

IHT reporting requirements for lifetime transfers

Synopsis: The reporting requirements for chargeable lifetime transfers and IHT chargeable events.

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Inheritance tax (IHT) reporting is done using form IHT100 and any supplementary pages IHT100a to 100g and D31 to D40 as required.

The Inheritance Tax (Delivery of Accounts)(Excepted Settlements) Regulations 2008 and The Inheritance Tax (Delivery of Accounts) (Excepted Transfers and Excepted Terminations) Regulations 2008, published in March 2008 but effective from 6 April 2007, superseded the rules which applied previously.

Under the current rules, an account has to be delivered on any transfer that is not an “excepted transfer” and in relation to any settlement that is not an “excepted settlement” – please see below for an explanation.

Under previous rules, an account had to be sent to HMRC where the value transferred by chargeable lifetime transfers (CLTs) made by an individual in any tax year exceeded £10,000 and the aggregate cumulative value transferred by all CLTs in the past ten years exceeded £40,000 including the current transfer. Special limits applied on the termination of an interest in possession (IIP).

As regards periodic and exit charges arising under a relevant property trust (i.e. a trust subject to the IHT discretionary trust regime), an account had to be completed when such an event occurred regardless of the amount involved and whether any tax was due.

The only exception to this rule was where, broadly, a trust’s sole asset was cash of less than £1,000.

The current rules (applicable from 6 April 2007) are explained below.

In 2023, HMRC announced that they are to review the excepted transfers Regulations and to update the suite of the IHT100 forms.

CLTs which are excepted transfers

No account has to be delivered when the CLT is an “excepted transfer”. Whether a CLT will be an excepted transfer depends upon the nature of the assets being gifted.

Cash and quoted stocks and shares

For a transfer of cash and quoted stocks and shares to be an excepted transfer, the cumulative total of all CLTs made by the transferor in the **seven** years preceding the current transfer, but including the current transfer, must not exceed the nil rate band for the year of transfer (£325,000 for tax year 2023/24).

Assets other than cash and quoted stocks and shares

For a transfer of assets other than cash and quoted stocks and shares to be an excepted transfer...

- the value of the current transfer plus the cumulative total of all CLTs made by the transferor in the **seven** years preceding the current transfer must not exceed 80% of the nil rate band (£260,000 for tax year 2023/24); **and**
- “the value transferred by the transfer of value giving rise to the chargeable transfer” must not exceed the nil rate band less any CLTs made by the transferor in the seven years preceding the current transfer. In this connection, the value transferred by the transfer of value giving rise to the CLT is the loss to the transferor’s estate.

For example, assume that Jack makes a gift of land which gives rise to a transfer of value of £76,000. If Jack has not otherwise used this year’s and last year’s annual exemption, the CLT is £70,000. CLTs made by Jack in the preceding seven years total £100,000. If one then applies the two tests, the current CLT of £70,000 does not need to be reported because...

- the cumulative total is £170,000, which is less than £260,000; and
- £76,000 is less than £225,000 [i.e. the nil rate band (£325,000 for tax year 2023/24) less the CLTs made in the preceding seven years (£100,000)].

The value transferred attributable to insurance-linked products

HMRC describes the position in its guidance notes, as follows...

“Where the transaction is concerned with an insurance-linked product, the question of whether or not the transfer is attributable to cash – and will thus qualify as an excepted transfer up to the nil rate band – will depend on the circumstances of the transaction.

We take the view that the value transferred will be attributable to cash if the transferor makes a transfer where he pays an amount in cash (or by cheque/ bank transfer) and he then needs to take no further action to complete the transfer (and cannot stop any further steps required to complete the transfer from taking place). This will usually be the case when the insurance product and related trust documentation are all completed at the same time and product placed in trust from the outset. Where, however, the transferor purchases an insurance product, which he then places in trust, this is clearly a transfer of an asset other than cash and the 80% limit would apply.

With a ‘discounted’ gift scheme, the value transferred by the transfer of value is the amount computed after the ‘discount’ has been taken into account. We have published a Technical Note explaining how we expect insurers to go about arriving at the value transferred. Where insurers follow this methodology, and have fully underwritten the transferor’s life, we will usually agree the ‘discount’ and the value that has been transferred. Where this is below the relevant limit, the transfer will be an excepted transfer and no account will need to be delivered.

