HM Revenue
& Customs

Cultural Gift Scheme: amendments to Estate Duty legislation

Who is likely to be affected?

Individuals and corporate owners of pre-eminent objects on which there is potentially a charge to Estate Duty, and who want to donate the object to the nation under the Cultural Gift Scheme (CGS).

General description of the measure

The measure will amend a technical flaw in the CGS legislation relating to Estate Duty.

Policy objective

This measure will correct a technical flaw to ensure that the CGS works in line with the publicly stated policy. If the legislation as it is currently drafted was left in place, donors of objects on which there is a charge to Estate Duty could receive a financial benefit from their donation greater than they would if they sold these items on the open market. This runs counter to the policy objective of the scheme.

Background to the measure

The CGS was introduced by Finance Act 2012 and started in April 2013.

There has been no previous announcement or consultation on this amendment as it merely corrects a technical flaw and does not alter the original policy intention of the scheme.

This Tax Information and Impact Note (TIIN) is an update to the TIIN published on 6 December 2011.

Detailed proposal

Operative date

This measure will have effect on and after the date that Finance Bill 2014 receives Royal Assent.

Current law

The CGS was introduced by Schedule 14 to Finance Act (FA) 2012 and commenced on 1 April 2013 by virtue of the FA 2012, Schedule 14 (Appointed Day) Order 2013.

Paragraph 33 of Schedule 14 provides a partial exemption from Estate Duty on exempt objects which would otherwise have become chargeable under Schedule 5 of the Inheritance Tax Act 1984 on a gift of property under the scheme.

Proposed revisions

The exemption from Estate Duty on donations of exempt objects is intended to be limited to the amount that would be chargeable if the rate of tax were the same as the rate of Inheritance Tax, currently 40 per cent. Estate Duty rates can be significantly more than 40 per cent - up to 80 per cent. Where the rate of Estate Duty attached to the exempt object is more than the rate of inheritance tax, the policy intention is that the excess amount should become chargeable.

Legislation will be introduced in Finance Bill 2014 to specify that, for the purposes of Estate Duty, any qualifying gift to the nation under the CGS would be deemed a sale at market value. This will allow the intended amount of Estate Duty to come into charge.

Summary of impacts

Exchequer impact (£m)	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
	-	nil	nil	nil	nil	nil
	This measure is not expected to have an Exchequer impact.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	The measure will affect only a handful of people who may have a pre-eminent object that became exempt before 13 March 1975 and that they wish to give away under the CGS. Enabling donors to give such objects widens the pool of objects that can be accepted under the CGS.					
Equalities impacts	No impact identified on people with protected characteristics.					
Impact on business including civil society organisations	This measure is expected to have a negligible impact on businesses and civil society organisations.					
Operational impact (£m) (HMRC or other)	It is not expected that implementing these changes will incur any significant additional costs for HM Revenue & Customs. The Department for Culture, Media & Sport will be able to accept exempt objects based on their intrinsic merits (and subject to funding).					
Other impacts	Other impacts have been considered and none have been identified.					

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups.

Further advice

If you have any questions about this change, please contact Jo Shelling on 03000 585216 (email: joanne.shelling@hmrc.gsi.gov.uk).

1 Gifts to the nation: estate duty

(1) In Schedule 14 to FA 2012 (gifts to the nation), before paragraph 33 insert—

"32A(1) This paragraph applies where a person ("the donor") makes a qualifying gift of an object in circumstances where, had the donor instead sold the object to an individual at market value, a charge to estate duty would have arisen under section 40 of FA 1930 on the proceeds of sale.

(2) At the time when the gift is made, estate duty becomes chargeable under that section as if the gift were such a sale (subject to any limitation imposed by paragraph 33(2)).

(3) In the application of this paragraph to Northern Ireland, the references to section 40 of FA 1930 are to be read as references to section 2 of the Finance Act (Northern Ireland) 1931."

(2) Subsection (3) applies where a person ("the donor") has, before the day on which this Act is passed, made a qualifying gift of an object in circumstances where, had the donor instead sold the object to an individual at market value, a charge to estate duty would have arisen under section 40 of FA 1930 on the proceeds of sale.

(3) No liability to estate duty under section 40 of FA 1930 arises in respect of the object on or after the day on which this Act is passed.

(4) In subsection (2) "qualifying gift" has the same meaning as in Schedule 14 to FA 2012.

(5) In the application of subsections (2) and (3) to Northern Ireland, the references to section 40 of FA 1930 are to be read as references to section 2 of the Finance Act (Northern Ireland) 1931.

EXPLANATORY NOTE

GIFTS TO THE NATION: ESTATE DUTY

SUMMARY

1. Clause [X] corrects a technical flaw in the legislation and will ensure that the Cultural Gifts Scheme works in line with the publicly stated policy.

DETAILS OF THE CLAUSE

2. Subsection 1 introduces new paragraph 32A to schedule 14 to FA 2012. New paragraph 32A(1) provides that it applies to a gift of an object which, if it had been a sale, would give rise to a charge to estate duty under section 40 of FA 1930. This is to ensure that it catches only objects where there is still latent estate duty.

3. New sub-paragraph 32A(2) provides that estate duty becomes chargeable on such a gift as if it were a sale, subject to the limitation imposed by paragraph 33(2) of Schedule 14, which stipulates that where the rate of tax on the disposal is higher than the maximum rate of inheritance tax the donor will need to only pay the difference.

4 New sub-paragraph 32A(3) applies the new paragraph 32A to Northern Ireland.

5. Subsections 2 and 3 provide for the removal of the latent estate duty liability in cases where objects with the latent liability are gifted under the scheme prior to the date the amendment to the legislation receives Royal Assent. This will avoid any unintended consequences for receiving institutions.

6. Subsection 4 states that a “qualifying gift” referred to in subsection 2 has the same meaning as in Schedule 14 to FA 2012.

7. Subsection 5 applies the provisions in subsections 2 and 3 to Northern Ireland.

BACKGROUND NOTE

8. The Cultural Gifts Scheme was introduced by Schedule 14 to the Finance Act (FA) 2012 and commenced on 1 April 2013 by virtue of the Finance Act 2012, Schedule 14 (Appointed Day) Order 2013.

9. Paragraph 33 of Schedule 14 provides a partial exemption from estate duty on exempt objects which would otherwise have become chargeable under Schedule 5 of the Inheritance Tax Act 1984 on a gift of property under the scheme.

10. The exemption is intended to be limited to the amount that would be chargeable if the rate of tax were the same as the rate of Inheritance Tax, currently 40 per cent. Where the rate of estate duty attached to the exempt object is more than the rate of inheritance tax, the policy intention is that the excess amount should become chargeable.

11. The technical flaw in the existing legislation meant that in some cases the latent estate duty would not have come into charge on a gift, and hence remained with the gifted object. New paragraph 32A ensures that the intended amount of estate duty comes into charge and extinguishes any further liability in the future.

12. If you have any questions about this change, or comments on the legislation, please contact Tony Zagara on 03000 585265 (email: antonio.zagara@hmrc.gsi.gov.uk).