



Inheritance Tax: 10 Frequently Asked Questions

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[Inheritance tax](#) (IHT) can be a minefield and there are many misconceptions about it. People will often take steps to mitigate their estate's IHT liability, however, it is very easy to fall foul of the rules or misunderstand the availability of reliefs and exemptions. In some cases, there can be unintended consequences that can be quite detrimental.

Here are answers to some frequently asked questions about inheritance tax.

1. What is the nil rate band (NRB)?

This is the maximum amount that can pass without any IHT being payable. In the current tax year, the NRB is £325,000.

Subject to the availability of other reliefs and exemptions, gifts made within 7 years of your death will first use the NRB and any balance will be offset against the value of your estate on death.

2. Can I claim a transferrable NRB?

If a spouse or civil partner predeceased you without fully using their NRB, any unused amount can be claimed by your executors against your estate.

This will therefore give a married couple or civil partners potentially up to £650,000 to leave free from IHT.

3. What is the residence NRB?

This is a further relief that can be claimed if your estate exceeds the available NRB & transferrable NRB.

The legislation regarding the residence NRB is complicated and not all estates will qualify.

Essentially, it is a further relief of up to £175,000 (in the current tax year), based on ownership of a residential property that you have occupied before your death.

There are also strict criteria that need to be met for your executors to claim the relief. The property needs to pass to descendants (for example, children or grandchildren), your estate needs to be below £2million (after this the relief starts to taper away) and your beneficiaries need to be entitled to inherit on your death.

It may also be possible to claim a transferrable residence NRB from a predeceased spouse or civil partner's estate.

4. How much can I gift?

From a purely IHT perspective, you can gift any amount you want!

Everyone has a £3,000 annual exemption. This can be gifted to one person or more than one person.

Anything over and above the £3,000 is known as a potentially exempt transfer. This means that there are no IHT consequences at the time of making the gift but, if you pass away within 7 years of making the gift, the value will be brought back into your estate.

You can also make as many gifts of up to £250 per person as you want during the tax year, so long as you have not used another exemption on the same person.

5. What are the rules about gifting income?

If taking all sources of income and your usual expenditure into consideration, you have a surplus income, you can gift this without any IHT consequences.

You need to be able to evidence to the Revenue that you have sufficient income to maintain your usual standard of living and that you are not having to use capital to meet your usual living expenses.

There also needs to be a regular pattern of gifting and an intention to make these gifts part of your normal expenditure.

For those with a generous income, this can be a very useful tax planning tool.

6. Can I gift my home to my children?

There is not an easy answer to this question! In theory, yes. However, it does come with several complications and for many reasons, this is not something that we would usually recommend to our clients.

From an IHT perspective, the biggest issue is retaining a benefit in the property. If you gift your property but continue to live in it then you will be caught by the gift with reservation of benefit rules. The Revenue will then

assess your estate to include the full value of the property.

The only way around this is to be paying an open market rent for your occupation.

7. Can I gift other assets?

Yes! A gift is classed as anything that has a value, such as money, property or personal possessions. It can also be giving something that gives rise to a loss in the value of your estate.

Careful planning often needs to be done around the gift. For example, gifting an asset such as shares or property could give rise to a [capital gains tax](#) liability.

8. What is taper relief?

Taper relief can reduce the IHT payable on gifts where you have not survived for 7 years. If you survive for at least 3 years then your estate can start to see the benefits.

Taper relief applies to the tax payable rather than the value of the gift.

9. What happens to my life policies?

Life policies may be payable to your estate or written in trust and paid to a named beneficiary.

If the life policy is payable to your estate, it will increase your estate for IHT purposes.

If the policy is written in trust, it will pass outside of your estate for IHT purposes. It is therefore important to ensure the correct documents are in place.

10. What if I leave money to a charity?

Anything that passes to a UK registered charity is free from IHT.

If you also leave at least 10% of your estate to charity, your estate may qualify for a reduced rate of IHT– 36% instead of 40%. However, there needs to be careful planning around this to ensure that your estate does qualify.

Please bear in mind that this article provides a broad overview of the IHT position. There is no substitute for obtaining tailored advice from someone appropriately qualified. At Lester Aldridge, we have a team of experienced lawyers, including qualified trust and estate practitioners, who specialise in IHT and tax planning. For more information and advice, please speak to one of our experienced [inheritance tax solicitors](#)

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