the list of the deceased's assets ignoring page 4. Continuation sheets (forms C2) should be numbered C2/1, C2/2, C2/3 etc. No part of this paragraph should be deleted.
- Paragraph 6 Enter the gross value for confirmation in this box. This is the total value of the UK assets listed in the Inventory part of the form and should be the same figure as shown on page 1.
- The Declaration Before the Declarant Executor makes the declaration and signs the form, the Executor(s) must make full enquiries and be satisfied that the estate has been fully and correctly returned in the Inventory and that the information given on page 4 is correct. If they do not do so, they may be liable to pay financial penalties.
- Page 3 and continuation sheets (C2) These pages make up the Inventory of the deceased's estate. You should list all items of the deceased's estate, even those which have been or can be ingathered without confirmation e.g. assets passing by nomination or where the investment organisation concerned offers a low cost indemnity to enable the heirs to encash the asset. The assets should be listed in the order described at the top of page 3. If there is not enough room in the main form use continuation sheets (C2) numbered 2/1, 2/2 etc.

## Property that the deceased owned

You must include all the assets which were part of the deceased's estate as at the date of death.

### Deeds of Variation

Although this sounds obvious, we say it because where two people die in close succession, it is possible for the beneficiaries of the second to die to alter the devolution of the estate of the first to die by executing a Deed of Variation within two years of that earlier death. The effect of that is to direct assets away from the estate of the second to die.

This does not, in reality, alter what that person owned at the date of death nor what should be confirmed to. So, where a deed has been executed, it is the gross value of the second estate, ignoring the Deed of Variation, which must be included for Confirmation.

## Property owned with someone else

### Heritable property held in common

If the deceased owned heritable property with someone else and the title is written in the name of the deceased and someone else without further qualification or as "and their respective heirs and assignees", only the deceased's share and its value should be shown in the Inventory.

You should consider whether there was a gift by the deceased to the other person when the property was put into joint names and, if appropriate, take this into account when completing the HM Revenue & Customs form later.

Where there is a special destination, i.e. there are words of survivorship in the title to the property, the property will normally pass to the survivor without the need for confirmation and you should return the appropriate value on the HM Revenue & Customs form. Again, for Inheritance Tax, you should consider whether both parties provided equal funds or whether there was a gift by one party to the other when the title was taken into joint names.

### Jointly held moveable property (shares, bank accounts, furniture, policies etc.)

Where two or more people each provide funds to purchase an asset, each person's share of the asset equates to their respective contributions. If there is no special destination, the deceased's share passes under the Will or under the rules governing intestacy and you should include that share in the Inventory.

In Scotland, when one person opens a bank or building society account in joint names unless they specify at the outset that they are actually making a gift at the time, the addition of a second name operates only for the bank's administrative purposes; it authorises the bank to deal with someone other than the investor. It also means that the survivor can operate the account after the deceased's death, but it does not give them legal title to the deceased's share. It does not mean that the funds belong to the named individuals jointly.

So where the funds in a joint account have been wholly provided by the deceased, we would expect to see the whole funds as part of the estate. But, if the other joint owner had put in all the funds, none of the account would belong to the deceased and would not be included as part of their estate. Where the funds are provided jointly, the current balance reflects the proportionate share of the provider and where withdrawals are made for the benefit of any of the owners, their share is reduced proportionately.

If any withdrawals have been made by or for the benefit of anyone other than the owners, there may have been a gift by the deceased to be taken into account when completing the C5(2006) or IHT 400 later.

If the deceased provided more than an equal share of the funds to purchase any other asset in joint names there may have been a gift which needs to be taken into account for Inheritance Tax. Please read the guidance notes for the C5(2006) (later in this guide).

Where, for example, a grandparent opens an account in their own name in trust for a grandchild, although that grandchild may be named on the passbook or title of the account, unless the grandparent has taken additional steps to make an effective gift of the account, the funds are still within the control of the grandparent and no effective disposal has been made. The value of the account should be included for confirmation.

If there has been an effective gift, you may include just the deceased's share as part of the estate.

Where there is a survivorship destination and either the funds were provided equally or there was an effective document of gift at the time the asset was put into joint names, you should not include the asset here, but include the value of it on the HM Revenue & Customs form. This will be dealt with later in completing the C5(2006).

If the deceased owned an insurance policy jointly with someone else, you should include the deceased's share of the policy as a joint asset. If the policy is known as "joint life and survivor" policy, you should still include the deceased's share of the policy. The insurance company should be able to give you an estimate for the value of the whole policy at the date of death, so you can work out the value of the deceased's share.

## Valuing the assets

For both confirmation and Inheritance Tax you have to value all the assets at their "open market value", that is, as if each item had been sold on the open market at the date of death.

You should be able to value some of the estate assets, for example, money in bank accounts or stocks and shares, quite easily. In other instances, you may need the help of a professional valuer. If you do decide to employ a valuer, make sure that you make it clear that you require an open market value.

When you list the values of the assets, you can round down to the nearest pound.

There is more help in valuing different types of assets later in this guide.

If you cannot find out the exact value of an asset, you should not put off applying for confirmation just because of this. You may use an estimated figure. You should not guess at a figure, but should try to work out a reasoned estimate based on the information available to you. You should also make it clear in the description that the value is estimated.

## The Inventory

Heritable estate  
in Scotland

Please list each item of heritable estate (land, houses etc) in Scotland, giving sufficient detail in the description to allow each item to be recognised as a separate part of the estate. If the property includes fishing or sporting rights you should mention these and show them also at their market value.

Valuing houses,  
land and  
buildings

Valuing houses, land and buildings can be complicated and you are strongly advised to use a professional valuer. If you do decide to use a professional valuer you must tell him that you require an open market value.

You should ask the valuer to take account of the state of repair of the property (which may decrease its value) and any features that might make the property attractive to a builder or developer, such as large gardens, or access to other land that is suitable for development (which may increase its value).

If you get several valuations which give a range of values for the property, it is probably best to adopt a value that is somewhere in between the highest and the lowest values that you have got.

If, having obtained a valuation and before you apply for confirmation, you find out about other information that casts doubt on the value, you must reconsider it. For example, if you hear of a sale of similar property at a significantly higher value or, having marketed the property, you receive offers over the valuation that suggests that the open market value for the property is likely to be more than the valuation, you must reconsider it taking into account the length of time since the death and movements in the property market, and revise your valuation as necessary.

If the property is licensed or used in a business, please say so and indicate what type of business is carried on, e.g. hotel, shop, factory etc.

If a debt or other liability is secured on the heritable property, you should state

- the name of the creditor
- when the debt was incurred
- the amount of the debt

You should then show only the net value of the heritable estate in the fourth column. You should add the amount of the debt back in working out the gross value for confirmation on page 4, because you will then identify it and deduct it as one of the deductions to be made against the estate for Inheritance Tax. Remember that if the property was jointly owned, you may only deduct a share of the amount of the mortgage due.

The rest of the  
estate

Please list the rest of the estate in the order and under the headings given at the top of page 3 of the form. Where the estate includes real (freehold or leasehold) property in England, Wales or Northern Ireland, please describe it, and arrive at a value for it, in the same way as for heritable estate in Scotland above.

The following notes relate to particular assets which may have belonged to the deceased. The list is not exhaustive. There may be other types of asset which are not specifically described here.

Stocks, shares, debentures and other securities

You should include the following

- UK Government securities such as Treasury Stock, Exchequer Stock, Convertible Stock and Consolidated Stock
- all stocks, shares, debentures and other securities listed on the Stock Exchange Daily Official List
- Unit trusts
- Investment trusts
- Open-Ended Investment companies (OEICs)
- shares in an Individual Savings Account (ISA)
- foreign shares which are listed on the London Stock Exchange
- all UK municipal securities, mortgages, debentures, and stock in counties, cities or towns, dock, harbour and water boards, Port of London Authority, Agricultural Mortgage Corporation, N. Ireland municipal stock
- unlisted shares and securities in private limited companies
- shares held in a Business Expansion Scheme (BES) or in a Business Start-up Scheme (BSS)
- shares listed on the Alternative Investment Market (AIM)
- shares traded on OFEX (an unregulated trading facility for dealing in unquoted shares)
- dividends, interest, capitalisation and rights issues due to the deceased at the date of death.

The value to be shown for quoted stocks and shares is either

- one quarter up from the lower to the higher limit of the prices quoted or
- halfway between the highest and lowest bargains recorded for the day, but excluding bargains at special prices.

How to value stocks and shares

The Stock Exchange Daily Official List shows the market price for stocks and shares. It shows a range, giving the higher and lower limit. For example, if the quotation is 98-108, the market price is 98p plus  $2\frac{1}{2}p$  ( $\frac{1}{4}$  of 10p) =  $100\frac{1}{2}p$ .

Financial pages of a daily newspaper will show only one price, which is the halfway price for bargains on the day. If you are using a newspaper to value the shares, remember to use the prices given in the paper published on the day after the deceased died. If, however, the deceased died on a day when the Stock Exchange was closed, you may take the price for either the next day or the last day when the Stock Exchange was open. For example, if the deceased died on a Sunday, you may take the price for each holding for either the Monday after or the Friday before, whichever gives the lower valuation.

For unit trusts, investment trusts and open-ended investment companies (OEICs), the newspaper may show two prices. Take the lower of the two prices. If there was no price published for the day the person died, take the last price published before the date of death. Often, fund managers will provide a valuation if you ask them. Newspapers do not show dividends due on unit trusts and so you must ask the fund managers for a letter showing you what you should include as the declared dividend.

If the deceased owned an ISA, you should include the shares and value them in the same way as other shares. You should include any uninvested cash with the value of the shares. ISA Managers will inform you of the values if you write to them.

You should take particular care with the “unit of quotation” shown in the Stock Exchange List. Because of company reorganisations the units on the share certificates, for example £1 ordinary shares, may be different from the unit quoted at the date of death. If this is the case, the company should be able to tell you how many shares of the new unit the deceased owned.

With unit trusts etc, listed in the financial pages of newspapers take care to find the right management group. Many companies will be listed more than once because they offer a wide variety of investments. Please enter the full name of the unit trust, for example “AXA Equity and Law Unit Trust Managers, Pacific Basin Trust Accumulation Units”

You will also find prices for shares traded on the markets below listed in the newspapers

- AIM, the Alternative Investment Market
- OFEX, an unregulated trading facility for dealing in unquoted shares
- USM, the Unlisted Securities Market. (This is relevant only if the deceased died before December 1996.)
- Transactions under Stock Exchange Rule 535 or 4.2. (This is only relevant if the deceased died before September 1995.)

