EXEMPT GIFTS - A PRACTICAL GUIDE FOR CONSUMERS

Gifts made by an individual where no inheritance tax (IHT) is charged are known as exempt gifts, there are seven types.

This guide explains how each type of exempt gift works and some of the rules surrounding their use. Please note, the guide is intended to provide guidance and information, it does not replace professional advice.

The information in this guide is based upon the law applicable to England and Wales (the rules in Scotland are different).

1. ANNUAL EXEMPTION

This currently stands at £3,000 per tax year, per person (donor not recipient) and you can also use any of the previous year's unused exemption.

If you haven't used any of this year's or the previous year's annual exemptions, you could gift a total of £6,000 this year.

Tax years run from 6 April to 5 April and the total amount can be given to one person or split between several people.

Please bear in mind that case law in England and Wales has established that a gift made by a cheque is only effective once the cheque has cleared.[1]

[1] Curnock -v- ICR [2003] UKSC SPC00365

2. SMALL GIFT ALLOWANCE

This currently stands at £250 per tax year per donee (recipient not donor). There is no limit on the number of recipients that can benefit.

> Example: Paul gifts £250 to 100 family members and friends but dies shortly afterwards. If all cheques cleared before Paul died, the full £25,000 would be covered by the small gift exemption and none would be subject to a supplementary inheritance tax (IHT) charge.

Please note: the small gift exemption cannot be used with the annual exemption. So, if you've already used the annual exemption for a gift to someone, you cannot also claim a small gift exemption for the same recipient in the same tax year.

3. GIFTS FOR MARRIAGE OR CIVIL PARTNERSHIP

Each tax year, you can give a tax-free gift to someone who is getting married or starting a civil partnership. The closer the family relationship, the more you can give them:

- Up to £5,000 can be given by a parent to a child
- Up to £2,500 from a grandparent to a grandchild or remoter descendant
- Up to £1,000 by any other person.

This exemption can be used in conjunction with the annual exemption.

> Example: You can give your child a wedding gift of £5,000 and another of £3,000 using your annual exemption in the same tax year.

Any gift must be made (i.e., cheque or funds cleared) on or before the date of the marriage or civil partnership and, if the marriage or civil partnership does not take place, then the relief is denied.

4. SPOUSES AND CIVIL PARTNER EXEMPTION

Any amounts transferred between spouses or civil partners are exempt from IHT.

Unlike the exemptions above, this exemption applies both during the donor's lifetime and upon their death, under a will or the rules of intestacy.

Both individuals must be either married or in a civil partnership under laws applicable in England and Wales.

5. CHARITIES AND POLITICAL PARTIES

Gifts to qualifying charities, and political parties, are fully exempt from IHT during your lifetime and upon death.

The Finance Bill 2012 introduced a reduced IHT rate of 36% where at least 10% of the net estate is left to a registered charity.

Also, '**Gift Aid' may be claimed on lifetime gifts to a registered UK Charity.** So, if you are a higher or additional rate taxpayer, you may be able to also claim an income tax refund on gifts – as well as the gift being exempt from IHT. However, it's crucial for the donor to take professional advice before making significant charitable donations or gifts to charities during their lifetime.

6. GIFTS FROM SURPLUS INCOME

This is also referred to as a gift from 'normal expenditure.'

Legislation[2] allows immediate exemption for regular monetary gifts if, taking one year with another, it can be shown that:

- The gifts were made from income, and
- After the gift, the donor had sufficient net income to maintain their usual standard of living, and
- The gifts were normal transfers, which typically means cash gifts.

These gifts should be part of a settled pattern of expenditure which means that they are regular, or intended to be regular. There is no fixed minimum period and there can be variations in the frequency and value of gifts.

When utilising this relief, it's recommended that documentary evidence and good records are retained to confirm that the donor has or had sufficient surplus income. This will be helpful when completing HMRC forms.

7. HELPING WITH ANOTHER PERSON'S LIVING COSTS

This is also referred to as 'maintenance of the family' exemption, such as maintaining an elderly relative or a child under eighteen.

This exemption works in a similar way to the gift from normal expenditure but isn't restricted to income, so payments out of capital may also be exempt. This exemption only applies during the donor's lifetime and not on their death.

Also, it has been established through case law[3] that substantial gifts of capital may be treated as exempt, depending upon the circumstances.

SUMMARY

This guide is intended to provide you with practical information to help you understand the exempt gift options and have a more meaningful discussion with a professional adviser about how you make gifts, how much, when and to whom. It's not intended to cover every aspect of exempt gifting,

It's usually beneficial to consider the issue of gifting as part of a holistic approach to your financial and estate planning. Holistic financial planning recognises the interplay between a person's aspirations, which may to some degree conflict. For example, making gifts may in the long run jeopardise the donor's ability to meet any long-term care costs. So, understanding the overall impact of the proposed gifts before making any firm decisions, particularly with regard to larger gifts, is recommended.

A qualified Chartered or Certified Financial Planner (perhaps with additional qualifications such as Trust and Estate Practitioner), solicitor or accountant will be able to help you determine the course of action most appropriate for your needs and circumstances.

Go to **www.consumerduty.org** for more information and support on financial vulnerability and Consumer Duty.

[2] S.21 Inheritance Tax Act 1984
[3] HMRC -v- R McKelvey [2008] UK SPC 694