Where the insurers do not follow this methodology, or do not fully underwrite the transferor's life, it is possible that the value transferred will emerge at too low a level and if that value is below the appropriate limit, it will appear that there is no need to deliver an account.

If it is subsequently discovered that too great a 'discount' was claimed, so that the transfer was not an excepted transfer, the liable people will be required to deliver an account within 6 months of that discovery. Where an account is late, the normal late account penalties will apply."

If form IHT100 is required in relation to a life assurance investment bond being transferred to a trust, form D34 is also required (or form D39 for an offshore bond).

The termination of a qualifying IIP

No account has to be delivered on the termination of a qualifying IIP under a "specified trust" in three main sets of circumstances. A specified trust is...

- a trust under which a beneficiary was entitled to an IIP before 22 March 2006;
- a trust for a bereaved minor under section 71A IHT Act 1984;
- a trust under which there is an immediate post-death interest (IPDI);
- a trust for a disabled person under section 89 IHT Act 1984 or
- a self-settlement for such a person under section 89A; or
- a trust in which there is a transitional serial interest (TSI).

The three sets of circumstances are...

(i) The transferor (i.e. the beneficiary who loses their IIP or whose IIP is reduced) has notified the trustees that the value transferred is eligible for and below the amount of the annual exemption or the gifts in consideration of marriage/civil partnership exemption;

(ii) the asset which supported the IIP is cash or quoted stocks and shares and the value of the asset in which the IIP has been lost, plus the cumulative total of all CLTs made by the transferor (i.e. the beneficiary who loses their IIP or whose IIP is reduced) in the preceding seven years, does not exceed the nil rate band; and

(iii) for trust assets other than cash and quoted stocks and shares, the value of the asset in which the IIP has been lost plus the cumulative total of all CLTs made by the transferor (i.e. the beneficiary who loses their IIP or whose IIP is reduced) in the preceding seven years does not exceed 80% of the nil rate band **and** the value transferred on termination of the IIP does not exceed the nil rate band less any CLTs made by the transferor in the preceding seven years.

These rules will apply where the termination of the IIP gives rise to a potentially exempt transfer (PET) or a CLT.

Excepted settlement rules

This is relevant to IHT chargeable events (i.e. ten-year anniversaries and exits) under relevant property trusts (i.e. trusts without qualifying IIP).

No chargeable event has to be reported where the settlement is an excepted settlement of which there are five categories.

The first category of excepted settlement is one under which...

- (a) cash is the only property in the settlement;
- (b) the total value of the settlement assets at the time of the chargeable event is less than £1,000;
- (c) no additions are made by the settlor;
- (d) there are no related settlements; and
- (e) the trustees are resident in the UK throughout the existence of the settlement.

The purpose of this rule is to provide relief primarily for “pilot trusts” which are commonly set up with a trivial amount of cash in the expectation that more substantial property will be added, but which have not been added to.

The other four categories of excepted settlement are categorised according to the chargeable event under consideration, namely the first periodic charge, an exit charge before the first ten-year anniversary, an exit charge after the first ten-year anniversary and an exit charge under an age 18-to-25 trust. In each case, to be categorised as an “excepted” settlement, the value transferred by the notional chargeable transfer must not exceed 80% of the nil rate band.

In addition, as for category 1 above...

- (1) the settlor must be domiciled in the UK when they make the settlement and throughout until the time of the chargeable event or death, whichever is earlier;
- (2) the trustees must be resident in the UK throughout the existence of the settlement; and
- (3) there are no related settlements.

If any of the above conditions is not met, the settlement cannot be an “excepted settlement” and so reporting is necessary.

Relevant dates

The date for filing an IHT 100 and payment of any tax due is six months after the end of the month that the relevant event occurs. So, for example, an event on 28 August 2023 has a tax due date and a filing date of 28 February 2024.

For events prior to 6 April 2014, the filing date for form IHT100 was 12 months after the end of the end of the month in which the event occurred. The payment date was six months after the end of the month of the transfer for events between 1 October and 5 April, and 30 April following for events between 6 April and 30 September.

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