The following markings should be taken into account

- XD (ex-dividend) – the dividend that is due remains payable to the deceased and the net value should be included as a separate asset.
- IK (gilts plus interest) – the interest that has accrued is part of the value at the date of death. Include the net interest that has accrued from the date interest was last paid up to the date of death.
- IK...X (gilts minus interest) – interest due from the date of death to the date of payment of interest is deducted from the value at the date of death. Take away from the value of the stock the net interest that has accrued from the date of death to the date interest was paid. If a separate interest payment has been received, include it as a separate asset.
- IM and IM...X (fixed interest securities, loan and debenture stock plus interest) – these are the same as IK and IK ...X but apply to a different type of security. Treat these in the same way as IK and IK...X.
- XC (ex-capitalisation) – include the new shares.
- XR(ex-rights) – account for the value of the new shares or rights.
- XE (ex-entitlement) – include the new shares or warrants, if any.

If you do not know how many new shares, rights or warrants to include, the company registrars should be able to tell you. Include them with the original holding.

For UK Government stock you can find out the value by contacting your local bank or stockbroker or visiting [www.dmo.gov.uk](http://www.dmo.gov.uk).

Shares not listed on the Stock Exchange

You should include

- shares in a private family company which are not listed on the Stock Exchange
- shares listed on the Alternative Investment Market (AIM)
- shares traded on OFEX (an unregulated trading facility for dealing in unquoted shares).

You will be able to value shares on AIM or OFEX in the same way as quoted stocks and shares (see above).

For private company shares, you should give an estimate of the open market value of the shares. You may need to contact the company's secretary or accountant to get this value. You should not include just the nominal value of such shares (for example the nominal value for 1,000 £1 ordinary shares is £1,000) unless that genuinely reflects your estimate of the open market value of the shares.

Premium Bonds

Show the total value of all Premium Bonds. Remember to include any unclaimed or uncashed prizes.

National Savings Investments

These include

- National Savings Certificates
- National Savings Capital or Deposit Bonds
- National Savings Income Bonds
- Pensioners' Guaranteed Income Bonds
- Children's Bonus Bonds
- First Option Bonds
- Save as You Earn Contracts
- Year Plans

You can get help with finding out the value of all National Savings investments:

- online at [www.nsandi.com/help/deathclaims](http://www.nsandi.com/help/deathclaims)
- by telephoning the National Savings Enquiry Line **0845 964 5000**

If the reply gives separate figures for capital and interest owed, but not paid, up to the date of death, please show them separately.

Bank and Building Society Accounts

List each account or investment separately and show separate figures for capital and interest. Types of account include

- current, deposit, high interest, fixed interest, term, bond and money market accounts with a bank, building society, mutual, friendly or co-operative society
- accounts with supermarkets or insurance companies
- National Savings Bank accounts
- travellers cheques
- cash held in a cash-only ISA

The bank or building society will be able to give you the figures to be shown at the date of death.

Sterling travellers' cheques should be included at face value. If the cheques are in one of the major foreign currencies, you should convert them to sterling using the closing mid-price at the date of death from the "Pound Spot Forward against the Pound" table in the Financial Times. Otherwise, convert them at the rate shown in the "FT Guide to World Currencies" which is published every Monday in the Financial Times.

Cash (other than cash held in a bank or building society)

This should include

- any cash kept at the deceased's home or elsewhere, such as a safety deposit box
- any cash held for the deceased by someone else e.g. a stockbroker
- any uncashed cheques made out to the deceased

Mortgages and other debts owed to the deceased

These include

- any money the deceased had lent to someone which had not been repaid at the date of death (whether it was secured by a standard security or mortgage or not)
- money for which the deceased held a promissory note or I O U
- money owing to the deceased from a director's loan account or current account with a company
- money which the deceased had lent to trustees linked to a life insurance policy held in trust

For each debt give the name of the borrower, the date of the loan, the original amount of the loan, the amount outstanding at the date of death and any interest due at the date of death. Only the amount outstanding with interest should be extended to the fourth column.

Income due to the deceased

This includes

- money due to the deceased from the sale of heritable, real and leasehold property where the missives (or contract for sale) had been completed before the death but the money had not been handed over by the time the deceased died. Remember that where the transaction is not settled but the sale price is included as cash, the heritable property should be listed at a 'Nil' value
- accrued income, i.e. income from property held in trust where the trustees had received the income, but had not paid it over to the deceased before the date of death.
- apportioned income, i.e. income that had arisen on property held in trust between the date when income was last paid to the deceased and the date of death. Most modern trusts are now drawn so that apportionment is not necessary, but you may wish to check
- any money owed in salary, wages or director's fees
- other benefits owed from pensions or annuities
- payments under guaranteed annuities
- benefits or arrears of pension due but unclaimed from the Benefits Agency
- rents due to the deceased from property which was let but had not been paid at the date of death. (You should list the property from which the rent was due separately under heritable estate in Scotland or real estate if it is elsewhere)
- refunds from private health schemes
- refunds of gas, electricity, insurances or licences etc.

Life insurance Policies

These include sums payable to the estate

- from insurance policies, including bonuses
- under mortgage protection or endowment policies
- under unit linked investment schemes which pay 101% of the unit value on death
- under investment plans, bonds or contracts with a financial services provider which pay out on death

- which reflect the value of insurance policies under which the deceased was a life insured, but which remain in force after death
- from insurance policies held in an ISA
- which reflect the value of insurance policies on the life of another person but under which the deceased was to benefit. These policies may have been bought from a company specialising in the sale and purchase of policies
- under investment or re-investment plans, bonds or contracts with a financial services provider which pay out on death.

Private Health Schemes

Enter any payments due to the deceased or the estate under private medical insurance to cover hospital or other health charges incurred before death.

Pension benefits

If the deceased was receiving a pension from a pension scheme or pension policy, the payments may have been guaranteed for a certain period of time. If the guarantee period ends after the death, the payments will continue to be made to the estate, and the right to receive those payments is an asset of the estate.

If you have access to the Internet, you can download some software called 'Guaranteed Annuity Calculator' from the HM Revenue & Customs website [www.hmrc.gov.uk/inheritancetax](http://www.hmrc.gov.uk/inheritancetax) that will work out the value of this. Otherwise add up all the payments that still have to be made and deduct 25% to give a reasoned estimate. You should ignore any pension that continues to be paid directly to the deceased's surviving spouse or civil partner from the pension provider.

If the deceased died before taking their retirement benefits, a lump sum may be payable under the pension scheme or pension policy. See Appendix 2 on how to return the lump sum.

Income Tax or Capital Gains Tax repayments

Include any Income Tax or Capital Gains Tax repayment actually repaid to the estate after death (or a reasonable estimate of any sum which may be due to the estate) for the period up to the deceased's date of death. An income tax repayment may be due if the deceased died early in the tax year and received a pension or other income where tax is deducted at source. Payments which have been made to account may also be due to be repaid to the estate.

Household goods and personal effects

These include all household and personal goods such as furniture, pictures, china, jewellery, books, stamp, coin and other collections, cars, boats, caravans etc. The value shown should be the open market value, ie the price which the items would fetch if they were sold on the open market; this might be at auction or through the local paper.

You should show the gross proceeds of sale (without deduction of the costs of sale) of any items which have already been sold as a separate figure from the value of any items remaining unsold.

Interest in another estate

Where the deceased had the right to a legacy or a share of an estate of someone who died earlier and the deceased died before receiving the full legacy or share to which they were entitled you should include the value of the interest still to be received.

If the deceased's interest in any asset or estate was subject to the life interest of a third party, i.e. it was an interest in expectancy, or reversionary interest, you should include the commercial value for confirmation, but unless

- the deceased had acquired it either from a third party for valuable consideration or from the settlor or the settlor's spouse or civil partner, or
- it represents the reversionary interest of a lease which was determined from the outset as a lease for the lifetime of an individual

you do not need to include a value for Inheritance Tax later.

The need to consider a reversionary interest most commonly occurs when property is held by someone for their life and then must pass to the deceased in terms of a Will or deed and the deceased dies before the person enjoying the lifetime benefit. If you are in doubt as to whether you need to include a value, please contact our helpline.

#### Business interest

If the deceased was a sole trader, you should list all the assets of the business as separate assets and include the business liabilities in the total figure for liabilities on page 4 of the form C1.

If the deceased had an interest in a partnership, please show the value of that interest as a single item in the Inventory. Ideally, accounts of the business should be prepared at the date of death and it will be the total of the deceased's capital and current accounts that will be the starting point. Remember to make any adjustment necessary to reflect the open market value of the business assets, and if the accounts are prepared prior to death, to make adjustments for movement in the period between.

If the deceased was an Underwriter at Lloyds, you should list all the holdings individually, but clearly identify those which are comprised in the underwriting interest.

#### When you have listed the items for which Confirmation is required

After you have listed the items for which confirmation is required, you should show a summary of the amounts to be confirmed to as below. The summary should be contained in the second column and no values carried into the fourth column.

Estate in Scotland	£
Estate in England and Wales	£
Estate in Northern Ireland	£
Total for Confirmation	£
Estate elsewhere	£

If you have already obtained probate to the deceased's estate elsewhere and are simply requiring confirmation to the estate in Scotland, you only need to list that Scottish estate and the summary should reflect only that estate.

## Page 4 of form C1

None of the information on this page of the C1 is part of the public record but you should complete all the boxes unless directed otherwise. If you cannot find the answer, please insert "not known".

#### Part 1

#### Value for confirmation 1.1

This is the total for Confirmation. Do not include the value of "estate elsewhere" in this figure, but include it on form C5(2006) or IHT 400. If you have deducted the mortgage or standard security from the value of the heritable property in the Inventory proper, you should add it to find the gross value of all the assets.

- Liabilities
- 1.2 Please give the total amounts deducted for each category. You may include in the funeral expenses a reasonable deduction for mourning expenses of the deceased's close family. You may also deduct the cost of a headstone marking the site of the deceased's grave.
- 1.3 You should deduct here the value of the outstanding mortgage or standard security or the deceased's share of any mortgage or standard security over property that the deceased owned with anyone else. (If there was a mortgage protection policy, the money which the policy paid out should be returned in the Inventory on page 3 and the amount of the debt should be deducted here.)
- 1.4 You should only include in this box debts which the deceased actually owed when they died. For example, household bills, uncleared cheques for goods and services provided before the death and credit card debts. Do not include fees for professional services carried out after the death, such as solicitors' or valuation fees. Foreign debts should not be included on the form C1.
- If the person who has died had written a cheque to make a gift before they died and the cheque had not cleared by the death, you must not treat the cheque as a deduction and you must include the value for the deceased's bank account without deducting the cheque.
- The amount of a guarantee made on behalf of another's debt may only be deducted if/when it has been called in by the creditor.

**Part 2 If you are completing an IHT400 you may score through Parts 2 and 3.**

Marital or civil partnership status Please enter the appropriate code. (Remember that a spouse is a person who is legally married to the deceased or where there is a declarator of marriage by cohabitation with habit and repute.)

