

Gifts out of surplus income: the record

Keep it as you give. Your executors use it after your death, on HMRC form IHT403.

General information, not tax or legal advice. Whether a gift is exempt is decided after the death. HMRC decides it, or a tribunal on appeal, on all the evidence.

This record mirrors HMRC form IHT403, edition 06/26. The tax and the form are the same in England, Wales, Scotland and Northern Ireland. Every rule was read from its source on **10 October 2026**.

Take advice from a tax adviser or solicitor for large sums, gifts into a trust, or gifts made by an attorney. The same goes for saved-up income, a business or farm, or care fees.

The three tests

Section 21 of the Inheritance Tax Act 1984 exempts a gift only **"to the extent that it is shown"**. All three tests must be met:

1. Part of your normal spending

The Act: "that it was made as part of the normal expenditure of the transferor"

2. Made out of income, taking one year with another

The Act: "that (taking one year with another) it was made out of his income"

3. Enough income left to live as you usually do

The Act: "that, after allowing for all transfers of value forming part of his normal expenditure, the transferor was left with sufficient income to maintain his usual standard of living"

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What to do

How to use this record

- ☐ **Before the first gift, fill in the intention record.** Date it and sign it. Keep it with this record.
- ☐ **Log each gift on the day it clears.** A cheque counts when it clears, not when it is written.
- ☐ **Mark the one exemption each gift relies on.** Gifts out of income are s.21.
- ☐ **After each 5 April, fill in that tax year's column** of income and spending. Income is after tax.
- ☐ **Check the yearly line.** A tax year's gifts out of income over £3,000 go on IHT403.
- ☐ **Keep the evidence; do not send it.** Tell your executors where this record is.

A gift that meets the three tests is exempt from the day it is made. No seven-year clock runs on it. The Act sets no money limit.

The yearly line. IHT403 does not ask about a tax year's gifts of £3,000 or less. Over it, the whole year counts toward the gift limit below.

That limit is **£250,000**. Passing it can mean a full IHT400, even with no tax due (Excepted Estates Regulations 2004, reg 4(7A)).

What to do

Your intention record

A dated note of your decision to give, in your own words, made at the time. It is evidence of a plan. It does not make a gift exempt, and it is not enough on its own.

The date you made the decision

A decision must come before the gifts it explains

Who will receive gifts, and their relationship to you

HMRC weighs who received gifts and why

How much, or how the amount is worked out

A fixed sum or a formula, such as a share of the year's surplus

How often, and when the first payment is due

A pattern needs predictability or recurrence

Which income will pay for them

Pension, rents, dividends: income, not capital

Your usual yearly income after tax, and your usual yearly spending

The third test: enough left to live as usual

How long you mean to keep giving

A deathbed decision to give "for life" will not do

Who you told, and when

In Hosking there was no record of who was told

Your signature and the date

A dated record made at the time

Nothing here is a form of words HMRC has approved. Sources: IHTM14244; IHTM14251; Hosking v HMRC [2026] UKFTT 406 (TC).

What to do

The gift log

IHT403 box 7 in the form's order. Exemption: s.21 out of income, s.19 annual, s.20 small, s.22 wedding, s.18 spouse, s.23 charity, s.11 family, or none.

Date it cleared	To whom, and relationship	What, and how paid	Exemption	Amount (£)	Stream	Paid from tax year

The gift log, continued

[illegible]

What to do

More about a gift

For a gift that needs more: a larger gift split into a normal part and an excess, a gift made by an attorney, or one whose evidence is kept elsewhere.

Gift (date)	Normal part (£)	Excess (£)	Made by, and under what power	Evidence kept where

Only the normal part can be exempt (IHTM14243). An attorney's power to give differs by nation: see the reference pages.

What to do

Income and spending

IHT403 page 8, in its own lines. One column a tax year. The form has eight; here are four, then four more.

Tax year (6 April to 5 April)				
Box 20 · Income				
Salary				
Pensions				
Interest (including PEPs and ISAs)				
Investments				
Rents				
Annuities (income element)				
Other				
Minus Income Tax paid				
Net income				
Box 21 · Expenditure				
Mortgages				
Insurance				
Household bills				
Council Tax				
Travelling costs				
Entertainment				
Holidays				
Nursing home fees				
Other				
Total expenditure				
Box 22				
Surplus (deficit) income for the year				
Gifts made				
Over the yearly line? (Yes / No)				

What to do

Income and spending, continued

Tax years five to eight. Seven years before a death can touch eight tax years.

