

# Explanation and mitigation of risks

## Information gathering

### 1. Have you considered the rules for excepted estates?

#### **Risk**

We receive many unnecessarily completed forms IHT400 where an IHT205 (C5 for Scotland) or an IHT205 or C5 with an IHT217 would suffice. We also receive many excepted estate forms when an IHT400 should have been completed. Completing the wrong form can cause considerable extra work for personal representatives, agents, bereaved relatives and HMRC and can also lead to unnecessary delays in finalising and dispersing estates.

#### **Mitigation**

Check the guidance to see whether the estate is within one of the three categories of excepted estates and within the limits of what qualifies as an excepted estate. See [Inheritance Tax Manual \(ITM\) ITM06011](#).

If appropriate complete an IHT205 or C5 attaching an IHT217 if necessary.

Consider whether a full form IHT400 needs to be submitted even if there is no Inheritance Tax to pay.

#### **Explanation**

New legislation was introduced in 2010 which expands the definition of excepted estates for deaths on or after 6 April 2010 and so increases the circumstances in which an IHT205 (C5 for Scotland) can be completed. It also introduced a new form IHT217 to claim a transfer of unused nil rate band in excepted estates.

For further guidance on the rules from 6 April 2010 see [ITM06024](#).

Whether an estate is an excepted estate is not solely dependent on whether the estate is tax paying or not.

For further information see [What qualifies as an 'excepted estate' for Inheritance Tax?](#)

This toolkit may also be helpful when completing the excepted estates forms IHT205 or C5 as many of the considerations, such as valuation, also apply to these.

### 2. Have you taken sufficient time to research and prepare form IHT400?

#### **Risk**

We recognise that personal representatives want to obtain probate quickly, and dealing with an estate can be complicated and time consuming. However, not allowing sufficient time to speak with the relevant people and gather all the necessary information can lead to errors and omissions and the use of unrealistic estimates when completing the return.

There is a risk that the tax payable date (six months from the end of the month in which the death occurred) is mistaken with the form IHT400 submission date (12 months from the end of the month in which the death occurred).

#### **Mitigation**

To enable you to gather all the necessary information and valuations and to submit as complete a form IHT400 as possible, use as much of the allowable time for submission of the form as necessary. If there is still a problem and, for example, you are unable to get exact values, you can enter a reasonable estimate of value. But you must tell us which figures are estimates. Tell

us how you have arrived at the values and why you had to use them, preferably on pages 15-16 in form IHT400, or in a covering letter or note. You should only use estimates on form IHT400 if you have no other option.

To mitigate interest charges, it is possible to make a payment on account if Inheritance Tax is due on the estate. However, this does not absolve you of the requirement to submit a form IHT400 on time.

To make a deposit or payment on account of Inheritance Tax you will require a reference number. You must apply for a reference number at least three weeks before the date you expect to make payment. Only apply for a reference if you are absolutely certain that Inheritance Tax is due.

If there are problems with the completion of the account, let us know. It may be that a special type of grant will solve the immediate problem, but you will need to talk to your Probate Registry initially about it.

### **Explanation**

We receive a lot of forms IHT400 that are not correctly or fully completed but have been submitted either to avoid interest charges or due to the pressure to obtain probate.

If you or your clients want to avoid penalties for late submission, the deadline for submitting a form IHT400 is 12 months from the end of the month in which the death of the deceased occurred. The date of submission of form IHT400 is often confused with the date interest starts to run (six months from the end of the month in which death occurred) on any unpaid Inheritance Tax. This results in large numbers of incomplete or incorrect forms being submitted within six months of the date of death.

Reference numbers can be **applied for online** on the HMRC website if the deceased had a National Insurance number. If they did not, then form **IHT422 Application for an Inheritance Tax reference** needs to be completed. This can be downloaded from the HMRC website.

For further guidance see **IHTM36021+**.

For further information see **When Inheritance Tax is due - payment deadlines**.

## **3. Have you obtained and reviewed the will and associated documents, and enclosed copies with form IHT400?**

### **Risk**

Failure to review and provide copies of the will and other essential information with form IHT400 is a common mistake and results in unnecessary delays. In particular there is often a failure to review and provide the details about beneficiaries when this affects the Inheritance Tax position of the estate. Enquiries may be raised if we do not receive copies of any wills, codicils, deeds of variation or other relevant documentation.

### **Mitigation**

Make sure you have thoroughly checked the essential documents, for example the will, including any foreign wills, any codicil(s), disclaimers, appointments, deed(s) of variation or deed(s) of family arrangement. In particular check if:

- All beneficiaries are still alive.
- The number of beneficiaries has been stated - the will may just state, for example, '£5,000 to each of my grandchildren'. In this example you would need to establish the number of grandchildren.
- The deceased bequeathed specific gifts as these may lead to 'grossing up' or 'interaction' - see Q22.

Ensure that you provide us with legible copies of the will, and any codicil(s) or other essential documents.

### **Explanation**

Time spent gathering information at the outset can reduce unnecessary contact with us. We often have to raise enquiries for information or documentation.

If a beneficiary to the estate has died before the deceased, we need to know as this may have an effect on the chargeable estate. For example, if the deceased's spouse died before them spouse relief will not be available.