Surviving descendants Please tick the appropriate boxes for surviving spouse or civil partner, parent(s) and siblings but state the number in each case of children and grandchildren surviving. We need to know this for the purposes of calculating legal rights, if this becomes appropriate.

Tax district and reference etc If you cannot find the information, please enter "not known".

**Part 3**

Gross value of the estate for Inheritance Tax The gross value of the estate for Inheritance Tax may differ from that for Confirmation.

The gross value for Inheritance Tax is the total of the following:

- property for which confirmation is being sought (with the amount of any secured debt deducted in the body of the Inventory added back to the total)
- joint property passing by survivorship
- nominated property
- settled property treated as part of the deceased's estate in which the deceased had an interest in possession (heritable or moveable property held in a trust in which the deceased had a right to benefit)
- gifts within seven years of the date of death, unless otherwise exempt, and

- any asset given away, which the deceased, their spouse or civil partner kept an interest in

Net value for Inheritance Tax

The net value for Inheritance Tax is the value after deduction of liabilities, but without deduction of any exemptions and reliefs.

Net qualifying value

The net qualifying value is the gross value of the estate less liabilities and any relief due as a result of benefits passing on the death to either the surviving spouse or civil partner or to a qualifying charity (but of no other reliefs or exemptions which you may consider due). In order to calculate the amount of spouse or civil partner or charity exemption for the purposes of the excepted estates regulations, where there are people entitled to claim legitim, you will have to calculate the amount of the legitim fund and then adjust the amount which would be payable to the spouse or civil partner or charity if the legitim fund were claimed in full after taking account of any legitim claimed or renounced before the application for confirmation is made.

Part 4

Before ticking box D, E or F you should move on to complete form C5(2006). This will help you decide the category of the estate and, if necessary, will direct you to complete an Inheritance Tax account form IHT 400.

## What is an excepted estate?

You may have obtained confirmation under the Small Estates Acts because the estate for confirmation was below £30,000. However, for Inheritance Tax the value of the estate for confirmation is only one component of the gross estate. It is most likely that the estate will also qualify as an excepted estate but if the deceased made substantial gifts during life or received an income from substantial assets which they were not free to dispose of, you should read the following to decide whether the estate was one for which you need to provide detailed information on form C5(2006) or to complete a formal account, an IHT 400.

For the different rules governing excepted estates from 1 April 1991 to 1 September 2006 you should visit our website or telephone our helpline.

UK domicile

Where the deceased was domiciled in the UK at death, the estate is an excepted estate where either

Excepted estate (C1, page 4, Box D)

- the gross estate for Inheritance Tax does not exceed the excepted estates limit,
- OR**

one of the following applies:

Exempt and excepted estate

(C1, page 4, Box E)

- the gross estate for Inheritance Tax does not exceed two times the excepted estate limit and you are claiming a transfer of unused nil rate band on form IHT217 from the estate of a spouse or civil partner who died before, (for deaths on or after 6 April 2010 only)
- the gross value of the estate is less than £1,000,000 and because all or part of the estate passes to the deceased's spouse or civil partner who is also domiciled in the UK, or a qualifying charity or other body qualifying as exempt from Inheritance Tax, after deducting liabilities and those exemptions only the estate is less than the excepted estate limit

**AND** (for both categories)

- if there are any "specified transfers" (see below), their total chargeable value does not exceed £150,000

- if the deceased had made a gift of land or buildings, it was made to an individual and not to trustees of a trust or to a company and it did not exceed £150,000 in chargeable value
- if the estate for Inheritance Tax includes assets held in a trust that are treated as part of the deceased's estate, there is only one trust and the total value of those assets does not exceed £150,000 (unless the estate is an exempt excepted estate when the value limit is waived)
- if the estate includes any foreign assets, the total gross value of these does not exceed £100,000,
- the deceased did not give away any property whilst retaining the benefit of it
- the deceased elected that the income tax charge should not apply to
  - assets they previously owned, in which they retained a benefit **or**
  - the deceased's contribution to the purchase price of assets acquired by another person but in which the deceased retained a benefit
- the deceased did not benefit from an alternatively secured pension fund
- the deceased did not benefit under a registered pensions scheme where
  - the benefit was unsecured and
  - they became entitled to the benefit as a relevant dependant of a person who died aged 75 or over.

Specified transfers

To qualify as 'specified transfers' the assets given away can only be

- cash
- quoted stocks and shares
- household and personal goods
- houses, land or buildings

Gifts of houses, land or buildings only qualify if they were outright gifts from one individual to another. If the gifts were to a trust, or a company, or the deceased kept back any kind of benefit from the property or was entitled to use it, they cannot qualify as specified transfers.

What is the excepted estate limit?

The excepted estate limit is normally the same as the amount above which Inheritance Tax is payable (the Inheritance Tax nil rate band). The nil rate band is currently frozen for the tax years 2009-10 to 2014-15 at £325,000 but you can find the most up to date excepted estate limit on the website at: [www.hmrc.gov.uk/inheritancetax/](http://www.hmrc.gov.uk/inheritancetax/)

The Inheritance Tax nil rate bands for earlier years are:

- £285,000 for tax year 2006-07
- £300,000 for tax year 2007-08
- £312,000 for tax year 2008-09

What do you mean by 'domiciled'?

Your domicile is the country where you intend to live for the remainder of your life. It is the country whose laws decide, for example, whether a Will is valid, or how the estate of a person who has not made a Will is dealt with when they die.

The fact that someone was born in the UK and have lived here for most of their life, or had moved to the UK permanently many years ago gives a good indication that they might be domiciled in the UK, but this can be a complicated legal issue. You can get more information about domicile on our website:

[www.hmrc.gov.uk/cto/customerguide/page20.htm](http://www.hmrc.gov.uk/cto/customerguide/page20.htm)

If you are unsure about the deceased's domicile status, you might want to seek professional advice.

## Transfers of unused nil rate band from the estate of a spouse or civil partner who died before

What is a transfer of unused nil rate band?

Since 9 October 2007, it has been possible for spouses and civil partners to transfer their unused nil rate band. This means that any part of the nil rate band that was not used when the first spouse or civil partner died can be transferred to the surviving spouse or civil partner for use by their estate on their death.

New rules mean that if the *whole* of the nil rate band is available to transfer to the estate of the second spouse or civil partner to die and you need to claim the transferred nil rate band you may still use the excepted estates procedures if certain rules apply. These rules are that:

- the person who has died now, died on or after 6 April 2010
- their spouse or civil partner who died before them died on or after 13 November 1974
- when the spouse or civil partner died their estate did not use up any of the nil rate band available to it, so the whole of the nil rate band is available to transfer
- the estate of the person who has died now is valued at less than two times the excepted estate limit and C5(2006) is being filled in.

An example of when the whole of the nil rate band is available to transfer:

Ralph died leaving a widow, Rita. All of Ralph's estate valued at £300,000 passed to Rita under the terms of Ralph's will. As everything that passes to a surviving spouse or civil partner is exempt from Inheritance Tax, all of the nil rate band is available to transfer to Rita's estate when she dies.

What does this mean for excepted estates?

If the whole of the nil rate band is available to transfer that means that the estate of the spouse or civil partner who dies second has double the nil rate band before any Inheritance Tax becomes payable.

It also means that the excepted estate limit for the estates that qualify is effectively doubled. For the tax year 2010-2011 this is £650,000.

If this applies to the estate you are dealing with you should fill in form C5(2006) and IHT217 to claim the transfer.

An example of when the whole of the nil rate band is *not* available to transfer:

Morag died on 1/5/2008 (when the nil rate band was £312,000) leaving a surviving civil partner, Alison. Morag's estate was valued at £400,000. In her will Morag left £100,000 to her daughter Gemma and the rest of her estate to Alison. Alison has now died leaving her estate valued at £500,000 to Gemma. As the £100,000 that passed to Gemma on Morag's death was not exempt from Inheritance Tax, £100,000 of the Inheritance Tax nil rate band (£325,000 in 2009-10) was used up.

You will need to fill in form IHT400 and IHT402 instead of form C5(2006) if you want to transfer the unused nil rate band and the whole of the nil rate band is not available.

For copies of the forms IHT400 and IHT402:

- go to **[www.hmrc.gov.uk](http://www.hmrc.gov.uk)**
- phone our helpline on **0845 30 20 900**

## Assets passing to a spouse or civil partner or to a qualifying charity

Why does it matter whether the estate passes to the spouse, civil partner or to charity?

Broadly, assets which pass to the deceased's spouse, civil partner or to a qualifying charity are exempt from Inheritance Tax. So if most of the assets pass to the deceased's spouse, civil partner or to a qualifying charity, it is likely that there will be no tax to pay. If there is no tax to pay because of these exemptions (ignoring any other reliefs or exemptions) and the estate meets the other conditions that apply (mainly that the gross value does not exceed £1,000,000) you will not have to fill in a formal Inheritance Tax account. Please see the notes for net qualifying value earlier in this guide.

What do we mean by 'qualifying charity or other qualifying body'?

By qualifying charity, we mean a charity established in the European Union (or other specified country) which would qualify as a charity under the law of England and Wales, which is regulated as a charity in the country of establishment (if appropriate) and which has managers who are fit and proper persons to be managers of a charity. Other qualifying bodies include UK national organisations such as the National Trust for Scotland and the National Galleries of Scotland. If you are not sure if an organisation is a qualifying charity or UK national body you should ring the helpline on **0845 30 20 900**.

Assets which pass to the spouse or civil partner

Where assets pass to the deceased's spouse or civil partner, both the deceased and the spouse or civil partner must have been domiciled in the United Kingdom throughout their lives.

If you would like more information about 'domicile' go to:  
**[www.hmrc.gov.uk/cto/customerguide/page20.htm](http://www.hmrc.gov.uk/cto/customerguide/page20.htm)**

It does not matter whether the assets pass directly to the spouse or civil partner, or whether they pass to a trust from which the spouse or civil partner is entitled to benefit.

**If either the deceased or the spouse or civil partner does not meet these conditions and the gross estate is likely to be more than the excepted Estate limit, do not fill in form C5(2006). You will need to complete form IHT400.**

Assets which pass to a qualifying charity

Assets that pass to a qualifying charity are exempt from Inheritance Tax. The benefit must also pass directly to the organisation; it must not be held in trust for the organisation or have any conditions attached to it.

If an organisation benefiting under the Will does not meet these conditions, you must not deduct charity exemption for the benefit it receives in working out whether form IHT400 must be filled in.

What if the deceased was domiciled outside the UK?

