

# Inheritance Tax – Why You Must Document Lifetime Transfers

Recent Budgets have declared a “clampdown on tax dodgers” with an emphasis on penalties, etc. **Julie Butler** reveals how this focus highlights the need to document lifetime transfers.

HMRC guidance introduced in 2007 applied until 31 March 2008 and set a benchmark for quality documentation for lifetime transfers and loans of “the living” in order to make the handling of the eventual and distant probate more straightforward. HMRC will scrutinise all areas of lifetime transfers.

HMRC’s theme of checking for the documentation of all estates above and below the Inheritance Tax (IHT) nil rate band is similar to the approach to record keeping of the self-employed. There was further indication of this need to document with both the transfer of the unused nil rate band and jointly owned property.

## Lifetime Transfers

HMRC’s August 2007 IHT and Trusts Newsletter stated:

“From now until 31 March 2008, when looking at forms IHT200 received on a death, we will be paying particularly close attention to lifetime transfers. Not only will we be looking at estates where a form D3 has been completed giving details of gifts or other transfers of value but we will be reviewing other aspects of estates which we know can give rise to a lifetime transfers.

These may include:

- Joint assets – gifts can arise on a transfer into joint names or where a joint owner receives the benefit of withdrawals from accounts funded wholly by the deceased;
- Loans – gifts can arise on the forgiveness of a debt or part of a debt;
- Movement of funds between multiple bank accounts – this can lead to gifts being overlooked (see below);
- Inheritance – gifts can arise if there have been redistributions of property inherited by the deceased;

- Business or partnership - transfers from a business or partnership will not necessarily qualify for business relief;

- Rights under a pension scheme – a gift may arise if acts or omissions by a member of a pension scheme have the effect of increasing the value of benefits passing outside the member’s estate at the expense of his own estate.”

## The Importance of Keeping Records

The HMRC website says “it will help your executor or personal representative to sort out your financial affairs when you die if you keep a record of any gifts you make and note on that record which exemption you’ve used.”

Self-employed taxpayers realise that they have to keep business records. So too must the taxpayer whether the estate falls below the nil rate band or above. Clearly, incorrectly recorded transfers could place the estate above the nil rate band, hence a need for review, and now there are games to be played with two nil rate bands.

## Loans

As mentioned above in the context of lifetime transfers, making or receiving a commercial or family loan can have implications with regard to Wills and IHT. Not all loans can be deducted from a person’s estate.

## Practical Tip



It is common for an individual to either loan money or to receive money as a loan and there are complicated rules in notifying HMRC that judge whether that the loan is allowable as a deduction against the value of the estate or not. In family situations where a loan is made or received it is often done on an informal basis with little or no documentation.

A meeting with the family’s tax adviser and lawyer beckons. The answer is, don’t just lend it or gift it, document it! The same applies to jointly owned assets and lifetime transfers – is the documentation robust enough?