

Exempt gifts

- ▶ You **must** fill in form **D3** if the deceased gave away or transferred any assets since 18 March 1986. We may have to add the value of those assets to the estate at death so we can work out the total value on which tax must be charged. To keep things simple, we refer to all types of transfer made by the deceased as gifts.

- ▶ You **do not** need to fill in form **D3** (and should answer “No” to the question about gifts on page 2 of form **IHT200**) if the **only** gifts made by the deceased were
 - to their husband, wife or civil partner and spouse or civil partner exemption applies (see the guide IHT210 “How to fill in form IHT200”)
 - **outright** gifts to any individual which do not exceed £250 in any one year (the small gifts exemption)
 - **outright** gifts of money or quoted stocks and shares to any individual which are **wholly** covered by the annual exemption
 - **outright** gifts made regularly from income (see pages 2 and 3 of these notes) **which do not exceed £3000** in total each year

Time limits

- ▶ There are certain time limits that apply. The most important is the period of seven years before the deceased died. But it is possible that other gifts made before that period may also affect the amount of tax that is payable as a result of the deceased’s death. These notes contain an outline of the circumstances in which a gift may need to be added to the estate at death.

What kind of gifts need to be included

- ▶ It is not just outright gifts, such as giving a cheque for £10,000 to someone on a special occasion, that are relevant for inheritance tax. The law says that there will be a gift whenever there is “a loss to the donor” (the “donor” is the person making the gift). This can happen in different ways. For example, a parent may sell a house to a son or daughter for less than they could sell the property on the open market. This will be a loss to the donor. A person may hold some shares that gives them control of a company. They may sell only a few shares to a relative but losing control of the company reduces the value of their other shares. This too will be a loss to the donor. If you are not sure whether you should include details of a particular gift, please telephone our helpline.

Gifts with reservation of benefit

- ▶ Sometimes the person making the gift may retain an interest in the assets being given away, or the person receiving the gift may not take full ownership or possession of the assets. Such a gift is called a “gift with reservation of benefit”. There is more about this sort of gift on page 6 of these notes. You should include details of any such gifts in section 2 of form **D3**.

D3(Notes)

Who must tell us about any gifts

- ▶ We need to know the value of any gifts made by the deceased in case the value needs to be added to the estate at death to work out how much tax is payable. You must include full details on form **D3** of all the gifts that the deceased made which are not exempt gifts.

However, if we need to know any more information, or if we need an account of the gifts to be sent in, or if there is any tax to pay on the gifts themselves we will contact the person who received the gift. This is because it is the recipient of the gift who should send in an account and who must pay any tax that is due on the gift.

Exemptions and reliefs for gifts

- ▶ The exemptions, reliefs (apart from woodlands relief) and exclusions in the guide IHT210 “*How to fill in form IHT200*” also apply to gifts, although there may be some additional conditions to be satisfied. There are also other exemptions that apply to gifts only. These are described below.

Gifts in consideration of 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 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.

If you are deducting the gifts on marriage or civil partnership exemption, say on form D17 how the person who received the gift was related to the deceased and give the date of marriage or civil partnership.

Gifts out of income

- ▶ If the gifts are unconditional **and you can show if we ask you** 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

they will be exempt.

“Normal expenditure” means that the payments were a regular part of the deceased’s expenditure. Examples are where the deceased was paying a regular premium on an insurance policy for the benefit of another person, (see the notes for question 1c) or perhaps where they were 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 gifts meet these conditions, are outright gifts to another individual and do not exceed £3,000 in total each year, you do not need to give any details on form D3. If you are deducting more than £3,000 per year, please give the date and amount of each gift and the amount of exemption you wish to deduct on form D3. You should also complete form D3(a) to show details of the income and expenditure for each of the years in which the gifts were made. [Form D3(a) can be downloaded from the internet or requested from our helpline.] We may ask for more information after you have obtained the grant.

Small gifts 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 Christmas.

You cannot use this exemption in conjunction with the annual exemption below. This exemption is **only** available 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 and is in addition to the other exemptions described above. 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. The exemption cannot be carried back to earlier years.

If the gifts are outright gifts to another individual and wholly covered by the small gifts or the annual exemption you do not need to give any details on form D3.

When the exemptions may not apply

- ▶ If you have answered “Yes” to question 1d on form **D3**
 - you cannot deduct the exemption for gifts in consideration of marriage or civil partnership or the annual exemption from such a gift unless the deceased gave notice to the trustees that the exemption was available within 6 months of the date of gift, and
 - you cannot deduct the exemption for gifts out of income or for small gifts at all.

Gifts which exceed exemptions

- ▶ Where the gifts made by the deceased are not **wholly** covered by any of the exemptions or reliefs, fill in form **D3** to give details of the gifts made. Use more than one form, if there is not enough space to list all the gifts.