Where the deceased died domiciled outside the UK, to qualify as an excepted estate,

- the deceased's UK estate must consist only of cash and/or quoted shares passing under a Will or intestacy or by survivorship
- the gross value of the deceased's estate in the UK including the deceased's interest in any jointly owned assets (only cash or quoted shares) must not exceed £150,000
- the deceased's domicile of origin must not have been the UK
- the deceased must not have been domiciled for income tax purposes at any time in the 20 years ending with the year of assessment in which the death occurred
- the deceased must not have been resident in the UK for income tax purposes at any time in the 20 years ending with the year of assessment in which the death occurred.

If the estate qualifies as an excepted estate of someone domiciled abroad, please tick box D on page 4 of the C1 and complete form C5(2006)(OUK). Notes on the reverse of that form will help you.

This option does not apply where the deceased died before 5 April 2002. In the case of an earlier death, even where the above criteria applied, the estate was not an excepted estate and you should submit a formal account IHT400.

The estate doesn't seem to be an excepted estate or an exempt excepted estate

Where:

- no part of the estate passes to the surviving spouse or civil partner and/or qualifying charity and the gross estate for Inheritance Tax exceeds the excepted estates limit, (or two times the excepted estates limit where a transfer of unused nil rate band is being claimed), or
- part of the estate does pass to the spouse, civil partner or qualifying charity but the gross estate exceeds £1m, or
- part of the estate passes to the spouse, civil partner or qualifying charity and the value after deducting liabilities and the spouse or civil partner or charity exemption exceeds the excepted estates limit

you should complete a form IHT400. Guidance in completing that form can be found in our form IHT400 Notes or on our website. When you have completed the form, tick box F on page 4 of the C1.

Then send both the C1 and form IHT400 to us and if no tax appears to be payable, we will stamp the C1 provisionally as no tax due and return it to you to send to the Sheriff Clerk. If there is any Inheritance Tax to pay you should send the IHT400 and the Form C1 to us with payment of the tax due. Our Cashier will complete the receipt and return the C1 to you to send to the Sheriff Clerk for confirmation.

## Filling in form C5(2006)

Form C1 contains a lot of information and there is no need to repeat it on form C5(2006). We do need to be sure, however, that you have taken into account all the circumstances affecting Inheritance Tax.

As we have said, you should complete a C5(2006) if the estate qualifies as either an excepted estate or an exempt excepted estate. When working through the C5(2006) you may find that there are other conditions which mean that the estate does not qualify and that you have to stop and complete a formal account, an IHT400.

### **About the person who has died**

Part 1

Please repeat this basic information in case the C5(2006) becomes detached from the Inventory

### **About the estate**

Question 2

Gifts and transfers

If the deceased had made any gifts (or other transfers of assets) during their lifetime, you may need to take these into account in working out whether there is any Inheritance Tax to pay.

A gift or transfer will be relevant for Inheritance Tax if, having made the gift or transfer, the value of the deceased's estate has gone down. So this will include straightforward cash gifts or a gift of a particular asset. Other transactions such as the sale of a house for less than its full market value, or a gift of shares that results in the deceased losing control of a company will also be relevant. If you are not sure what the effect of a transaction is for Inheritance Tax, please call our helpline and ask their advice.

Remember that where the deceased has provided all the funds to purchase an item which is then put into joint names with someone else, or into the sole name of someone else, there will be a gift.

If the deceased moved into a nursing home and the proceeds of their house were paid into an account in someone else's name, this may also be a gift unless the proceeds were used for the deceased's benefit.

Question 2(a)

You can answer 'No' to this question if the only gifts the deceased made did not exceed £3,000 each year or were gifts which did not exceed £250 in any one tax year to any individual.

If the deceased did make gifts (or other transfers) that exceeded £3,000 in any one year, you can deduct certain exemptions from the gifts. Appendix 1 to these notes tells you more about these exemptions. These are the only exemptions that you can deduct in working out whether the estate qualifies as an excepted estate.

You can still answer 'No' to this question if the only gifts the deceased made

- were all made more than 7 years before the death, or
- were fully covered by the exemptions.

Question 2(b)

We explain what a trust is for Inheritance Tax in the notes for question 4.

If you answer question 2(b) 'Yes', the deceased is treated as if they had made a transfer or gift of the trust assets in which their right to benefit ceased. This means that the trust assets must conform to the rules that apply to gifts and should be added to any other gifts or transfers that the deceased had made themselves.

Specified transfers

If you answer 'Yes' to either part of question 2, the gifts and transfers must qualify as 'specified transfers' and the total value of all the gifts at the time the gifts were made, after taking away any of the exemptions in Appendix 1 that are due, must be less than £150,000.

You should show what was gifted, the name of the person(s) receiving the gift and the individual value of each at box 12 for all the gifts which have a value after deducting the allowed exemptions. If the transfers are because the deceased gave up their right to benefit from a trust, also write the name of the person who set up the trust and the date it was set up in box 12. Use page 4 if you need more space. You should include the value of all the gifts and transfers in box 11.4.

Gifts of houses, land or buildings

Gifts of houses, land or buildings can only qualify as 'specified transfers' if they were outright gifts from one individual to another. If the gift does not meet this condition, **stop filling in form C5(2006) now – you will need to fill in form IHT400.**

**If the value of all the gifts and transfers, after deducting any exemptions, is more than £150,000, or the assets given away were not of the type listed above (specified transfers), stop filling in form C5(2006) now - you will need to fill in form IHT400.**

Gifts made more than 7 years before death

In most cases, you can ignore gifts and transfers that were made more than 7 years before the death. But you should not ignore such gifts or transfers where

- the deceased kept back some benefit or interest in the assets given away or was entitled to use the assets given away (when you should answer question 3 'Yes'), or
- the deceased had made a gift or transfer within 7 years of death and within 7 years previous to that gift the deceased had transferred assets to a discretionary trust or to a company.

In the second situation, you do not need to tell us about the gift or transfer made more than 7 years ago. But the person who received the gift or transfer made within 7 years of the death may have a separate liability to Inheritance Tax.

If you are aware that these circumstances apply to the deceased, we recommend that the person who received the gift or transfer should telephone our helpline to discuss their circumstances.

Allowable exemptions that can be deducted

You can take away certain exemptions from any gifts or lifetime transfers made by the deceased. If all the gifts or lifetime transfers meet the conditions for the exemptions and the total of all gifts is less than the cash limits given, you can still answer 'No' to question 2.

Small gift exemption

Gifts to any one person which do not exceed £250 in any one tax year to 5 April are exempt. This exemption covers gifts at birthdays and other festive occasions.

You cannot use small gift exemption in conjunction with any other exemption. This exemption can **only** be used if **all** the gifts made to the same person in one tax year do not exceed £250.

Annual exemption

Gifts not exceeding £3,000 in any one tax year to 5 April are exempt. This can apply to one gift or the total of a number of gifts to which the small gift exemption does not apply. If the gifts made in one year fall short of £3,000, any surplus can be carried forward to the next year (but no further) and can be used once the exemption for that year has been used up in full. But the exemption cannot be carried back to earlier years.

## Gifts made out of income

Gifts that are made as part of the deceased's normal expenditure are exempt from Inheritance Tax, provided you can show that they

- formed part of the deceased's normal expenditure,
- were made out of income, and
- left the deceased with sufficient income to maintain their normal standard of living

'Normal expenditure' means that the payments were a regular part of the deceased's expenditure. An example would be where the deceased was making a monthly or other regular payment to someone else. A one-off payment, even if it was out of income, will not be exempt.

If the deceased made any gifts out of income, they meet these conditions and do not exceed £3,000 in total each year, you can answer 'No' to question 2.

**If the gifts made out of income are more than £3,000 per year, you should answer 'Yes' to question 2, give details of the gifts in box 10 and enter the value of the gifts at box 11.4 of form C5(2006).**

Deaths on or after 1 March 2011

Where the deceased died on or after 1 March 2011 and made gifts out of income that exceed £3,000 per year, you must not deduct the exemption for the years concerned. The full value of the gift must be added to all the other gifts in

box 11.4 to arrive at the total value for gifts.

If this means that:

- the total for gifts exceeds £150,000, or
- the gross estate is more than the excepted estate limit (or two times the excepted estate limit where you are claiming a transfer of unused nil rate band) and no assets pass to the deceased's spouse or civil partner or to a qualifying charity

**do not fill in any more of form C5(2006) - you will need to fill in form IHT400.**

The deceased made gifts out of income to his grandchildren totalling £5,000 for each of the 3 tax years before he died. He also made annual gifts to his children totalling £3,000 for each of those years. He died on 3 March 2011 leaving an estate of £320,000 to his unmarried partner.

**Example 1**

Total gifts	24,000
less annual exemptions	<u>9,000</u> (£3,000 for each tax year)
Chargeable value	15,000

As the gifts out of income exceed £3,000 each year the full value of the gifts must be entered at box 11.4. For the purposes of determining if the estate is an excepted estate, no exemptions for gifts out of income can be deducted from the value of the gifts.

The gross value for Inheritance Tax (box H) is £335,000, (£15,000 gifts plus £320,000 estate) which is above the excepted estates limit of £325,000, so this estate cannot qualify as an excepted estate and an IHT400 will need to be completed instead of a C5(2006).

**Question 3**

If the deceased had a made a gift where they have either:

Gifts with reservation of benefit

- kept back any kind of benefit in the assets given away, or
- are entitled to continue to use the assets given away, or
- the person receiving the assets has not taken full and exclusive ownership of them,

the gift is known as a "gift with reservation of benefit". An example is when a person gives their house to someone else, often their children, but carries on living in the house, or purchases a house and has the title put into the names of their children but lives in it themselves.

If the asset given away was a house, but either the deceased or their spouse or civil partner continued to benefit from, or have use of, the property through a lease or trust or similar right or arrangement, the gift may be regarded as a gift with reservation.

If anything like this applies to the deceased, and you are not sure whether the arrangements should be treated as a gift with reservation, you should call our helpline. Depending on the complexity of the arrangements, we may not be able to give a definitive answer over the telephone. In these circumstances we recommend that you answer question 3(a) 'Yes'.

3.c An income tax charge, on pre-owned assets, was introduced in the 2005/06 tax year This charge generally applies to assets that a person disposed of but continued to obtain benefit or enjoyment from. It can also apply when a person contributed to the purchase of an asset for another person, and they subsequently obtained benefit or enjoyment from that asset. The legislation gave the taxpayer the option to elect to have the assets in question treated as

part of their estate for Inheritance Tax purposes, under the reservation of benefit rules. So long as the election remained in place, the taxpayer would not have to pay the income tax.

You should answer 'Yes' if the deceased received benefit from a pre-owned asset and elected to pay the IHT charge, under the reservation of benefit rules, rather than pay the pre-owned assets income tax charge. To make this election, the deceased must have submitted a form IHT 500 before 31 January following the end of the year in which the charge first arose, or exceptionally at a later date. It is not possible for an election to be made on the deceased's behalf, after death.