## **4. Have you checked the deceased's paperwork relating to assets and liabilities including any overseas assets or assets held in trust?**

### **Risk**

The value of the deceased's estate may not be correctly returned and assessed if you have not checked all the available paperwork.

### **Mitigation**

Check the deceased's paperwork including, for example, recent tax returns and also check for any papers held in a safety deposit box.

Clear up any anomalies or discrepancies before completing form IHT400. If after exhausting all possibilities you are unable to resolve an issue you should include an explanation in the 'additional information' section on pages 15-16 of form IHT400 or in a covering letter, for example, if there is a safety deposit box where access cannot be obtained until after probate.

Take into account any asset in which the deceased had, or may have had, a beneficial interest at the date of death.

With foreign assets you will need to consider the position under local law, Double Taxation Relief or Double Taxation Conventions when preparing form IHT400.

### **Explanation**

HMRC has to reconcile any inconsistencies, omissions and anomalies in the estate. Tax returns will provide information about any of the deceased's assets that were chargeable to Income Tax. Safety deposit boxes often contain valuable information regarding assets, for example, share certificates and gilts. Insurance policies may also provide a list of other valuable assets not mentioned elsewhere.

Foreign assets are commonly overlooked resulting in the estate being undervalued. Ownership of overseas assets (in particular holiday homes, related household goods and bank accounts) has increased substantially over the last 20 years as people live and/or work abroad and travel more.

## 5. Have you consulted close family and past or present business and personal associates and have they understood the terminology you have used?

### **Risk**

Information relevant to the estate may be missed. Words and phrases that are commonly used by HMRC and agents may not be understood or may be misinterpreted by clients and others. Misunderstandings can arise and opportunities to gain information and clarification can be missed. In particular, gifts and assets may remain overlooked and undisclosed.

### **Mitigation**

It is important for you to obtain details from those who have knowledge of the deceased's affairs, especially family members and anyone with a power of attorney. Solicitors, accountants, financial advisers and business associates should also be approached.

It is easy to assume that your clients understand what details are required because they do not question a statement, or ask for clarification. Try to avoid ambiguity and misunderstanding by explaining the requirements and processes of Inheritance Tax and probate in terms and language that the personal representatives and other non-practitioners understand.

For further information, most terms are defined in the **Inheritance Tax: Glossary of Terms**.

### **Examples of commonly misunderstood phrases:**

'Joint property' - often interpreted as referring only to houses, land and buildings. The meaning is far wider and also includes things such as syndicates sharing race horses, jewellery, bank and building society accounts.

'Beneficial interest' - is often a phrase that lay people do not understand and do not appreciate that it can include assets which are held or registered in another person's name.

### **Explanation**

You and your clients may not easily be able to locate all the deceased's papers and documents which are often lost, forgotten or destroyed. Information, assets and details of gifts frequently come to light after form IHT400 has been submitted. We are aware that people keep details of their finances private or their personal and business information separate. This is why it is important to consult with anyone who may have knowledge of the deceased's affairs. More information about gifts can be found at [Q12](#).

## 6. Have you identified any disputes or court actions which may affect the estate?

### **Risk**

Court actions, family disputes or any type of challenge to the estate can make a significant difference to its value.

### **Mitigation**

If you are aware of a court action, claim, dispute, or potential dispute, let us know what the circumstances are, who is involved and, if possible, details of the timescale. It could be that there was a court action in existence before the death of the deceased. If you become aware of anything unusual which you suspect may impact on the value of the estate, keep us informed.

### **Explanation**

There are many reasons why disputes arise, they may include:

- a lack of clarity in the drafting of the will
- a perceived injustice
- the deceased was pursuing an outstanding debt

- a claim for damages
- a claim under the Inheritance (Provision for Family and Dependents) Act 1975

For further guidance see **IHTM35000+**.

In some of these situations family dynamics can be very complex and difficult with parties reluctant to reveal or release details. Any information we receive is treated in strictest confidence. Early notification of ongoing disputes or court action may mean we can take action to limit further delay. For example, we may ask the District Valuer to inspect informally any houses, land or buildings in order to obtain a valuation while waiting for the outcome of any dispute or court action.

## 7. Have you identified whether the deceased had a spouse or civil partner who died before them and if so, have you obtained their details?

### Risk

If full details of any pre-deceased spouse or civil partner have not been obtained the transferable nil rate band may be overlooked or not applied correctly.

### Mitigation

Thoroughly research the background of any pre-deceased spouse or civil partner. Is there the possibility that the deceased was widowed more than once? Avoid making assumptions about what happened to the pre-deceasing spouse or civil partner's estate and obtain the documentation. If you believe relief is due but you cannot establish all the facts after extensive research then tell us what efforts you have made and what you have discovered. Provide full details of the information you have obtained either in a covering letter or on pages 15 and 16 of form IHT400. Don't forget to include copies of any documentation you have together with the completed form IHT402 and we will consider the claim.

### Explanation

This relief has to be claimed (see **IHTM43006+**) using form **IHT402 Claim to transfer unused nil rate band**. The notes on pages one and four of form IHT402 will help you. There is a time limit for this claim which is 24 months, starting from the end of the month in which the deceased died.