Tax year (6 April to 5 April)				
Box 20 · Income				
Salary				
Pensions				
Interest (including PEPs and ISAs)				
Investments				
Rents				
Annuities (income element)				
Other				
Minus Income Tax paid				
Net income				
Box 21 · Expenditure				
Mortgages				
Insurance				
Household bills				
Council Tax				
Travelling costs				
Entertainment				
Holidays				
Nursing home fees				
Other				
Total expenditure				
Box 22				
Surplus (deficit) income for the year				
Gifts made				
Over the yearly line? (Yes / No)				

What to do

The seven-year clock

Only for gifts that are not exempt. A gift out of income that meets the tests has no clock. Never work out taper relief yourself: HMRC does.

Date it cleared	To whom	Amount (£)	Three years on	Seven years on

Taper relief, if tax is due on a gift

Years between gift and death	Section 7(4)	Effective rate
Less than 3 years	Full rate	40%
3 to 4 years	80% of the full rate	32%
4 to 5 years	60% of the full rate	24%
5 to 6 years	40% of the full rate	16%
6 to 7 years	20% of the full rate	8%
7 years or more	A gift to a person becomes exempt	None

Taper cuts the tax, not the gift, and only above the nil-rate band of **£325,000** after adding gifts together (IHTM14611). A death on an exact anniversary: ask an adviser (IHTM14613). Gifts into most trusts can matter for 14 years (box 18).

What to do

What to keep ready

HMRC does not want this sent with the form. It may ask the executors for it afterwards.

- ☐ Bank statements showing each gift leaving your account
- ☐ Pension statements, P60s and other proof of income for each tax year
- ☐ Tax returns or tax calculations, so income can be shown net of tax
- ☐ Dividend and interest statements, and rent statements
- ☐ Bills and statements behind your usual spending: council tax, insurance, household bills, care fees
- ☐ The dated record of your decision to give, and who you told
- ☐ Life policy documents and every premium paid, and the papers for any annuity bought (IHT400 notes ask for them)
- ☐ Any covenant or standing order that sets up a regular gift

For the executors

- ☐ **Find the gifts.** Go through bank statements, talk to the family and read the papers (GOV.UK).
- ☐ **Check the excepted-estate test.** Over **£250,000** given away in seven years means full details. Years over £3,000 count in full.
- ☐ **Fill in IHT403.** Box 6 Yes, the gifts at box 7, and boxes 20 to 22 for each year.
- ☐ **Use box numbers.** HMRC's 2022 IHT400 notes still name old IHT403 page numbers.
- ☐ **Keep the evidence ready.** HMRC can ask for executors' records up to 20 years after tax is paid.
- ☐ **If a gift fails, the person who received it pays first.** Executors are liable only after 12 months, from estate assets.

Sources: IHT403 (06/26); IHT400 notes (2022); GOV.UK; SI 2011/214; IHTA 1984 ss.199, 204. Box by box: valoren.uk/forms/ih403

Reference

What HMRC looks for

Most of what decides a claim is HMRC's practice, set out in its Inheritance Tax Manual. It can change without a new law. Each point says whose rule it is.

A pattern, or a decision you kept to

Case law

The High Court in *Bennett v IRC* held that "normal expenditure" means spending that fitted **the settled pattern** you had adopted. HMRC's manual adopts it. A pattern can show in two ways: payments repeated over time, or a commitment or firm resolution about future spending that you then kept to. HMRC says the commitment "may be legal, religious or moral".

If a prior decision can be shown, a single payment carrying it out may be enough. A deathbed decision to give "for life" will not be (*Bennett*, as quoted in *Hosking*, 2026).

Source: IHTM14244; *Hosking v HMRC* [2026] UKFTT 406 (TC)

How long a pattern? There is no set period

HMRC practice

HMRC's manual says there is **no set time span** over which the pattern must be shown. It says a reasonable span "would normally be **three to four years**", and that a longer period can be looked at. That is HMRC's working norm, not a rule in the Act.