You should answer 'No' if the deceased received benefit from a pre-owned asset and paid the pre-owned assets income tax charge or if the deceased did not dispose of or contribute to the purchase of any assets in this way.

**If you answer 'Yes' to any part of question 3, stop filling in form C5(2006) now - you will need to fill in form IHT400.**

#### Question 4

Assets held in trust  
Interest in possession

A trust is an obligation binding a person who legally owns the assets (the 'trustee') to deal with the assets for the benefit of someone else. A trust might be in the form of a trust deed or set up by a Will.

We call assets that are held in trust 'settled property'. We say that the deceased had an 'interest in possession' in settled property where they had a right to;

- the income from assets (for example dividends from shares, interest from a bank account or rent from a let property)
- payments of a fixed amount each year, often in regular instalments, or
- live in a house or use the contents without paying any rent

When someone has a right to live in a house, this can have the same effect as a trust for Inheritance Tax, even though the right to live in the house is not formally a trust for that person's benefit. Often this type of right arises under another person's Will and can apply whether or not the house is owned jointly.

If the deceased did not own their home and was not a tenant either, they may have been living there under this sort of arrangement. If so, you may need to include the value of the deceased's home on form C5(2006). For more information please go to our website [www.hmrc.gov.uk/trusts/iht/death.htm](http://www.hmrc.gov.uk/trusts/iht/death.htm).

#### Proper liferent

A liferent of an asset may be granted by disposition or gift to a liferenter (the person who enjoys the asset during their lifetime) and fiar (the person entitled to receive the asset on the death of the liferenter) without trustees being involved. The deceased may even have transferred the asset in this way to make sure that they had the benefit during their life, but to be sure that it passed to someone particular on their death. Both the liferenter's and the fiar's name may appear on the land register. The value of the asset should be determined in the same way in which all other assets in the deceased's name are. If the deceased is the fiar, who has died before the liferenter, then subject to the same provisos for interests in another's estate, you do not need to include a value for Inheritance Tax.

In some circumstances, where a person has an interest in possession in, or is treated as having an interest in possession in settled property, they are treated for Inheritance Tax as if they owned those assets personally. You should answer 'Yes' to question 4 if the deceased's interest in possession is;

- a trust that was set up before 22 March 2006 or
- a trust that was set up before 22 March 2006 **and was**
  - an immediate post death interest
  - a disabled person's interest
  - a transitional serial interest

Immediate post death interest	<p>An immediate post death interest is where the deceased was entitled to benefit from assets held in a trust that meets the following conditions;</p> <ul style="list-style-type: none"> <li>• the trust was set up under a will or intestacy</li> <li>• the deceased became entitled to the interest in possession on the death of the person whose assets passed into the trust</li> <li>• the trust was not for a bereaved minor or a disabled person</li> <li>• the conditions above applied throughout the life of the trust</li> </ul>
Disabled person's interest	<p>A disabled person's interest arises where</p> <ul style="list-style-type: none"> <li>• a trust was set up after 29 March 1981 and, during their life, <ul style="list-style-type: none"> <li>- a disabled person benefited from not less than half the assets applied</li> <li><b>and</b></li> <li>- nobody had a <b>right</b> to benefit from the trust.</li> </ul> </li> <li>• a trust for the benefit of a disabled person (under which they have a right to benefit) is set up on or after 22 March 2006.</li> <li>• An individual who has a condition likely to lead to them becoming a disabled person sets up a trust, for their own benefit, on or after 22 March 2006.</li> </ul> <p>A disabled person is a person who</p> <ul style="list-style-type: none"> <li>• is incapable, by reason of mental disorder (within the meaning of the Mental Health Act 1983), of administering their property or managing their affairs.</li> <li>• is in receipt of attendance allowance (under Section 35 or Section 64 of either the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975) or would be if they were not undergoing certain treatments or met the residence qualifications.</li> <li>• is in receipt of disability living allowance at the highest or middle rate (under section 72(8) of the Social Security Act 1975 or the Social Security Act (Northern Ireland) Act 1975) or would be if they were not provided with certain living accommodation or if they met the residence qualifications.</li> </ul>
Transitional serial interest	<p>A transitional serial interest is where</p> <ul style="list-style-type: none"> <li>• the deceased has an interest in possession in settled property</li> <li>• the assets comprising the current trust were previously subject to another interest in possession trust that was set up before 22 March 2006 and</li> <li>• the current trust was set up between 22 March 2006 and 5 April 2008</li> </ul> <p><b>If the deceased had the right to benefit from more than one trust, or the value of the assets in a single trust was more than £150,000, stop filling in form C5(2006) now - you will need to fill in form IHT400, but see immediately below.</b></p>
Trust assets passing to a spouse, civil partner or charity	<p>Assets passing in trust which qualify for spouse or civil partner or charity exemption should be excluded when applying the £150,000 limit.</p>
Question 5	<p>Inheritance Tax is charged on the worldwide assets of someone who is domiciled in the United Kingdom. You will have listed any foreign assets on form C1, but will not have included them for confirmation. You need to bring them into account for Inheritance Tax now. You should include the sterling value of any overseas assets in box 13.7.</p>
Foreign assets	<p><b>The Isle of Man and the Channel Islands are not part of the United Kingdom.</b></p>

The £100,000 limit applies to the estate as a whole, so to be sure that the limit of £100,000 is not exceeded, you will need to add together

- any foreign assets that the deceased owned in their own name, plus
- their share of any jointly owned foreign assets, and
- any foreign assets held in a trust.

**If the answer to question 5 is 'Yes', and the gross value of the overseas assets is more than £100,000, stop filling in form C5(2006) now - you will need to fill in form IHT400.**

Where the deceased owned foreign assets, you may also need to take out a separate grant in the country where the assets are, so that you can deal with them.

Question 6

Insurance premiums

If the deceased was paying insurance premiums on a policy that will pay out to someone else, you may need to take the premiums paid into account as gifts. You can answer 'No' to this question if the policy was for the benefit of the deceased's spouse or civil partner.

Where the deceased was paying premiums on an insurance policy for the benefit of someone else, you can answer 'No' to question 6 if

- the insurance policy is **not** held in trust, **and**
- the premiums paid each year are covered by the exemption for regular gifts out of income, (limited to £3,000 for each tax year for deaths on or after 1 March 2011) **and**
- they did not buy an annuity *at any time*.

If the insurance policy is **not** held in trust and the premiums are **not** covered by the exemption, then each premium is a gift of cash. You can answer 'No' to question 6 but you must take the premiums into account in answer to question 2.

You can also answer 'No' to question 6 if

- the insurance policy is held in trust (this will be the most common case), **and**
- it was put into trust more than 7 years ago, **and**
- the premiums paid each year are covered by the exemption for regular gifts out of income, **and**
- they did not buy an annuity *at any time*.

If the insurance policy **is** held in trust, and it was put into trust more than 7 years ago, but the premiums are **not** covered by the exemption, then each premium is a gift of cash. You may answer 'No' to question 6 but you must take the premiums into account in answer to question 2.

**In any other case, for example where the policy was put into trust within 7 years of the death, or if the deceased both paid premiums on a life insurance policy that were not for their own benefit or paid out to the estate and they bought an annuity at any time you must answer 'Yes' to question 6 and stop filling in form C5(2006) now. You will need to fill in form IHT400 instead.**

Question 7

If the deceased only had a State Pension answer 'No' to question 7 and ignore question 8.

Pensions

See appendix 2 for further information about pensions.

Question 8

Question 8 asks three questions about the deceased's pension arrangements as there are some circumstances where an Inheritance Tax charge can arise on pension arrangements.

You can answer 'No' to all three parts of question 8 and move on to question 9 if all of the following apply:

- the deceased had not reached the age of 75 before 22 June 2010 (this means they were born on or after 22 June 1935)
- the deceased did not receive any type of dependant's pension
- the deceased had made no arrangements to change their pension in the 2 years before they died, other than pensions paid to a spouse or civil partner

If these do not apply, read the rest of this section to help you answer the questions.

Question 8, first bullet

An alternatively secured pension fund (ASP) is an unsecured pension fund for the benefit of a person who reached the age of 75 between 6 April 2006 and 21 June 2010 (inclusive).

Alternatively secured or unsecured pension

An unsecured pension fund is a fund in a registered pension scheme that has been earmarked to provide benefits for a person but has not been used to purchase pension benefits or an annuity (other than a short term annuity payable for not more than 5 years ending before the member reaches the age of 75).

A registered pension scheme is a pension scheme or arrangement registered under Section 153 Finance Act 2004.

The deceased may have benefited from an ASP fund because

- they were the original scheme member in their own right **or**
- they died with a dependant's ASP fund to which they became entitled as a 'dependant' or 'relevant dependant' of a scheme member who died.

**If the deceased benefited from an ASP fund the estate will not qualify as an excepted estate. Stop filling in form C5(2006) now – you will need to fill in form IHT400.**

Question 8, second bullet

You should answer 'Yes' to this question if the deceased benefited from a dependant's unsecured pension fund to which they became entitled as a 'relevant dependant' of a scheme member who died with an alternatively secured pension fund.

Dependant's pension

**If you answer 'Yes' to question 8, the estate will not qualify as an excepted estate. Stop filling in form C5(2006) now – you will need to fill in form IHT400.**

'Dependant'

A 'dependant' is defined by law as a person who at the date of the scheme member's death was:

- the spouse or civil partner of the member **or**
- a child of the member who
  - was **under** the age of 23 **or**
  - aged 23 or **over** and in the opinion of the Scheme Administrator was dependent on the member because of physical or mental impairment.
- Any other person who in the opinion of the Scheme Administrator was
  - financially dependent on the member **or**
  - had a financial relationship of mutual dependence with a member **or**
  - was dependent on the member because of physical or mental impairment.

A 'relevant dependant' is defined by law as a person who, at the date of the scheme member's death

- was a 'dependant', as defined above, who was the persons spouse or civil partner **or**
- was financially dependent on the member at that time.

Question 8, third bullet

You can answer this question 'No' if the deceased was drawing their retirement pension in full.

Changing or disposing of pension benefits

See additional notes in Appendix 2

If the deceased was entitled to a pension (either from a pension scheme or a personal pension policy) and they had not taken their full retirement benefits by the time they died, you may need to take into account any changes they made to their pension benefits. **You can ignore the State pension** in answering this question.

If the deceased was entitled to benefit from a pension scheme or pension policy and they had not taken their full retirement benefits before they died, you will need to read the following notes to decide how to answer this question 8, bullet 3.

If the deceased had not taken their full retirement benefit from a pension scheme or personal pension policy, any changes to the benefits they were entitled to may have given rise to a transfer of assets. Such a transfer is not a 'specified transfer' so the estate cannot qualify as an excepted estate.