Common points often overlooked:

- If Estate Duty, Capital Transfer Tax or Inheritance Tax was paid on the first death, you cannot claim this relief as the nil rate band will have been used.
- Ensure you are using the correct threshold to calculate the percentage of the transferable nil rate band available.

For further information see **Transferring an unused Inheritance Tax threshold - worked examples**.

For further information on nil rate bands (thresholds) see Inheritance Tax thresholds.

- If the deceased had more than one pre-deceased spouse or civil partner, you can only claim to a total of 100 per cent of the nil rate band. Complete a separate form IHT402 for each spouse or civil partner.
- Reading all the documentation of the pre-deceased spouse or civil partner very carefully is imperative, particularly the will. You can then identify all chargeable legacies, any indication of lifetime activity, or anything else, such as having the power of appointment over trust funds, which will reduce the unused nil rate band. Lifetime transfers and deeds of variation must not be overlooked.
- Where the pre-deceasing spouse or civil partner died intestate, make sure that you consider the destination of their estate under the intestacy rules as they stood at that time.

You will also need to consider the domicile of the pre-deceased spouse or civil partner as the rules vary dependent upon the country.

For further guidance see [IHTM12000](#).

Consideration will need to be given to the domicile of the pre-deceased spouse or civil partner as well as the deceased as at the date of the first death as this could affect the amount of the spouse or civil partner exemption.

For further guidance see [IHTM11033](#).

Check that the spouses were legally married or that the civil partnership was registered at the date of the first death.

For UK civil partnerships the first death must have occurred on or after 5 December 2005, the date the Civil Partnership Act (CPA) became law.

For further information see the [Office of Public Sector Information Manual 20040033 \(schedule 20 CPA 2004\)](#).

Prior to 22 March 1972 there was no spouse exemption and so the entire estate would be taxable even if it passed to the surviving spouse.

Between 22 March 1972 and 12 November 1974 the spouse exemption was limited to £15,000. This limitation applied to both absolute and life-interests.

On considering a grant issued when Estate Duty was applicable, you need to look at the details contained on the grant carefully. If the grant shows duty as being paid then there is no nil rate band available to transfer. Even if the amounts shown on the grant are under the threshold, the value of the assets subject to Estate Duty may be substantially more.

If Estate Duty is not shown as payable on the grant, you still need to consider whether there were any assets not passing under the grant which need to be included in your calculation.

If the pre-deceased spouse was a member of the armed forces and died prior to 12 March 1952, you need to check which of the two schemes for providing relief from Estate Duty applies.

For further information see [Transferring an unused Inheritance Tax threshold](#).

For further guidance on the transferable nil rate band see [IHTM43000+](#).

For further information on nil rate bands (thresholds) see [Inheritance Tax thresholds](#).

## 8. Have you established the domicile of the deceased and surviving spouse or civil partner?

### Risk

The term domicile is often misunderstood and is frequently confused with nationality or residence. Spouse/civil partner relief is limited if the deceased is domiciled in the UK but the spouse or civil partner is not.

### Mitigation

If there is any uncertainty about the deceased's domicile find out as much information as possible about the life of the deceased from birth to death. If it is claimed that the deceased was not domiciled in the UK complete form [IHT401 Domicile outside the United Kingdom](#) as fully as possible providing all supporting evidence you have collected. Explain how the estate is to be distributed if the deceased is non-UK domiciled and did not leave a will.

If there is any uncertainty about the domicile of the surviving spouse or civil partner, find out as much information as you can and provide supporting evidence as their domicile can also have an effect on the availability of reliefs.

For further guidance see [IHTM11031](#) and [IHTM11033](#).

### **Explanation**

The law of 'domicile' is of fundamental importance in the determination and application of Inheritance Tax and has a major impact on available relief or exemptions with the surviving spouse or civil partner particularly affected. Increased global mobility has meant establishing domicile status for Inheritance Tax purposes has become more difficult.

For further guidance see [IHTM13001](#) and [IHTM13021+](#).

The deceased may still be deemed UK domiciled for Inheritance Tax purposes even if they have a foreign domicile ruling from HMRC for Income and Capital Gains Tax purposes during their lifetime.

The Channel Islands and the Isle of Man are considered outside the United Kingdom (UK) for Inheritance Tax purposes.

If the deceased is UK domiciled then their worldwide assets are chargeable to Inheritance Tax.

Where the deceased was domiciled in the UK but their spouse or civil partner is not then the relief is limited to £55,000.

For further information on foreign aspects see [HMRC Inheritance Tax: Customer Guide](#).

## **Assets**

**9. Have all items referred to in the will (or in any other relevant document) been included in form IHT400?**

### **Risk**

Assets referred to in the will may be incorrectly omitted from form IHT400, for example, where the deceased no longer owned them at the time of death.

### **Mitigation**

Care should be taken to identify all the items referred to in the Will and ensure that they are referred to in form IHT400 even if the deceased no longer owned them at the date of death. Special attention should be paid to the following:

- If the asset is a shareholding and the company's name has changed tell us what the new name is.
- If the deceased no longer owned the asset(s) at the date of death what happened to the asset(s)? Tell us if the asset(s) were:
  - sold (tell us when, and say where the proceeds of sale are included on form IHT400)
  - gifted (if within seven years make sure the asset is included on form [IHT403 Gifts and other transfers of value](#))
  - lost or stolen - in which case we need full details of any insurance claim.