How to fill in form D3

1 This section of form **D3** is for details of gifts made within 7 years of the deceased's death. Tick the boxes to answer each of these four questions. If you answer "Yes" to any of them, you must fill in the table in this section of form **D3**.

1a You should answer "Yes" to this question where the deceased has made any gift or transfer of value that is not wholly covered by exemptions. This will include straightforward gifts of cash or other assets and any other arrangements that have given rise to a "loss to the donor". As well as the examples on page 1, this can include things like

- granting a lease at less than a full market rent
- re-arranging the shares in a private company, or altering the rights attaching to the shares
- agreeing to act as a guarantor for someone else's debts.

If you are not sure whether to include details of a particular transaction, please discuss the circumstances with our helpline.

1b You should answer "Yes" to this question where the deceased has either set up a new trust or settlement or has transferred more assets to an existing trust or settlement. Again, this will include straightforward gifts of cash or other assets as well as any other arrangements with the trustees that may have given rise to a "loss to the donor" and transferred value to the trust or settlement.

1c You should answer "Yes" to this question where the deceased has made a gift by paying the premium(s) on a life insurance policy for the benefit of someone else, but you can ignore policies where the only person to benefit will be the deceased's spouse or civil partner.

You should provide a copy of

- the life insurance policy, and
- any related documents such as trust deeds and loan agreements

with form **IHT200**. If there is more than one insurance policy and they are all identical, you only need to send a copy of one policy.

You must include details of all premiums paid and provide copies of the policy etc even if you are deducting exemption as gifts made out of income.

In some circumstances, the deceased may have purchased an annuity as well as paying the premiums on a life insurance policy for the benefit of someone else. There are complicated rules that might apply in such circumstances and the exemption as gifts made out of income may not be available against the premiums. If the deceased had

- purchased an annuity (at any time), and
- paid the premiums on a life insurance policy for the benefit of someone else, and
- the life insurance policy was taken out after 27 March 1974

you should provide a copy of the annuity documents as well as the life insurance policy.

1d The deceased may have been entitled to benefit from the assets held in a trust or settlement (see the guide IHT210 *“How to fill in form IHT200”*), but during their lifetime, that entitlement came to an end, either in whole or in part. It may have been the terms of the trust that brought their entitlement to an end, or the deceased may have asked the trustees to alter or terminate their entitlement. You should answer “Yes” to this question where the deceased ceased to have the right to benefit from any assets held in trust for whatever reason.

1e You should answer “Yes” if you are claiming that gifts should be treated as exempted as “Gifts out of income” (see page 2 of these notes).

If the answer is “Yes” you should complete form **D3** in full and form **D3(a)** for each year for which the exemption is claimed.

Date of gift

▶ Write in the date of gift showing the day, month and year if possible.

Name and relationship of recipient, description of assets

▶ Write in the name of the person receiving the gift and their relationship to the deceased. If the person receiving the gift was the deceased’s spouse or civil partner please insert the words “spouse or civil partner”. Describe the asset(s) that have been given away. For example, cash, the address of a house, the number of shares in a particular company, the premium paid on an insurance policy.

Value at date of gift

▶ Write in the value of the asset(s) that have been given away **at the date of gift**. The rules for valuing gifts are the same as the rules for valuing assets owned by the deceased (see IHT210 *“How to fill in form IHT200”*, form **D7(Notes)** and form **D10(Notes)**).

Amount and type of exemption

▶ Write in the amount and type of exemption that you wish to deduct from the value of the asset. If you are deducting the annual exemption, please say which tax years’ exemption you are deducting.

If you are claiming heritage exemption or any of the assets given away have at any previous time benefited either from heritage exemption or from an approved maintenance fund, you can help us to deal with this aspect of the estate by filling in form **D17** to give us

- the name of the person who died earlier or who made the gift
- the date of death or the date of birth of the person
- any CT reference concerning this previous occasion.

Net value after exemptions

Deduct the exemptions from the value of the asset and write the answer in this column.

LT1 Add up all the figures here and write the answer in this box. Copy the figure from this box to box WS14 on form **IHT200(WS)**. Below is an example of what section 1 of form **D3** might look like.

Date of gift	Name and relationship of recipient and description of assets	Value at date of gift	Amount and type of exemption claimed	Net value after exemptions
12/6/97	Robert Smith (son) Cash	10,000	6,000 (annual 97/98 & 96/97)	4,000
16/3/98	Stephen Smith (son) Cash	10,000	5,000 (marriage)	5,000
14/10/98	Robert Smith (son) Cash	4,000		
14/10/98	Stephen Smith (son) Cash	4,000		
14/10/98	James Smith (grandson) Cash	1,000 9,000	3,000 (annual 98/99)	6,000
Total			LT1	£ 15,000

Other exemptions and reliefs

- ▶ There are two other exemptions that apply to gifts. These only apply if the total of gifts made during the deceased's lifetime is more than the tax threshold when the deceased dies so that there is some tax to pay on the gifts themselves.