These notes only apply where any dealings with the pension benefits took place at a time when the deceased had been diagnosed with a terminal illness, or was in such poor health as to be uninsurable.

Where any dealings took place at a time when the deceased was in normal health for their age, then even if they have died shortly afterwards, you can answer 'No' to question 8, bullet 3.

Question 9

If you are unsure what legitim means, you can find out more about legal rights from the Scottish Executive website

Legitim or legal rights

**[www.scotland.gov.uk/library5/social/waad-02.asp](http://www.scotland.gov.uk/library5/social/waad-02.asp)** or by obtaining the leaflet "Rights of Succession" from **[www.scotland.gov.uk/library/documents-w10/ros-00.htm](http://www.scotland.gov.uk/library/documents-w10/ros-00.htm)** or from the Scottish Executive.

## Calculation where there is a legitim fund

Where there are people who are entitled to share in the legitim fund on the death of the deceased and they all either claim or discharge all their rights before the executors apply for confirmation, you will be able to calculate an actual figure for the sum payable to the spouse or civil partner and/or charity

under the Will which can not be affected by any further claim on the legitim fund. However, if anyone who has a right to claim has neither exercised their claim nor renounced it, the “spouse or civil partner or charity transfer” (the amount payable to the spouse or civil partner or charity on the death of the deceased) might be reduced. If that is the case then, for the purposes of deciding whether you can continue completing this form or whether you need to complete an IHT 400, you should calculate a notional spouse or civil partner/charity transfer, as if the legitim which has neither been claimed nor discharged is being claimed in full. You should bear in mind that a claim for legitim may be made, even if the person entitled to make it has been bequeathed an interest under the Will.

Bear in mind also that the amount of legitim to be taken into account in making the adjustment if there are other beneficiaries may not always affect the spouse or civil partner/charity transfer to the full extent of the possible claim.

Examples of a calculation for legal rights and how they may affect the spouse or civil partner/charity transfer is given at Appendix 3 of this leaflet.

Show how you have calculated the notional exemption at box 14 or on page 4 if there is insufficient space.

If the value of the estate, calculated by adding the legal rights not already renounced to the remainder of the chargeable estate, exceeds the excepted estate limit stop filling in the C5(2006), you must complete an IHT 400.

Box 10

Use this box for details of gifts, any trust, of the pension scheme etc, your calculation of legal rights, details of any property held on special destination or any information you consider relevant. If there is insufficient space, please continue on page 4 of the form or attach a separate sheet.

## Summary of Estate

11

You should list in this section all the elements which make up the chargeable estate for Inheritance Tax. You should not deduct any exemptions at this stage, nor should you at any stage deduct any other reliefs e.g. business relief or agricultural relief you may consider appropriate.

11.1

Carry forward the figure from box 1.1 on page 4 of the C1

11.2 Pension lump sum

If you have not included a figure for a pension lump sum which was payable in the C1 for confirmation, but you consider it should be part of the estate, include it here.

11.3 Share of joint assets

Heritable property (houses, land etc)

If the heritable property is owned in the names of two or more people and “their respective heirs and assignees whomsoever”, each person’s share passes under their Will or intestacy. You should include the deceased person’s share of any such joint property in the Inventory on page 3 of the form C1. The value will then be included at 15.1 above.

If the property title is in the names of the owners and the survivor or survivors (this is called special or survivorship destination), or if there is any mention of survivorship in the deed of ownership, the share of the first to die will normally pass to the survivor(s), whether or not they receive any other benefit under the Will (or according to the rules of intestacy). This sort of joint property should be included here. Give a brief description of the property in box 10 and the value of the deceased’s share at box 11.3.

11.4 Gifts and other

If you answered ‘yes’ to question 2, include the value of gifts after deducting the allowable exemptions and adding back the ‘specified exempt transfers’ (see

	transfers	Appendix 1). List the gifts in box 10 and continue on page 4 if necessary.
11.5	Assets held in trust	If you answered 'yes' to question 4, you should make all possible enquiries of the Trustees to determine the value. Include the gross value here and deduct the liabilities at Box B. If the trustees notify you of the net value only, you may include the net value here.
11.6	Nominated assets	If the deceased, during their lifetime, 'nominated' an asset to pass to a particular person after their death enter the value at box 11.6.  The assets that can be nominated in this way are deposits of up to £5,000 in friendly societies and industrial and provident societies, or, before 1 March 1981, National Savings certificates and accounts.
11.7	Assets outside the United Kingdom	You should include in this box the value of assets owned by the deceased outside the UK, plus the deceased's share of any foreign assets owned jointly with anyone else. You need to convert the foreign currency value into £ sterling. You can find the conversion rates for the most commonly used currencies in the daily newspapers.  Include any debts owed to anyone outside the UK in the total of liabilities at box B.
Box A		Enter the figure from this box at box 3.A on page 4 of the C1 form.  If the figure in box A does not exceed the excepted estate limit, you need only read and complete the declaration at the foot of page 3. You should also tick box 4.D on page 4 of the C1  If the figure is greater than the excepted estate limit and no part of the estate passes to the surviving spouse or civil partner or charity etc the estate cannot be an excepted estate; you should complete an IHT 400.  If part of the estate passes to the surviving spouse or civil partner or qualifying charity, but the figure at Box A exceeds £1m, the estate is not an exempt and excepted estate; you should complete an IHT 400.
Box B		This figure is the total of <ul style="list-style-type: none"> <li>• the debts or liabilities deducted at boxes 1.2. to 1.4, on page 4 of form C1</li> <li>• the deceased's share of any debts or liabilities deductible from joint property passing by survivorship shown at 11.3 on page 3 of form C5(2006), for example, the deceased's share of a joint mortgage</li> <li>• Any deductions from the deceased's interest in a trust, shown at 11.5 on page 3 of form C5(2006)</li> <li>• Any debts or liabilities deductible from foreign assets, shown at 11.7 on page 3 of form C5(2006).</li> </ul>
Box C		Deduct the figure at B from A to give the net figure. Enter this figure at 3.B on page 4 of the C1.
Box 12		If none of the assets passes to the deceased's spouse or civil partner, or to a qualifying charity or other qualifying organisation, write '0' in box D.  If any of the assets do pass to the deceased's spouse, civil partner or to a qualifying charity or other qualifying body, these assets will be exempt providing they meet the conditions set out on page 21 of this guide. Remember that the spouse, civil partner or charity exemption should be adjusted by the calculation you may have had to do because of possible legitim claims. You should show what the exempt benefits are, e.g. residue of estate, legacy of £200,000 etc at

box 12 and deduct the value at box D.

However, if the value at box A is less than the excepted estate limit there is no tax to pay and you need not complete this section.

Box E

**Net qualifying value for excepted estates**

Deduct the exemptions at box D from the figure at Box C to arrive at the figure at box E. This is the "net qualifying value" for an exempt excepted estate. The net qualifying value is the value of the estate after deduction of liabilities and any relief due as a result of benefits passing on the death to either the surviving spouse or civil partner or to a qualifying charity (but of no other reliefs or exemptions which you may consider due). Carry this figure to box 3.C on page 4 of the C1.

Provided the value in box E does not exceed the excepted estate limit, (£325,000 for 2010-2011) you may apply for a grant of representation without filling in form IHT400.

If it exceeds the excepted estate limit but is less than two times the excepted estate limit (£650,000 for 2010-2011) **and** you are claiming transfer of unused nil rate band from the estate of a spouse or civil partner who died before on form IHT217, (see page 21 of this booklet) you may apply for a grant of representation without filling in form IHT400. You must now fill in form IHT217 *Claim to transfer unused nil rate band for excepted estates* and attach it to this form. You should also tick box 4E on page 4 of the C1.

For a copy of form IHT217:

- go to [www.hmrc.gov.uk](http://www.hmrc.gov.uk)
- phone our helpline **0845 30 20 900**

If the value in box E exceeds the excepted estate limit, and you are **not** claiming a transfer of unused nil rate band, stop filling in form IHTC5(2006) now - you will need to fill in form IHT400.

If this figure does not exceed the excepted estates limit, the estate is an exempt excepted estate and you should tick box 4.E on page 4 of the C1.

If the figure exceeds the excepted estates limit, the estate does not qualify and you should complete an IHT 400.

**Declaration and signature**

Only one signature is required for confirmation on the form C1 and to keep things simple we will accept just one signature on form C5(2006).

However, the Inheritance Tax law allows for financial penalties where the information supplied is incorrect, incomplete or false. It is important, therefore, that all the executors have checked the content of the form and that the executor who signs the form has the agreement of all the executors to the correctness of the information supplied. There is more information about penalties on page 36 of this guide.

## What to do when you have completed the forms

If the estate is either an excepted estate or an exempt excepted estate, you should send both the C1 and the C5(2006) to the appropriate Sheriff Clerk or Commissary Office (see page 4 of this booklet).

Do I need a copy of the form?

Yes, we recommend that you keep a copy of the signed form for your own records and because you will need it should the value of the estate change after the grant such that tax becomes payable. You may also be asked to provide a copy of the form or you may need details of the estate for the Department of Work and Pensions. We will not be able to provide you with a copy of this form if you have not kept one for yourself.

What about all the papers and records I now have?

You do not need to send copies of any of the other papers you have used to fill in form C5(2006) - just the form itself and any continuation page(s) you have used in completing boxes 10 and 12. But you should keep the papers and records safe in case we ask you for them.

What happens after I get Confirmation?

You can begin to deal with the estate by collecting in the assets and paying the debts. The Sheriff Clerk will send both the original C1 and C5(2006) to us.

When will I hear from you if you want to see the papers and records?

Providing you have used the form C5(2006) correctly, it is unlikely that you will hear from us. If we have any questions concerning the information you have provided we will contact you within 60 days from the date that you obtain Confirmation. If we do not write to you within that time, you will not have to pay any Inheritance Tax. **However, this does not apply if there is anything which you have not told us or if any of the information you have provided is incorrect or misleading.**

### What to do if the value of the estate changes

What do I do if there are changes to the estate?

If, after you have obtained confirmation, you find more assets, you will need confirmation to these and you should complete a form C4 (corrective account) and form C4(S) available from the HM Revenue & Customs website. Amend your working copy of the C5(2006) and if, when you have added in the value of the newly discovered item(s), the value at box C on page 3 is still less than the excepted estate limit, you do not need to send the forms to HM Revenue & Customs. Tick the appropriate box on the front page of the C4 and send it directly to the Sheriff Clerk.

If the changes mean that the value at C on page 3 of the C5(2006) is more than the Inheritance Tax nil rate band you should send the C4 and C4(S) to HMRC Trusts & Estates, Nottingham with a copy of the original C1 and C5(2006), before you apply for confirmation to the additional assets and you will need to pay the tax.