A single gift can count as the first of a series, such as the first payment under a deed of covenant, but HMRC wants **strong evidence** it was meant to be the first. That is harder for a single gift made close to death.

Source: IHTM14242

Regular does not have to mean monthly, or the same amount

HMRC practice

HMRC says normal "does not necessarily mean regular or annual". Gifts must be **comparable in size**, but small differences are not queried.

Amounts can vary with a source that varies, such as yearly dividends or a grandchild's school fees.

GOV.UK's short summary speaks of paying "from your regular monthly income". The Act says "taking one year with another", and HMRC's manual does not require monthly payments. This record follows the Act and the manual.

Source: IHTM14243; GOV.UK: Inheritance Tax gifts; IHTA 1984 s.21

Part of one gift can be normal, and the rest not

HMRC practice

HMRC's manual says an unusually large gift may include an amount that would be normal. **The normal part is exempt; the part above it does not qualify** for this exemption. The Act's own words are "if, or to the extent that".

So the record splits a gift into a normal part and an excess. The excess is treated like any other gift.

Source: IHTM14243; IHTA 1984 s.21

Income means net income, year by year

HMRC practice

The Act does not define income. HMRC works it out **for each year under normal accounting rules**: it is the net income after income tax, and not always the same as income for income tax. Salary, pensions, rents, interest and dividends are the usual sources.

If a gift is paid from a current account, HMRC's manual says it only checks that the gift **could** have come from income. It does not trace particular money.

Source: IHTM14250

Saved-up income: HMRC's two-year view

HMRC practice

HMRC starts with the income of the year the gift was made. Where there is no evidence the other way, **it treats income as becoming capital after two years**. Its manual tells officers to deny a claim that a gift came from several years of saved income, though it calls this contentious.

In McDowall, about three years of saved income was accepted as income. HMRC says that case does not mean unspent income stays income for ever, and that a bare statement of an intention to save up for a gift should not be accepted without supporting evidence.

Source: IHTM14250; IHTM14251

What HMRC does not count as income

HMRC practice

Payments from insurance policies, including **regular withdrawals from an investment bond**, are usually capital, even if they are regular and taxed as income. Payments from a lifetime care plan are a return of capital. **The capital part of a purchased life annuity** is not income under the Act itself.

A life-policy premium is not normal spending if an annuity was bought on your life, unless the two were not "associated operations" (s.21(2)). The record has a line to note any annuity beside a premium.

Source: IHTM14250; IHTA 1984 s.21; IHTM14235

Your usual standard of living, tax year by tax year

HMRC practice

Gifts out of income do not qualify if you **had to use capital to meet normal living costs**. HMRC looks at income and spending for each tax year to 5 April. Gifts that are not normal spending are left out of the test. You need not have spent the income on living costs: it is enough that it covered both.

A later, unforeseen fall in income, such as nursing home fees, may not lose the exemption for a commitment made while there was a surplus. A commitment made when the fall could be foreseen would not qualify. If the income left is not enough, part of the gifts may still qualify.

Source: IHTM14255

Gifts of capital, and gifts you keep a benefit from

HMRC practice

Gifts from capital, or gifts of capital assets such as shares or a house, fall outside this exemption, unless an asset was bought from income for the purpose of the gift. And meeting these tests does not stop a gift being taxed under the gift-with-reservation rules, where you keep using or benefiting from what you gave.

Gifts with reservation, pre-owned assets and gifts into most trusts are outside this free record. Take advice on them.

Source: IHTM14231; IHTM14243

Which exemption is used first

HMRC practice

HMRC applies the gifts-out-of-income exemption **first**, on the facts alone. It applies the yearly annual exemption **last**, after every other exemption. So the annual exemption is not used up on a gift that this exemption already covers.

GOV.UK says gifts out of income can be combined with any other allowance except the small-gift allowance.

Source: IHTM14132; GOV.UK: Inheritance Tax gifts

The date of a gift is the day it clears

HMRC practice

HMRC's manual says **a gift by cheque is not complete until the cheque clears**. The date the cheque was written does not matter. So the record asks for the date the money left your account.

The tax year a gift falls in, and the seven-year clock for gifts that are not exempt, both run from that date.