Taper relief

- ▶ If there is any tax to pay on a gift, the tax is reduced by a sliding scale for gifts made more than three but less than seven years before the death. There is more about taper relief in the guide IHT213 "How to fill in form IHT200(WS)".

Fall in value relief

- ▶ If the value of the assets given away has fallen between the date of gift and the date of death, tax may be charged on the lower value at death. The relief only applies if the value of the gifts exceed the tax threshold. There are some other complicated rules and you should telephone our helpline if you think this relief may apply. If you wish to claim this relief, you should include the date of death value in the "description of assets" column, but do not alter the value at the date of gift. We will look at the claim after the grant.

Gifts with reservation

- ▶ A gift with reservation is one where the person receiving the gift does not fully own it or where the person making the gift either reserves or takes some benefit from it. Where this happens, the law says that we can include the assets as part of the deceased's estate at death. The rule only applies to gifts made on or after 18 March 1986, but there is no seven year limit as there is for outright gifts.

What happens if the reservation ceases

One of the most common examples is where the deceased gives their house to their child but continues to live there. Another is where a bank or building society account is put in the name of a child, but the interest the money produces continues to be paid to the deceased.

However, if arrangements are made, such as payment of a market rent, then the donor will not reserve a benefit and you should include the gift in section 1 of form **D3**.

- ▶ A gift may start off as a gift with reservation, but some time later, the reservation ceases. For example, if the deceased gave their house to their daughter, but continued to live there without paying any rent, that would be a gift with reservation. If, after two years, the deceased started to pay a market rent, the reservation would cease when the rent was first paid. Once the reservation ceases, the gift becomes an outright gift at that point and the seven year period starts to run from the date the reservation ceased.

If the deceased died within the seven year period, the gift should be included in section 1 of form **D3**. You should include the value of the property at the time the reservation ceased. However, the law says that where a gift with reservation becomes an outright gift, you **cannot** deduct any of the exemptions from the value of the gift.

There are other more complicated rules that can apply to a gift with reservation. You should telephone our helpline if you not sure how to include a gift on form **D3**.

2 This section of form **D3** is for details of gifts with reservation of benefit where the reservation remained in place at the deceased's death. Tick the boxes to answer each question. If you answer "Yes" to any question, you must give details in the table in this section of form **D3**.

2a You should answer "Yes" to this question if the deceased made a gift but the person receiving the gift did not take full ownership or possession of the assets given.

2b You should answer "Yes" to this question if the deceased made a gift of, or involving land and continued to benefit from the property without any contractual or other arrangement, for example, by simply continuing to live there.

You should also answer "Yes" to this question if the deceased made a gift of, or involving land on or after 9 March 1999, and the deceased, their spouse or their civil partner continued to benefit from, or enjoy, the property through a lease or trust or similar right, or through any arrangement.

- 2c** You should answer “Yes” to this question if the deceased made a gift of any other asset apart from land, but continued to receive some benefit from all or part of the asset given.

Follow the guidance on the previous pages to fill in this section of the form, but with the following changes.

Value at date of death

- ▶ Because the law says we include a gift with reservation as part of the deceased’s estate, we need to value it **at the date of death**. Write in the value at the date of death.

Amount and type of exemption

- ▶ The law says that the exemption for gifts out of income and the annual exemption do not apply to a gift with reservation.

LT2 Add up the figures here and write the answer in this box. Copy the figure from this box to box WS12 on form **IHT200(WS)**.

Earlier gifts

- ▶ This section of form **D3** is about any gift that the deceased made before the gifts you have included in sections 1 and 2. To work out whether tax is payable on any gift, the law says that we must add it to any *chargeable* gifts made in the seven years before the gift concerned. This means that if the deceased made a gift 6 years before they died, we need to add that gift to any *chargeable* gifts made in the seven years before the gift was made.

What is a *chargeable* gift

- ▶ A chargeable gift is, broadly, any gift which is not wholly covered by exemptions and

- was made before 18 March 1986, **or**
- was made on or after 18 March 1986 and was given to a company or the trustees of a discretionary trust .

This means that gifts from one person to another are **not** *chargeable* gifts and you should not include such gifts in this section of form **D3**.

- 3** You should answer “Yes” to this question if the deceased had made any chargeable gifts in the seven years *before the earliest date of the other gifts you have entered on the form*. You should give details of such gifts in the table in this section of form **D3**. Fill in the table following the guidance on the previous pages.

The form does not allow you to include these earlier gifts with the estate on death because they are only relevant in working out any tax payable on the gifts in section 1 and 2 of form **D3**. We will take any earlier gifts into account when looking at the gifts in section 1 and 2 after you have taken out the grant.