How do I work out the Inheritance tax?

You can work out the tax that is payable by deducting the Inheritance Tax nil rate band from the revised value of the estate and taking 40% of that amount. You might need to add some interest to the tax that is due. Interest runs from 6 months after the end of the month in which the deceased died. Our helpline can tell you what the rate of interest is.

Inheritance Tax reference number

If you calculate that there is tax to pay, you will need to apply for an Inheritance Tax reference number and payslip so that you can make the payment.

You can apply for a reference:

- online at [www.hmrc.gov.uk/inheritancetax](http://www.hmrc.gov.uk/inheritancetax)
- on form IHT422 available online or from our helpline **0845 30 20 900**

If you do not want to work out the tax yourself send the C4 and C4(S) to us (see address on page 2). We will send you a calculation of the tax and any interest that you owe.

Where you discover that the value of an asset has changed, for example as the result of a sale or that a liability has been reduced, you will not need confirmation but you should keep a list of the changes. This is so you can include them in an Inheritance Tax account if any further changes come to light later which mean that there is Inheritance tax to pay. There is no need to tell us about changes if there is no Inheritance Tax to pay

What do I do if the exemptions change?

The exemptions will change if there is a change of those who inherit the estate because of a deed of variation after the date of death. If, as result of any changes, there is Inheritance Tax to pay you must tell us about the changes using the corrective account, form C4.

If box 3B still does not exceed the Inheritance Tax nil rate band there is no need to tell us about the change.

What if the changes are covered by other exemptions or reliefs?

This can happen when, for example, all the assets are left to the surviving spouse or civil partner, but they include (say) a farm which the spouse or civil partner then redirects to the children. You should reduce the value of exemption to the spouse or civil partner at box D on page 3 of the C5(2006) by the value of farm (but without deducting agricultural relief).

If box E on form C5(2006) still does not exceed the Inheritance Tax nil rate band there is no need to tell us about the change, but if it is more than the nil rate band you must fill in a corrective account form C4.

You should copy the original figure from box E on form C5(2006) to page 4 of the corrective account and show the reduction in the spouse or civil partner exemption on that page. If you consider the farm qualifies for agricultural relief, you should also include the relief on page 4 of the C4.

This may mean that there is still no tax to pay. But as the estate no longer qualifies as an excepted estate (because you can only take spouse or civil partner and charity exemption into account in deciding if an estate qualifies as an excepted estate), you must still tell us about the change in these circumstances. You should send the C4 to us with a copy of the C1 and C5(2006).

What if the value of the estate changes and I need to claim a transfer of unused nil rate band after the grant?

if the value of the estate changes so that it is now over the Inheritance Tax nil rate band, but you can claim a transfer of unused nil rate band which would mean that there is still no tax to pay you should send:

- a copy of the C5(2006)
- a completed C4 *Corrective account* showing the amendments to the estate
- a completed form IHT217 *Claim to transfer unused nil rate band for excepted estates*

To HMRC Trusts & Estates at the address on page 2.

## Transfer of unused nil rate band – documents you should keep

Documents and information you should keep

If the deceased whose estate you are dealing with now left a surviving spouse or civil partner, you should keep full details of this estate in a safe place. This is so that a claim may be made for the transfer of any unused Inheritance Tax nil rate band on the death of the surviving spouse or civil partner.

The information and documents you should keep are:

- a copy of the C5(2006) or full written details of the assets in the estate and their values
- a copy of the grant of representation (probate or letters of administration)
- a copy of the Will, if there was one
- a note of how the estate passed if there was no Will
- a copy of any Deed of Variation or similar document if one was executed to change the people who inherited the estate

The widow, widower or surviving civil partner may wish to keep these documents with their own Will, if they have made one, or with other important documents, to ensure that a claim can be made for the transfer of unused nil rate band on their death.

## Penalties

The UK has introduced a new system of penalties for inaccuracies in tax returns and other documents given to us. This includes information given on form C5(2006) for deaths on or after 1 April 2009. Under the new system if you take reasonable care when filling in form C5(2006), we will not charge you a penalty, even if you make a mistake.

Why do we need penalties?

Most people take care to fill in their forms correctly. We want to encourage that and help them to get it right. We use penalties to stop people who do not take care from gaining an unfair advantage.

When are penalties charged?

You should only use form C5(2006) if the estate is an 'excepted estate' and there is no Inheritance Tax to pay on the estate. We may charge financial penalties if you include an inaccuracy in form C5(2006) which, when corrected later, means that there is some Inheritance Tax to pay after all.

How to avoid a penalty

If you take reasonable care to get it right, we will not charge a penalty if you make a mistake. We will normally accept you have taken reasonable care if you have followed the guidance in this booklet and have:

- made a thorough search of the deceased's papers and documents to trace the assets, investments and other financial interests the deceased had when they died
- contacted others, such as family, friends, accountants etc who may have known about the deceased's affairs
- included details of all the deceased's assets, liabilities, other financial transactions and interests that are subject to Inheritance Tax on form C5(2006)
- taken reasonable steps to arrive at the "open market" value of those assets

If you don't take reasonable care, we can penalise any inaccuracies. The penalties will be higher if they are deliberate.

What should I do if I discover an inaccuracy?

If, after you have applied for confirmation, you discover an inaccuracy which, when corrected, means that Inheritance Tax is payable by the estate, you should tell us about it as soon as possible. We explain what you should do in the section of this booklet called 'What to do if the value of the estate changes'.

But there is no need to tell us about inaccuracies that do not mean there is tax to pay. Instead, make a note of them in case anything else comes to light later on which means that tax is payable when all the inaccuracies are corrected.

How to reduce a penalty

Telling us about an inaccuracy does not mean you will automatically be subject to a penalty. Depending on the circumstances, we often view that as taking reasonable care to get your tax right. We can substantially reduce any penalty if you:

- tell us about any inaccuracies before we ask you about them
- help us work out the correct amount of tax
- answer any questions we ask you fully, promptly and honestly.

What if the inaccuracy arises from information provided by someone else?

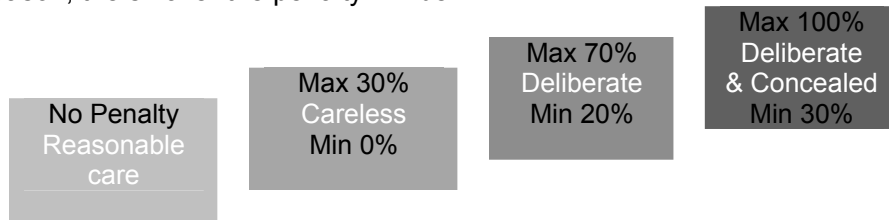
If another person has provided you with information about the deceased's affairs; for example, a member of the family has told you about a gift they received, and that person deliberately gave you the wrong information, or kept back some information, we can charge a penalty on them.

We expect you to have checked that information against the other information you have discovered about the deceased and to have questioned any inconsistencies. If you can show you have done so, we will normally accept you

have taken reasonable care and we will not charge you a penalty because of the inaccuracy.

What are the penalties?

The penalty is a percentage of the amount of tax that has not been paid. The penalty rate depends on why you made the inaccuracy. The less serious the reason, the smaller the penalty will be.



How will I know if I have to pay a penalty?

We will discuss the estate with you to work out the correct amount of tax that is payable and any penalty that may be due, before we send a penalty notice. That way you can understand what has happened and why we are doing this.

If you don't agree, you can appeal against the penalty to an independent tribunal, usually the First-tier Tribunal of the Tax Chamber. You can also opt for an internal review by an independent HMRC officer, which is a quick and inexpensive way to resolve disputes. See our factsheet HMRC 1 at: [www.hmrc.gov.uk/factsheets/hmrc1.pdf](http://www.hmrc.gov.uk/factsheets/hmrc1.pdf)

Where can I get more help?

You can find more information on penalties for errors at: [www.hmrc.gov.uk/about/new-penalties/index.htm](http://www.hmrc.gov.uk/about/new-penalties/index.htm)

You can find out more information about Inheritance Tax and tax on the estates of deceased people at: [www.hmrc.gov.uk/inheritancetax/](http://www.hmrc.gov.uk/inheritancetax/)

## Notes on filling in form IHT217

When do I need to fill in form IHT217?

You will need to fill in form IHT217 *Claim to transfer unused nil rate band for excepted estates* if:

- the figure at box E, form C5(2006) is above the Inheritance Tax nil rate band (£325,000 for tax year 2010-11), but below 2 times the nil rate band (£650,000)

**and**

- you are claiming a transfer of unused nil rate band from the estate of a spouse or civil partner who died before. (see notes on page 5)

Where can I get form IHT217?

If you need a copy of form IHT217:

- go to [www.hmrc.gov.uk/inheritancetax](http://www.hmrc.gov.uk/inheritancetax)
- phone our helpline on **0845 30 20 900**

Most of the notes to help you fill in form IHT217 are included in the form, but the following additional notes may help you.

Can all estates use this claim form?

No. If the estate of the spouse or civil partner who died first used up any part of the nil rate band so that 100% of the nil rate band is not available to transfer, then you should claim the transfer by filling in form IHT400 *Inheritance tax account* and claim form IHT402 instead of the C5(2006) and IHT217.

There are also other rules about the estate of the spouse or civil partner who died first which mean that you should fill in forms IHT400 and IHT402 instead. These are where any of the following apply to the spouse or civil partner who died first, or their estate:

- they died before 13 November 1974
- they were domiciled outside the UK at the date of death
- the estate was not wholly exempt from Inheritance Tax

- they had jointly owned assets that passed to someone other than the spouse or civil partner who has died now
- they had made gifts to chargeable (non-exempt) beneficiaries in the 7 years before they died
- agricultural or business relief applied to assets in the estate
- they made any gifts with reservation of benefit
- they benefited from a trust during their lifetime.

Deeds of Variation

If a Deed of Variation, or other similar document, was been executed to change who inherited the estate of the first spouse or civil partner to die you should fill in form IHT217 to show the effect of the Will or intestacy and the Deed together.

This means that if the whole of the first estate passed to the surviving spouse or civil partner by Will and a Deed of Variation was executed to pass part of the estate to the children, then the part of the estate that passed to the children would not be exempt from Inheritance Tax. If this is the case, you should claim the transfer by filling in form IHT400 *Inheritance tax account* and claim form IHT402 instead of the C5(2006) and IHT217.

**Box 10, page 2**  
Gifts

Gifts made in the seven years before the deceased died would be exempt if they were made to a spouse or civil partner or a charity or other qualifying body (see page 6 of this guide). There are also other exemptions such as annual, small gifts and gifts in consideration of marriage and civil partnership which can be deducted. There is more information on these exemptions on pages 11 to 14.

