

# Technical Insights – Capital Gains Tax

## *Quick reference guide 4 – Implications of gifting*

This guide will help you understand the Capital Gains Tax (CGT) treatment of gifts to individuals and trusts. It does not include the Inheritance Tax treatment of these gifts. We have a separate guide which covers this - [Inheritance Tax treatment of lifetime gifts - Quick reference guide | Quilter](#)

### *Gifting an asset is normally a disposal for CGT purposes*

If you transfer an asset to another person at no charge, it is a gift. It is also a disposal for CGT purposes. As no consideration was paid, the disposal proceeds are deemed to be the market value on the date of the gift.

#### *Example*

Samuel gifts some shares (£30,000, bought for £18,000) to his daughter Freya, to help with a deposit for her first home. He does this as he is a higher rate taxpayer, and she is a basic rate taxpayer. He therefore believes that she will pay less tax than him when they're sold.

Unfortunately, the gift itself is a 'deemed disposal' for market value and therefore Samuel is taxed as if he has sold the shares (£12,000 less £3,000 exemption \* 24% = £2,160). His daughter is then only liable to gains from the date of the gift.

The exception to this rule is where a gift is made between spouses or civil partners. In this scenario the transaction is deemed to have occurred for no gain/no loss. The result of this is that the gain is 'carried over' to the receiving spouse/civil partner.

### *Gifts into trust provide an alternative to a direct gift to an individual*

As an alternative to a direct gift (as shown above) more and more advisers are considering trusts as a solution for clients with an existing or impending IHT problem. A trust allows one to make a gift but with some conditions or an element of control over who receives it and when. Trustees are named to manage the money (the trust fund) and beneficiaries named either specifically or by class (my children, my grandchildren).

In the same way as a direct gift, gifts into trust are considered a disposal for CGT purposes and where a gain exceeds the annual exempt amount tax is due. Where the gift is made to a flexible or discretionary trust it can also be immediately liable to IHT. These gifts are known as Chargeable Lifetime Transfers (CLTs). Where a CLT or combination of CLTs within a 7-year period exceed £325,000 (the IHT nil rate band) a 20% IHT charge applies to the excess. This is known as an entry charge.

For more information on IHT charges on discretionary trusts view our quick reference guides here - [Entry, Periodic and Exit Charges - Quick reference guides | Quilter](#). This combination of CGT disposal and entry charge could lead to a double tax charge on the gift.

### *Holdover relief can be a way to avoid paying CGT and paying an entry charge*

There is the ability to 'hold-over' gains on certain types of assets although this relief is generally there to enable transfers of business assets, unlisted shares and agricultural land. However, CGT hold-over relief is available on gifts which are also chargeable for Inheritance Tax. This therefore includes gifts into flexible trusts i.e. gifts that are CLTs.

This relief avoids a gift being both chargeable to IHT and CGT at the same time.

The relief, once claimed by the donor and recipient (trustees in this scenario), results in the gain in an asset being held over to the trustees, who should they dispose of it at a later date, realise the gain in full. Let's look at an example:

### *Example*

Samuel has a younger child, his son Niall, 12. Samuel wants to make a similar gift to that which he made to his daughter for her first home. He therefore gifts the same value of shares to his nominated trustees, his brother and sister-in-law. The trust is worded such that any of his children and grandchildren can benefit but requests within a letter of wishes to the trustees that his preference is for Niall to benefit in a similar way to Freya, although this is not binding on the trustees.

The gift of shares is a disposal for CGT purposes and also a CLT for IHT purposes. As the gift is below the nil rate band of £325,000 there is no 20% entry charge, but this doesn't stop Samuel claiming hold-over relief.

The result is that any gain on the shares is not realised at the time of the gift. Samuel therefore avoids any CGT on the gain (also leaving his annual exempt amount intact). The gain is instead held over to the trustees who would realise it, along with any further gain when disposed of.

A similar scenario occurs when the trustees decide to distribute the trust fund to a beneficiary. Instead of selling the shares and distributing the money, the trustees can instead transfer the shares to the beneficiary (assuming now 18+), again having the option to claim hold-over relief. If claimed, this places all the gain, both that made by Samuel and any made during the trustees ownership, onto the receiving beneficiary. In this example Niall. As Niall is likely to be a basic rate taxpayer when he receives the shares, this can reduce the amount of CGT payable when compared with the tax rate of Samuel and the trustees (who pay the higher rate).

### *Summary*

Following the changes announced in the budget, coming into effect in 2027, we are seeing a vast increase in enquiries about strategies to reduce the value of estates. This will in most cases include gifts during lifetime as one of the solutions. Where wealth has been accumulated through investing a large CGT bill can create a barrier to this strategy. Combining gifts with trusts can not only solve the IHT conundrum in a controlled and flexible way but it may also help remove the barrier of an immediate tax bill.

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Approver: Quilter May 2026

QIP 24110/206/16108