Where there are items referred to in the will that are not included in form IHT400 we suggest that you provide a full explanation of the missing items in a covering letter or on page 15.

## Explanation

All assets mentioned in the will or other relevant documents need to be accounted for. If there is any information which is not clear to us we will ask you for clarification.

For further guidance see [IHTM12081+](#).

## 10. Have you identified all assets that the deceased held jointly on their death?

### Risk

Assets held in joint names are not always included correctly on form IHT400, particularly joint property which passes by survivorship.

The identity of the co-owners may affect the valuation rules and what discount may be claimed.

Reliefs could be incorrectly applied if it is wrongly presumed for example that the asset passes to the spouse or civil partner.

### Mitigation

Ensure that you ascertain any joint property held and identify full details of joint owners, shares and survivorship provisions. To check whether the deceased owned any joint property see [IHTM15001+](#), you need to:

- check with associates of the deceased
- check any records the deceased had
- check any records you have
- identify all other joint owners and their relationship to the deceased
- find out who benefited from/received any income from any assets and who declared this for Income Tax purposes
- establish if there is anything to be deducted from the value of the asset and whether this is in the same proportions as the beneficial interest
- obtain details of the following:
  - the intention of the co-owners when purchasing/acquiring the asset
  - whether there was any agreement between the co-owners as to the beneficial ownership of the asset
  - what the enjoyment/use of the asset was and whether this changed before the deceased's death
  - how any outgoings (ie utilities/insurance) were divided between the co-owners

For example the deceased may have paid a larger portion of a mortgage. Any liability or deduction should be in the same proportions as the share owned by the deceased. So if the deceased owned a half share then a half share of the mortgage, or insurance costs, etc. should be deducted. Any extra money paid over and above the share held by the deceased may be further gifts to the other joint owner(s). Alternatively, the other joint owners may hold their share(s) as bare trustee(s) for the deceased and indeed vice versa.

If the joint asset was acquired through inheritance you should let us know the details: the full name of the previous deceased, date of death, relationship to the current deceased and the Inheritance Tax reference if known.

If the co-owner is a trust you will need to consult with the trustees.

## Explanation

We often find that joint assets are not included on form IHT400, especially those which pass by survivorship. It might be that your clients have already updated ownership of bank accounts or land, for example by production of the death certificate, and therefore, do not think that it is necessary to mention these assets for Inheritance Tax and probate purposes.

Sometimes it is not recognised that bank and building society accounts held jointly with the deceased to enable, for example, a child to assist with the payment of bills and day to day expenses remain part of the deceased's estate and should be reported in full. Checks also have to be made where the accounts are held in joint names to see whether the co-owner has merely been added on as a signatory rather than the account actually being held jointly.

If the deceased has transferred assets into joint names but continued to receive all the income then you need to consider if a gift with reservation is involved. However, you need to be aware that even if all the owners declared their share of the income for Income Tax purposes, and indeed paid that tax, it may still be classed as a gift with reservation. You will have to consider exactly how the asset was used during the lifetime of the deceased.

For further information see a **case example**.

For further guidance on gifts with reservations see **IHTM14301**.

The intentions of the joint owners are not always obvious. It is easy to jump to the wrong conclusion about the correct share enjoyed by the deceased. It could be that the deceased held the asset on trust for the other owner(s) and only had a life interest.

For further guidance see our introduction to form **IHT404** at **IHTM15021+**.

For further guidance on lifetime transfers see **IHTM15060**.

For further information see **How to value joint property or assets for Inheritance Tax**.

## 11. Have you identified any assets either:

- due to the deceased from someone else's estate which have not yet been received
- received by the deceased from someone else's estate in the last five years

## Risk

Assets that the deceased has inherited are easy to overlook if the other estate has not been fully administered.

Assets due to be inherited can be incorrectly valued.

Quick succession relief may be available and may be overlooked.

## Mitigation

You should complete form **IHT415 Interest in another estate** as fully as possible. Revalue any assets yet to be distributed as at the date of the deceased's death, taking account of any related property. For example, if the deceased owned a half share of a house and inherited the other half, you are required to value the entirety, no discount being allowed for shared ownership.

You should ensure that assets received are accounted for in the deceased's estate. If they are not, find out what has happened to them and, if they have been passed on, ensure they are declared as gifts on form **IHT403 Gifts and other transfers of value**.

## Explanation

The value of assets due to be received are often returned at the value from the previous estate instead of the value as at the date of the deceased's death. The value of assets can increase or decrease significantly between the date of inheritance and the date of the deceased's death.

For further guidance see [IHTM22001+](#).

The calculation of quick succession relief is not based on what the deceased actually received, but on the chargeable estate in which the inheritance arose. The calculations for quick succession relief do not take account of the costs of administration, although the costs incurred against the deceased's entitlement up to their date of death are allowed as a deduction against the assets still to be received.

For further guidance see [IHTM22041](#).