Source: IHTM14882

A loan is not a gift

Law

Where value passes through **a loan of money**, the Act changes the test: s.29(4) replaces the first two conditions with the condition that the loan was a normal one for you. The standard-of-living test still applies. HMRC refers such cases to its specialists.

The record marks a loan as a loan, so it is never listed as a gift out of income.

Source: IHTA 1984 s.29; IHTM14236

Reference

HMRC's own examples, tested on this record

These are the HMRC worked examples on this exemption we found, and the 2026 tribunal decision. On 10 October 2026 each was entered into this record's spreadsheet: every gift landed where the source puts it. HMRC publishes no income-and-spending example that we found.

Peter: what is a pattern, and what is not

What the source says. In the four years before his death, Peter gave each of his three children £1,000 on their birthdays and £500 at Christmas, and paid £100 a month into a life policy written in trust for his wife. He also gave his eldest child £20,000 to pay off debts, and gave his sister 5,000 shares. HMRC treats the birthday and Christmas gifts and the premiums as patterns, so exempt. The £20,000 is a one-off outside any pattern. The shares are a capital asset and not part of a pattern.

How the record handles it. The birthday gifts, the Christmas gifts and the premiums go in as three streams, each marked as a gift out of income. The £20,000 is marked "none claimed", so it goes on the seven-year clock. The shares are marked as shares: if anyone marks them as a gift out of income, the record flags it, because capital assets fall outside. Our arithmetic: the children's gifts come to £4,500 a year ($3 \times £1,000 + 3 \times £500$), so £18,000 over the four years. A year's total over the yearly line means the gifts go on IHT403, and count in full toward the excepted-estate line. HMRC gives no value for the shares; the record leaves the amount blank rather than invent one.

Source: IHTM14242

David, Joan and Robert: the yearly line

What the source says. HMRC's manual says that since 1 March 2011, gifts out of income over £3,000 in a tax year are treated as chargeable when deciding whether an estate is an excepted estate. David gave £4,000 a year for seven years: £28,000 counts. Joan's years of £3,000 are ignored, but four years of £6,000 count in full: £24,000. Robert gave £5,000 a year for seven years: £35,000 counts.

How the record handles it. The record totals gifts out of income for each tax year and marks every year over the line. It counts the whole year, not just the part above the line, which is what HMRC's examples do.

Who	Gifts out of income	HMRC counts	Our check
David	£4,000 a year, 7 years	£28,000	$7 \times £4,000 = £28,000$
Joan	£3,000 a year, then £6,000 a year for 4 years	£24,000 (the £3,000 years ignored)	$4 \times £6,000 = £24,000$
Robert	£5,000 a year, 7 years	£35,000	$7 \times £5,000 = £35,000$

Our arithmetic matches HMRC's: $7 \times £4,000 = £28,000$; $4 \times £6,000 = £24,000$ (not £12,000); $7 \times £5,000 = £35,000$. HMRC's examples use the limits of 2011. The rule itself is regulation 4(7A) of the Excepted Estates Regulations 2004, kept in force in 2022. Today's limit for gifts in the seven years is £250,000 (SI 2021/1167).

Source: IHTM06027; SI 2011/214 (reg 4(7A)); IHT400 notes (2022)

McDowall: saved-up income, and gifts by an attorney

What the source says. An attorney made five payments of £12,000, one to each of the person's five children, from a current account. The money had built up in a deposit account over about three years. The Special Commissioners accepted that, had the gifts been valid, they were made out of income. But the gifts were held void because the attorney had no power to make them, so they never left the estate.

How the record handles it. The record asks who made each gift, and under what power. It asks which tax year's income paid it, so saved-up income shows as saved-up.

Our arithmetic: $5 \times £12,000 = £60,000$ in one round of gifts. HMRC's manual says the case is not authority that unspent income stays income for ever.

Source: IHTM14251

One payment, two parts

What the source says. HMRC's manual says an unusually high gift may be treated as including an amount that would be normal. The normal part is exempt; the rest does not qualify for this exemption. HMRC gives no figures for this one.

How the record handles it. The record has a normal-part column and an excess column for each gift. The excess goes on the seven-year clock like any other gift.

Source: IHTM14243

Hosking (2026): a decision with nothing to show for it

What the source says. Mr Hosking made large donations of varying amounts over many years, as and when he chose. He said he had made a firm decision to give. The First-tier Tribunal found he gave no documentary or corroborating evidence of it, or of whom he told. It said a pattern needs "a level of predictability or recurrence". The appeal was dismissed on 18 March 2026.