But any gifts which are not exempt, such as lifetime gifts to the deceased's children, would reduce the amount of nil rate band available to transfer and 100% of the nil rate band would not be available. If that applies, the claim for the transfer of unused nil rate band must be made on forms IHT400 and IHT402 and not forms C5(2006) and IHT217.

Gifts made out of income

Where the spouse or civil partner who died first, died on or after 1 March 2011, the exemption for gifts out of income (see page 24 of this guide) cannot be deducted from gifts if the value of the gifts total more than £3,000 for each year.

Deaths on or after 1 March 2011

If that applies, the transfer of unused nil rate band must be made on forms IHT400 and IHT402.

Deaths before 1 March 2011

If the value of gifts made out of income total less than £3,000 for each tax year the exemption can be deducted in full.

Where the spouse or civil partner who died first died before 1 March 2011, the value of the exemption for gifts out of income can be deducted in full.

## Appendix 1

## Exemptions for gifts and transfers

There are a number of exemptions available which you can deduct from any gifts or lifetime transfers made by the deceased.

Spouse or civil partner exemption

Gifts between husbands and wives or civil partners are exempt, provided both people had their domicile in the UK.

Charity exemption

Gifts to qualifying charities are exempt. (see page 20)

Small gift exemption

Gifts to any one person which do not exceed £250 in any one tax year to 5 April are exempt. This exemption covers most gifts at birthdays and other festive occasions.

You cannot use this exemption in conjunction with any other exemption. This exemption can **only** be used if **all** the gifts made to the same person in one tax year do not exceed £250.

Annual exemption

Gifts not exceeding £3,000 in any one tax year to 5 April are exempt. This can apply to one gift or the total of a number of gifts to which the small gift exemption does not apply. If the gifts made in one year fall short of £3,000, any surplus can be carried forward to the next year (but no further) and can be used once the exemption for that year has been used up in full. But the exemption cannot be carried back to earlier years.

Gifts made out of income

See page 24

Gifts on marriage or civil partnership

If the gift was made

- on or shortly before the marriage or civil partnership,
- to one or both parties to the marriage or civil partnership, and
- to become fully effective on the marriage or civil partnership taking place

it will be exempt up to the following limits:

- £5,000 if the deceased was a parent or step-parent of one of the parties to the marriage or civil partnership,
- £2,500 if the deceased was a grandparent or more remote ancestor of one of the parties to the marriage or civil partnership, or
- £1,000 in any other case.

You can still answer 'No' to question 2 (a) if the only gifts the deceased made did not exceed £3,000 each year or were gifts which did not exceed £250 in any one tax year to any individual.

If the deceased did make gifts (or other transfers) that exceeded £3,000 in any one year, you can still answer "No" to this question if the **only** gifts the deceased made were

- made more than 7 years before the death, or
- fully covered by exemptions.

Other exemptions that must be added back: specified exempt transfers

There are other exemptions that are available, but you must add these back to establish whether the overall limit for the gross estate of £1,000,000 is exceeded. These are exemptions for transfers to

- the deceased's spouse or civil partner
- qualifying charities
- to political parties,
- housing associations,
- maintenance funds for historic buildings, and
- employee trusts.

Example 1

The deceased made gifts of £100,000 to his children, £100,000 to his wife and died leaving an estate of £500,000. The chargeable value of the gifts is:

Total gifts	200,000	
Less		
Annual exemption	-6,000	(previous year's unused)
Spouse or civil partner exemption	-100,000	
Chargeable value	94,000	

This is under the £150,000 limit for gifts, so the estate can qualify as an excepted estate. However, when filling in form C5(2006), you should ignore the spouse or civil partner exemption and write the value of £194,000 in box 11.4. When this is added to the estate on death of £500,000, the gross value does not exceed £1,000,000 - so the estate can still qualify as an excepted estate

Example 2

The deceased made gifts of £50,000 to his children, £50,000 to a qualifying charity and died leaving an estate of £950,000. Here, the chargeable value of the gifts is £44,000, but you must add the charity exemption back and write £94,000 in box 11.4. When this is added to the estate on death of £950,000, the gross value exceeds £1,000,000. The estate does not qualify as an excepted estate, even though the chargeable value for gifts is less than £150,000.

Example 3

The deceased made gifts of £170,000 to his children, £50,000 to a qualifying charity and died leaving an estate of £600,000. The chargeable value (after annual exemptions) of the gifts is £164,000.

As this exceeds the £150,000 limit for gifts, the estate cannot qualify as an excepted estate even though when adding back charity exemption to give a total of £214,000 and adding this to the estate on death of £600,000, the gross value does not exceed £1,000,000.

## Appendix 2

## Pensions

Where someone has the benefit of a pension in addition to the state pension, then this additional pension will normally provide two types of benefit:

- retirement benefits, or
- death benefits.

It is not possible to take both benefits. If the person gets to retirement age and takes their retirement benefits (a lump sum plus pension) then the death benefits no longer apply. However, if they die before taking their retirement benefits, the death benefit is payable according to the pension scheme rules or the policy provisions. No retirement pension is paid.

Approved,  
unapproved and  
registered schemes

For income tax purposes, pension schemes and pension policies are approved, unapproved or registered. The scheme papers may provide this information. If they do not the pension provider should be able to tell you.

Alternatively  
secured or  
unsecured pension

An alternatively secured pension fund (ASP) is an unsecured pension fund for the benefit of a person who reached the age of 75 between <sup>^</sup> April 2006 and 21 June 2010 (inclusive).

An unsecured pension fund is a fund in a registered pension scheme that has been earmarked to provide benefits for a person but has not been used to purchase pension benefits or an annuity (other than a short term annuity payable for not more than 5 years ending before the member reaches the age of 75).

A registered pension scheme is a pension scheme or arrangement registered under Section 153 Finance Act 2004.

The deceased may have benefited from an ASP fund because

- they were the original scheme member in their own right **or**
- they died with a dependant's ASP fund to which they became entitled as a 'dependant' or 'relevant dependant' of a scheme member who died.

If the deceased benefited from an ASP fund the estate will not qualify as an excepted estate.

'Dependant'

A 'dependant' is defined by law as a person who at the date of the scheme member's death was:

- the spouse or civil partner of the member **or**
- a child of the member who
  - was **under** the age of 23 **or**
  - aged 23 or **over** and in the opinion of the Scheme Administrator was dependent on the member because of physical or mental impairment.
- Any other person who in the opinion of the Scheme Administrator was
  - financially dependent on the member **or**
  - had a financial relationship of mutual dependence with a member **or**
  - was dependent on the member because of physical or mental impairment.

A 'relevant dependant' is defined by law as a person who, at the date of the scheme member's death

- was a 'dependant', as defined above, who was the persons spouse or civil partner **or**  
was financially dependent on the member at that time.

Including pension benefits for confirmation on form C1

If the deceased dies before taking their retirement benefits, a lump sum may be payable under the pension scheme or pension policy. A lump sum will be part of the deceased's estate if

- it is payable to their personal representatives as of right or because no-one else qualifies for payment, or
- the deceased could direct who the lump sum was to be paid to by making a binding nomination/instruction, or
- the deceased could manufacture a situation (for example, by revoking a nomination) so that the lump sum would be payable to the estate
- it is a refund of contributions,

In each of these cases, the amount of the lump sum should be included in form C1.

## Appendix 3

## Legal rights

Calculating the spouse, civil partner or charity transfer where there are people entitled to claim legal rights

The deceased died in August 2004 survived by a spouse and two children and leaving heritable estate worth £120,000 and moveable estate worth £840,000. The legitim fund is £280,000 (1/3 x £840,000)

### Example 1

By Will the whole estate is left to the surviving spouse. One child has renounced his legal rights before confirmation is applied for.

In terms of the Will the spouse receives:

heritable property	£120,000
residue	<u>£840,000</u>
total	£960,000

For the purposes of determining whether the estate is excepted, the spouse transfer is recalculated:

heritable property	£120,000
legal rights renounced	£140,000
balance of residue	<u>£560,000</u>
total	£820,000

The net qualifying value is £140,000 (value of legitim fund unclaimed and unrenounced £140,000 + any other chargeable estate £0)

The estate qualifies as an excepted estate since the gross value of the estate does not exceed £1,000,000 and the net qualifying value (£140,000) does not exceed the excepted estates limit.

However, if neither child has renounced or claimed legal rights, the net qualifying value is the whole of the unrenounced and unclaimed legitim fund, £280,000. So that although the gross estate does not exceed £1,000,000, the net qualifying estate exceeds the excepted estates limit.

It is important to remember that actual or potential legitim claims will not always affect the amount of spouse or civil partner exemption by the same amount as the claim itself. Where part of the estate passes to a non exempt third party this is likely to be the case.

### Example 2

In terms of the Will:

Spouse		Friend
heritable property	£120,000	2/3 share of residue £260,000
legacy	£450,000	
1/3 share of residue	<u>£130,000</u>	
total	£700,000	

One child has renounced his claim to legitim leaving the other half of the legitim (£140,000) unclaimed and unrenounced to be calculated from the residue of the estate. Spouse £130,000 - £46,666.66 and friend £260,000 - £93,333.33

Notional spouse transfer

$$£120,000 + £450,000 + £83,333.33 = £653,333.33$$

Net qualifying value

$$£140,000 + £166,666.67 = £306,666.67$$

(legitim fund unclaimed and unrenounced + other chargeable estate)

Unlike the first situation at example 1, the estate does not qualify as an excepted estate as, although the estate is below £1m and part passes to the spouse, the net qualifying value exceeds the excepted estates limit.

## Confidentiality

You have a right to the same high degree of confidentiality that all taxpayers have. We have a legal duty to keep your affairs completely confidential and cannot give information to others about an estate, trust or transfer even if they have an interest in it, unless the law permits us to do so. This means we may only discuss a taxpayer's affairs with that person, or with someone else that the taxpayer has appointed to act for them. In the case of someone who has died, this means that we can only discuss an estate with the people (or person) who have signed and delivered form C5(2006), that is the executors, or another person appointed to act for them, usually a solicitor or an accountant.

## Data Protection Act

HM Revenue & Customs is a Data Controller under the Data Protection Act. We hold information for the purposes of taxes, social security contributions, tax credits and certain other statutory functions as assigned by Parliament. The information we hold may be used for any HM Revenue & Customs' functions.

We may get information about you from others, or we may give information to them. If we do, it will only be as the law permits, to

- check accuracy of information
- prevent or detect crime
- protect public funds

We may check information we receive about you with what is already in our records. This can include information provided by you as well as others such as other government departments and agencies and overseas tax authorities. We will not give information about you to anyone outside HM Revenue & Customs unless the law permits us to do so.

This booklet has no legal power.  
It reflects the tax law at the time of writing.  
We may need to take into account special circumstances  
for a particular estate.

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