For further information see [How to value gifts for Inheritance Tax](#).

## Gifts and debts

### 12. When completing form IHT400 have you:

- identified all gifts or other transfers of value made within seven years of the date of death, including assets placed into joint names or into a trust
- established whether the deceased owned any assets during their lifetime with another person, trust or organisation but no longer owned them at the date of death
- checked whether the deceased has ever made any gifts where they reserved a benefit and the reservation did not end more than seven years before death
- ensured that Taper Relief has been applied correctly to any gifts

### Risk

- Ensure all gifts are identified and reported.
- Gifts or trusts with a reservation of benefit may be missed as it is often wrongly presumed that you only need to consider the gifts made in the seven years before death.
- Exemptions and reliefs may be incorrectly applied. Taper Relief is often misunderstood and is one of the most frequently misused reliefs.
- Trusts set up outside the UK (and this includes the Channel Islands and the Isle of Man in this context) are often not brought into account as they should.

### Mitigation

Ensure that associates of the deceased, particularly the family, are asked whether they have received anything from the deceased, including gifts for birthdays, Christmas or other religious festivals, and on marriage.

For further guidance on specific lifetime exemptions see [IHTM14131+](#).

Also check whether the deceased paid for anything on someone else's behalf, for example holidays, bills, or loaned them money which has been waived

An area where the gift element is often forgotten is where the deceased has sold an asset, usually to a family member, for less than the 'open market value', so the difference between the 'open market value' and the selling price should be disclosed as a gift.

It is strongly recommended that you check all bank and building society statements for the seven years prior to death to see what transactions have taken place which may be regarded as 'gifting'. We would suggest initially checking at least the previous three years statements; this

will provide you with a good indication of the gifting history of the deceased. If you find any withdrawals and transfers which seem unusual in their amount or regularity then you should consider a review of the bank statements for the full seven years.

Check the usage of any gift the deceased has made to see whether it will be a gift with reservation of benefit. If there is a gift with reservation of benefit it will need to be valued as at the date of death and the seven year rule does not apply. This is very common with the deceased's residence and other houses, land and buildings and also with bank and building society accounts.

For further guidance on gifts with reservations see [IHTM04071](#) and [IHTM14301](#).

When considering whether there is a potential reservation of benefit, consideration should also be given to the pre-owned asset legislation and checks should be carried out to see whether an election has been made.

For further information on pre-owned assets see [IHTM44000](#).

For further guidance see [IHTM04072](#) and [IHTM16121](#).

If the contribution to the acquisition of assets was unequal, you need to ensure that the deceased's share of the property at death is declared as the same percentage of the acquisition costs. For example, if a third of the purchase monies were provided by the deceased, a third of the property should still be held at the date of death. You will also need to check how the joint owners funded their shares of the purchase price. It is quite common, for example for parents to give their children money to fund the children's shares, and that money is often not declared as a gift.

For further guidance on lifetime transfers see [IHTM15060](#).

You need to consider any ancillary costs of the purchase of a joint asset, for example, fees and Stamp Duty. If they were not paid in the same shares then a gift will have been made.

If there are any trusts, you will need to know from the trustees what assets the deceased transferred into trust during their lifetime and check whether the deceased reserved a benefit.

When valuing lifetime transfers, the 'loss to the estate' and 'related property' principles should be taken into account.

For further guidance on loss to the estate see [IHTM04054](#).

For further guidance on related property see [IHTM09731](#).

When applying taper relief to a gift you need to ensure that you apply the relief against the Inheritance Tax payable rather than the value of the gift.

## **Explanation**

We are less likely to raise further queries if you have provided us with as much information as you are able to at the outset.

Taper Relief is only available as a reduction against the Inheritance Tax payable in respect of the gift and is dependent on the date of the transfer. Taper Relief is not a percentage relief on the capital value of the transfer or gift as so often claimed.

For further guidance on Taper Relief see [IHTM14611+](#).

Where the deceased had a beneficial interest in an asset at the date of death, this interest needs to be valued and has to be taken into account in the calculation of the total chargeable to Inheritance Tax. This would include for example, a beneficial interest in certain types of trust.

For further guidance see [IHTM16000+](#).

For further guidance on lifetime transfers: what is a potentially exempt transfer see [IHTM04057](#).

For further guidance on immediately chargeable transfers see [IHTM04067](#).

For further guidance on how lifetime transfers are brought into the charge for tax see [IHTM14531+](#).

For further information see [How to value gifts for Inheritance Tax](#).

### 13. Have you gathered evidence to substantiate claims for debts owed by the deceased?

#### **Risk**

The main areas of risk that we see are:

- inadequately evidenced loans from friends and relatives
- a deduction incorrectly claimed as spent on behalf of the deceased by friends and relatives
- uncashed cheques which are for the benefit of someone other than the deceased
- unreasonable funeral expenses
- other loans, overdrafts or mortgage/equity release schemes where it is not evident how the money has been used

For further guidance on mortgages and secured loans see [IHTM28210](#).

#### **Mitigation**

Investigate fully and give full explanations on the relevant forms or in a covering letter:

- The exact terms and conditions regarding any loan from friends and family.
- Details of what the deceased used the loan for.
- If assets were purchased with the loan confirm that they are reflected in form IHT400 including their value when purchased and their value now.
- Whether the person who made the loan had at some time received a gift from the deceased.