How the record handles it. The record keeps a dated note of the decision, made at the time, and who you told. Then each payment that follows it, and each year's income and spending beside them.

A First-tier Tribunal decision does not bind other tribunals, and we have not checked whether it was appealed. It shows what HMRC argues when there is no record.

Source: Hosking v HMRC [2026] UKFTT 406 (TC)

Other exemptions the record can tag

Annual exemption (s.19)

Gifts up to **£3,000 in each tax year** (6 April to 5 April) are exempt. An unused part can be carried forward to the **next year only**, and this year's exemption is used first. HMRC applies it last, after every other exemption.

Source: IHTA 1984 s.19; IHTM14144; IHTM14132

Small gifts (s.20)

Outright gifts to any one person totalling **no more than £250 in a tax year** are exempt. If the gifts to that person go over **£250**, the exemption is lost for that person altogether, not just the part above it. GOV.UK says it cannot be used for someone who has had another allowance from you.

Source: IHTA 1984 s.20; IHTM14180; GOV.UK: Inheritance Tax gifts

Wedding or civil partnership (s.22)

The limit depends on **the giver's** relationship to the couple: **£5,000** from a parent; **£2,500** from a grandparent or other ancestor, or from one of the couple; **£1,000** from anyone else. GOV.UK puts the same limits by who receives the gift. The gift must take effect on the marriage or civil partnership.

Source: IHTA 1984 s.22; IHTM14191

Spouse or civil partner (s.18)

Gifts to a spouse or civil partner are exempt without limit. If you are a long-term UK resident and they are not, the exemption is capped. IHT403 says not to tell HMRC about gifts to a spouse or civil partner.

Source: IHTA 1984 s.18; Form IHT403 (06/26)

Charity or political party (s.23, s.24)

Gifts to charities, and to political parties that qualify, are exempt. On IHT403 a charity gift is entered with the charity's full name, its country and its HMRC charities reference.

Source: IHTA 1984 s.23; IHTA 1984 s.24; Form IHT403 (06/26)

Maintaining your family (s.11)

Paying for a spouse's maintenance, for a child's maintenance, education or training to 18 or the end of full-time education, or reasonable care of a dependent relative, is **not a transfer of value at all**. It sits outside the gift rules rather than being exempt from them.

Source: IHTA 1984 s.11

The four nations

The tax, the three tests and HMRC's form

Same in all four nations

The same in all four nations. Inheritance Tax is reserved to Westminster; every section of the Act used here extends to the whole UK. Executors send IHT400 and IHT403 to HMRC wherever they live. mygov.scot and nidirect point readers to GOV.UK for the rules on gifts.

Source: Scotland Act 1998 Sch 5 Pt II; IHTA 1984 s.21; mygov.scot: Inheritance Tax; nidirect: Inheritance Tax reporting rules

The court paperwork around it

England and Wales. Probate on PA1P or PA1A. Where IHT400 is needed, HMRC sends probate figures and a unique reference.

Scotland. Confirmation, applied for on forms C1 and C2 sent to the Sheriff Clerk or Commissary Office.

Northern Ireland. Probate through the Probate Office. IHT421 is used only in Northern Ireland, where IHT400 is needed; an excepted estate gives its figures on the Estate Summary Form (NIPF7).

Source: IHT421 (Northern Ireland); Form C1 (Scotland); nidirect: Inheritance Tax reporting rules

Gifts made by an attorney

England and Wales. An attorney may give only on customary occasions to family or connected people, or to a charity you gave to or might be expected to give to, and only in amounts not unreasonable for the size of your estate (MCA 2005 s.12). Anything more needs the Court of Protection. The OPG's guidance is dated 25 February 2026.

Scotland. The Office of the Public Guardian (Scotland) says an attorney has only the powers written in the power of attorney: the power to make gifts can be used only if the document mentions it.

Northern Ireland. An attorney under an enduring power may make seasonal gifts, or gifts for a birth, a marriage or civil partnership, or an anniversary of one, to family or connected people, and gifts to a charity you gave to or might be expected to give to, if each is not unreasonable for the size of your estate (EPA (NI) Order 1987 art 5(5)).