If a loan is not evidenced in writing you should check whether the recipient or any witness would be willing to make a sworn statement.

Also investigate and explain:

- About any cheques uncashed at the date of death that were payment for goods and services for the deceased. Let us know what they were for, making sure that the value of any asset purchased is included (cheques for gifts that have not been presented before death are not an allowable deduction).
- If the funeral costs are unusual, let us have a breakdown of costs and copies of receipts, telling us why you consider they are a reasonable cost.

For further guidance on uncashed cheques see [IHTM28300](#).

For further guidance on funeral costs see [IHTM10371+](#).

You should also ensure that all the debts:

- are legally enforceable and
- not statute-barred

Any claims must be supported with the appropriate evidence.

For further guidance on legally enforceable debts see [IHTM28383](#).

For further guidance on non statute-barred debts see [IHTM28384](#).

For further guidance on deductions from estate see [IHTM10361](#).

For further guidance on where to find instructions about specific debts see [IHTM10362](#).

For further information see [How to value the debts and liabilities of someone who has died](#).

## Pensions, life insurance and trusts

### 14. Have you checked that any pension scheme lump sum death benefits have been included on form IHT409?

#### **Risk**

Full details of all lump sum death benefits paid from the deceased's pension schemes should be reported on form IHT409 whether or not they are chargeable to Inheritance Tax. This is frequently overlooked.

#### **Mitigation**

Raise enquiries with each of the deceased's pension scheme providers to establish whether a lump sum death benefit was paid, the amount that was paid and the beneficiary of any payment. The pension scheme provider should be able to advise whether the payment was made at their discretion or you may need to check the scheme rules to see if any such payment is discretionary. You should let us have copies of any such evidence obtained.

#### **Explanation**

Some lump sum death benefit payments are chargeable to Inheritance Tax whether or not the payment is made to the estate. A payment that is made to the estate or the personal representatives as of right is chargeable. Similarly, if the deceased pension scheme member had a general power to direct such a payment to specified beneficiaries with a binding nomination, it is within the estate and chargeable. Where a payment is made at the discretion of the pension scheme trustees or providers, it is not within the estate and therefore not chargeable to Inheritance Tax. If you do not complete all the boxes on the form or fail to send in the relevant supporting evidence we may need to raise enquiries.

For further guidance see [IHTM17000+](#)

### 15. Have you checked whether there have been any transfers, disposals, contributions or other changes to the deceased's pension arrangements in the two years before death?

#### **Risk**

Where the deceased has not taken their full pension entitlement before they have died, the unused funds may be paid as a lump sum death benefit that is not chargeable to inheritance tax. In these cases a change to their pension rights or benefits or additional contributions made in the deceased's lifetime may have resulted in a loss to their estate which is a lifetime transfer of value. In particular, there may be a loss to the estate if the pension scheme member is in ill-health at the time of the change. Changes to pension arrangements made within the 2 years prior to death should be reported on the form but these are easy to miss.

#### **Mitigation**

Raise enquiries with the pension company and any financial advisers as to whether there have been any changes to the pension rights or benefits or additional contributions made in the two years immediately before death.

#### **Explanation**

The deceased may have transferred their pension from one scheme to another. The benefits under both schemes may have been held on discretionary trusts. When transferring from one scheme to the other the deceased would have had a choice of what to do with the death

benefits which could have triggered a transfer of value, particularly if the deceased was in ill health. Other changes or contributions made in the two years before death may similarly result in a transfer of value.

For further guidance see **HTM17000+**.

## 16. Have you checked that the correct valuation of any life policy is included in the estate?

### **Risk**

Often the surrender or date of notification values for policies rather than the required date of death open market value are provided in form IHT400.

### **Mitigation**

Ensure that the value requested from the life insurance company is the open market value at the date of death.

For further guidance see **HTM20000+**.

## 17. Have you checked the terms and ownership of any joint life policies?

### **Risk**

Policies are at risk of being omitted or excluded from the estate when they are held jointly. There is also a risk that the wrong share of a policy may be included on form IHT400 and that the type of policy is not correctly identified.

### **Mitigation**

Read any policies and make sure you have asked the life insurance company for full details as to beneficial ownership of a policy as well as legal ownership. Ensure that the insurance company confirms who paid the premiums on any joint policy, for example, was it solely the deceased?

### **Explanation**

The policy may be incorrectly thought to be jointly owned just because it is in joint names. It could be that the policy is in the deceased's sole beneficial ownership.

## 18. Have you identified the deceased's interests in a trust set up by someone else?

### **Risk**

There may be trust events which need to be taken into account such as the trustees releasing funds which were previously held for the deceased's benefit. This could be a transfer of value which is often overlooked.

Any trust interests will also need to be taken into account when arriving at the Inheritance Tax estate and the apportionment of the nil rate band.

The changes made to the taxation of trusts following the Finance Act (FA) 2006 may need to be taken into account.

### **Mitigation**

Ensure that you are aware of all the deceased's interest in any trusts, and have checked what the Inheritance Tax position of the trust is, for example, is it a pre or post FA 2006 interest in possession trust? Check whether any of the trust interests have been terminated, either partially

or fully, in the seven years leading up to death. The trustees should be able to tell you if there have been any alterations to the trust which may be classed as transfers of value.

Obtain full information about the deceased's interest in the trust so that you are able to calculate the Inheritance Tax position of the estate. You will need to consider whether the trust was established before or after the FA 2006 as this will effect how you should deal with the deceased's interest for Inheritance Tax. It may be that the total Inheritance Tax liability needs to be apportioned between the estate and the trust interests.

### **Explanation**

Events which happen to a trust under which the deceased can benefit can mean that the deceased is treated as making a transfer of value for Inheritance Tax purposes. These transfers of value need to be taken into account when completing form **IHT403 Gifts and other transfers of value** to ensure that form IHT400 is completed correctly. You should obtain the details from the trustees so that you can include any details of a release on form **IHT403 Gifts and other transfers of value**, and the trust details on form **IHT418 Assets held in trust**. The release of a trust interest may have an effect on the total of chargeable lifetime gifts and the calculation of Inheritance Tax. However, it is the responsibility of the trustees to complete and return a form **IHT100 File and save - Inheritance Tax account** for the trust.

For further guidance on settled property see **IHTM16030**.

For further guidance on foreign property in a trust see **IHTM16161+**.

For more information see **Inheritance Tax and trusts following a death**.

## **Valuations**

**19. Have you obtained the open market valuation at the relevant date(s) (for example the date of death or date of gift) for each asset?**

### **Risk**

Valuation is an area of high risk for HMRC. This is particularly so where the valuation is not referred to a qualified, independent valuer. However, it is not sufficient to simply refer a valuation to a valuer. In the absence of proper instructions the valuer will not understand the context nor have all the necessary details on which to make a proper valuation. Areas that are frequently overlooked include:

- For land and buildings - the potential for the development of the land (in particular large gardens) and buildings (in particular dividing buildings into flats), the existence of tenancies or occupancy by people other than the deceased.
- For farms - the need for separate valuations and details for the farmhouse, any other dwellings, any farm/outbuildings and their usage, the land and any amenity land and their rights such as fishing, shooting, mineral.
- For overseas assets - ensuring that valuation for Inheritance Tax purposes are clearly understood by the overseas valuer as often valuations under overseas law are not on the same basis as UK law.
- Where there is a 'related property' ensure that this has been taken into account in the valuation following a lifetime event or death.
- For gifts you need to consider the 'loss to the estate' principle.

For further guidance on Foreign Property see **IHTM27000**.

## Mitigation

In limited circumstances you can provide self valuations for assets. For example, ordinary household goods where individual items have a value of no more than £500, and the use of publicly available data to obtain a valuation for second hand cars. Where you have provided a self valuation, explain how you have arrived at that value and why, if appropriate, a low or 'nil' valuation has been returned. Where there are antiques or collections and you are not obtaining a professional valuation provide us with a full description of the items and details of any sales proposed.

In all other circumstances and for all other assets you are strongly advised to obtain a professional valuation and ensure that the valuers are instructed properly. In some cases you may feel that it is appropriate to obtain more than one valuation.

When obtaining a valuation:

- engage a qualified, independent valuer
- explain the context and draw attention to the definition in **S160 Inheritance Tax Act (ITA) 1984** (market value)
- provide all the relevant details concerning the asset, in particular ensuring the valuer is aware of the need to take into account any points mentioned in the bullet points under 'Risk' above
- ensure that copies of relevant agreements, or full details where only an oral agreement exists, are provided so misunderstandings do not arise

To help us verify overseas valuations you should also let us have the full address of any property together with a full description including number and size of rooms plus any facilities, for example, swimming pools. Copies of the overseas valuations should be sent to us together with any translations. To assist with the valuation process involving overseas properties, in the majority of cases photos will be required which show the general condition both internally and externally. Providing photos at the outset will reduce the likelihood of us raising further enquiries when considering the valuation.

For farms, always provide a plan and photos of the farmhouse, buildings and land. We will also need to see a copy of the professional valuation reports that you have obtained.

For further guidance on agricultural value see **IHTM24150**.

There are special rules about valuing jointly owned assets where the other joint owner is the surviving spouse or civil partner (much more rarely a charity or one of the political, national or public bodies to which exempt transfers may be made) or a trust in which the deceased has a life interest.

For further guidance see **IHTM09731+**.

## Explanation

Where self valuations are made we see wide margins of error. Lengthy correspondence may be avoided if we are satisfied that all the relevant factors have been taken into consideration. Valuations received are often inaccurate and the full valuation requirements of the ITA1984 are not considered. We frequently receive incorrect valuations based on insurance values, replacement values or book values. The general rule for Inheritance Tax purposes is that the value of any asset is the price it might reasonably be expected to fetch if sold in the open market at the time of death or transfer.

When looking at the value of gifts you need to consider the 'loss to the estate' principle. This means that you look at the value of the estate before and after the gift was made. The difference between those two figures is the loss to the estate and is the figure that needs to be included on form IHT400.