Source: Mental Capacity Act 2005 s.12; OPG: Giving gifts (England and Wales); OPG Scotland: Information for attorneys; Enduring Powers of Attorney (NI) Order 1987 art 5

Care fees: a separate test

An exempt gift for Inheritance Tax can still be counted in a care-fee assessment. The test is different and set nation by nation.

England and Wales. England: the Care Act guidance counts a gift as deprivation of assets where avoiding care charges was a significant reason, and care could reasonably be expected. Wales: its 2025 code says people are free to give to family, but not deliberately to avoid charges.

Scotland. The Scottish charging guidance (CRAG) treats a resident as still having capital they deprived themselves of to reduce the charge.

Northern Ireland. nidirect says the Health and Social Care Trust may treat a person as still having an asset given away to reduce care fees, and may recover the cost from the person who received it.

Source: Care Act 2014 guidance, Annex E (England); Welsh Government charging code (2025); CRAG, CCD 1/2023 (Scotland); nidirect: your home, assets and care fees

Reference

Every source, and the web page

This record rests on 64 sources, all read on 10 October 2026. They were first read on 3 October 2026 and checked by a separate legal-accuracy review.

Legislation (legislation.gov.uk) (21)

IHTA 1984 s.2 · IHTA 1984 s.3A · IHTA 1984 s.7 · IHTA 1984 s.11 · IHTA 1984 s.18 · IHTA 1984 s.19 · IHTA 1984 s.20 · IHTA 1984 s.21 · IHTA 1984 s.22 · IHTA 1984 s.23 · IHTA 1984 s.24 · IHTA 1984 s.29 · IHTA 1984 s.199 · IHTA 1984 s.204 · IHTA 1984 Sch 1 · SI 2011/214 (reg 4(7A)) · SI 2021/1167 · Finance Act 2026 Sch 12 · Mental Capacity Act 2005 s.12 · Enduring Powers of Attorney (NI) Order 1987 art 5 · Scotland Act 1998 Sch 5 Pt II

HMRC Inheritance Tax Manual (22)

IHTM06027 · IHTM06106 · IHTM14131 · IHTM14132 · IHTM14144 · IHTM14180 · IHTM14191 · IHTM14231 · IHTM14235 · IHTM14236 · IHTM14241 · IHTM14242 · IHTM14243 · IHTM14244 · IHTM14250 · IHTM14251 · IHTM14255 · IHTM14511 · IHTM14514 · IHTM14611 · IHTM14613 · IHTM14882

HMRC forms (6)

Form IHT403 (06/26) · IHT403 publication page · Form IHT400 (04/26) · IHT400 notes (2022) · IHT421 (Northern Ireland) · Form C1 (Scotland)

GOV.UK (6)

GOV.UK: Inheritance Tax gifts · GOV.UK: Inheritance Tax · GOV.UK: check the type of estate · GOV.UK: executors' records · GOV.UK: estimate the estate's value · GOV.UK: trusts and Inheritance Tax

Official bodies (OPG, OPG Scotland, Welsh Government, Scottish Government, nidirect, mygov.scot) (8)

OPG: Giving gifts (England and Wales) · OPG Scotland: Information for attorneys · Care Act 2014 guidance, Annex E (England) · Welsh Government charging code (2025) · CRAG, CCD 1/2023 (Scotland) · nidirect: your home, assets and care fees · nidirect: Inheritance Tax reporting rules · mygov.scot: Inheritance Tax

Tribunal decision (1)

Hosking v HMRC [2026] UKFTT 406 (TC)

The web page links every source, with two working checks, a nation-by-nation table and the spreadsheet:

valoren.uk/resources/gifts-out-of-surplus-income-record

The next step: help your family find it

This record tells your executors what you gave. It does not tell them where anything else is.

The Family Handover Kit is a seven-part brief for your family: who to call, where things are kept, and the deadlines. Say where this record lives. It costs **£29**, one-off: **valoren.uk/family-handover-kit**

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Gifts Out of Surplus Income Record — a free record from the Valoren planning series, mirroring HMRC form IHT403 (06/26). Sources read on 10 October 2026; England, Wales, Scotland and Northern Ireland. Not tax or legal advice. © Standard Index Group.