For further information see our guides [How to value the estate of someone who has died](#) and [How to value joint property or assets](#)

For further guidance on the concept of market value see the [Valuation Office Manual](#).

20. Have you obtained the valuation of any trust assets from the trustees and ensured that you have details of any apportioned or accrued income yet to be paid?

### **Risk**

If correct valuations have not been obtained from the trustees it is impossible to calculate the correct Inheritance Tax liability in the estate.

### **Mitigation**

Ensure the trustees give you sufficient information to enable you to complete form [IHT418 Assets held in trust](#). Establish if there is any income, accrued or apportioned, due to the deceased which had not been paid prior to death. Establish if there had been any releases of the deceased's life interest. These will have to be shown as 'gifts' on form [IHT403 Gifts and other transfers of value](#). Ensure that these are valued at the appropriate date.

For further guidance on accrued income see [IHTM16171](#).

For further guidance on apportioned income see [IHTM16172](#).

### **Explanation**

The valuation of certain trust interests will need to be included in the Inheritance Tax calculation of the estate. The nil rate band also needs to be apportioned correctly between the various interests.

For further guidance on foreign property in a trust see [IHTM16161+](#).

## **General**

21. Have you checked form IHT400 and accompanying schedules for completeness and accuracy?

### **Risk**

Omissions and mistakes may result in delays in processing form IHT400 and returning the stamped form [IHT421 Probate Summary \(C1 Confirmation](#) for Scotland) to you or unnecessary compliance checks being raised by us.

### **Mitigation**

Make sure you have:

- obtained and verified all the deceased's details that are requested on pages 1 and 2 of form IHT400
- ensured that all the relevant boxes are fully and legibly completed on the correct form
- answered all the questions and included all the required schedules
- provided complete and legible copies of all other relevant documents
- checked that the personal representatives have read the completed form and all accompanying schedules and signed form IHT400

Form [IHT421 Probate Summary \(C1 Confirmation](#) for Scotland) must be signed by the person or firm calculating the Inheritance Tax and sent with form IHT400.

## Explanation

Even though the ultimate responsibility for accuracy rests with the personal representative(s) we recommend that you complete a final check before submitting form IHT400. Completing the forms and calculating exemptions and reliefs can be difficult. We receive a large number of incorrect and incomplete forms IHT400 and schedules, forms we cannot read, and forms in which rudimentary errors occur. These avoidable mistakes all lead to extra expense and delays for you and your client.

All forms IHT400 must now be sent to our office in Nottingham including those from Scotland. (Confirmation may be delayed if you do not send form IHT400 and C1 to Nottingham.)

Go to **Find the right Inheritance Tax and probate forms**.

For more guidance on the IHT400 - Declaration (pages 12 and 13) see **IHTM10043**.

Form IHT400 should now be used in all cases where a full Inheritance Tax account is required.

## 22. Have you checked the calculation for the Inheritance Tax to ensure it is accurate?

### Risk

- Exemptions and reliefs, in particular transferable nil rate band, is claimed when it is not available or the wrong amount is claimed.
- The wrong threshold is applied in the calculation.

### Mitigation

Use the **IHT400 calculation** worksheet to work out the Inheritance Tax. This covers the common aspects, but not all of the more unusual ones.

Use the links and interest calculator on the HMRC website to recheck your calculation. Some of the most common errors occur as follows:

- the calculation for the transferable nil rate band - see **IHTM43000+** and **Transferring an unused Inheritance Tax threshold**
- using the incorrect threshold or 'nil rate band' - see **Inheritance Tax thresholds**
- when 'interaction' needs to be calculated - see **IHTM26101+**
- when 'grossing up' needs to be calculated - see **IHTM26122+** and **Grossing up calculator**
- joint assets passing by will or intestacy are included in the estate for 'interaction' and 'grossing' calculations, but assets held as beneficial joint tenants are not, (but remember to take account of them in calculating the overall Inheritance Tax)
- how to apply the reduced rate of Inheritance Tax where the deceased leaves at least 10% of their net estate to charity (applies for deaths on or after 6 April 2012) - see **IHTM45000**
- the calculation for Quick Succession Relief (QSR) - see **IHTM22051**
- incorrect claim to Double Taxation Relief - see **IHTM27181**
- when interest is due on the Inheritance Tax you are paying - see **IHTM30341+** and **IHTM30352**

## 23. Have you made the payment of the Inheritance Tax that is due?

### Risk

If the Inheritance Tax and any interest due is not paid to the Accounts Office at Cumbernauld it will delay the authorisation of form **IHT421 Probate Summary (C1 Confirmation** in Scotland).

If payment is sent in with form IHT400 this can also delay the process for obtaining probate as the payment has to be processed by HMRC Accounts Office and cheques have to be passed on to them to be banked before form **IHT421 Probate Summary** can be authorised.

### **Mitigation**

Paying electronically is the quickest and easiest way. If payment is being made by cheque it is very important that the Inheritance Tax reference number (see [Q2](#)) is written on the reverse and the cheque is accompanied by a payslip. **All payments should be sent to the Accounts Office at Cumbernauld.**

For more information on how to pay see our guide **How to pay Inheritance Tax.**

Inheritance Tax form IHT 400 and associated schedules are available at **find a form.**