

Notes for completion of form C1 (Confirmation Inventory) and form C5 (Inland Revenue Return)

We recommend that you take time to read these notes as they will help you to complete the forms correctly.

You may make yourself liable to financial penalties if the information you give in the forms is wrong because of your negligence.

This Guide will help you to fill in the Inventory form C1 and form C5 if appropriate. It will help you to follow the correct procedure to apply for confirmation and to make a correct return for Inheritance Tax in estates where you do not need to complete a formal Inheritance Tax Account.

We hope that the Guide will answer most of your questions. It is not meant to cover all situations and if you need more help about confirmation, please telephone your local Sheriff Clerk's Office or for inheritance tax, please telephone our Helpline (telephone number on page 3). Once you have completed the Inventory, the guide will take you through the informal return, form C5, that will also let you know if the estate is one which requires submission of a formal account instead.

You can obtain the form C1 and any continuation sheets you need from our website www.hmrc.gov.uk/inheritancetax/, where you can also find a number of helpful leaflets which will help you to work out any Inheritance Tax you may have to pay.

The forms and leaflets can also be obtained by telephoning our stationery order line. (see page 3)

Form C1 and these notes are only to be used for deaths on or after 18 March 1986. If the person died before this date, please telephone our Helpline who can tell you which forms you will need.

Form C5 is only to be used for deaths on or after 1 November 2004 and before 1 September 2006. For deaths before this date please telephone our Helpline.

Inheritance Tax is administered by HM Revenue & Customs:Trusts & Estates.

Website: www.hmrc.gov.uk/inheritancetax/

Helpline 0845 30 20 900

Stationery orderline:

Tel: 0845 30 20 900

Fax: 0845 234 1010

Our addresses (including DX addresses for solicitors and banks etc)

Edinburgh **H M Revenue & Customs: Trusts & Estates**
Inheritance Tax
Meldrum House
15 Drumsheugh Gardens
Edinburgh
EH3 7UG

DX ED 542001 Edinburgh 14

Nottingham **H M Revenue & Customs: Trusts & Estates**
Inheritance Tax
Ferrers House
PO Box 38
Castle Meadow Road
Nottingham
NG2 1BB

DX 701201 Nottingham 4

Belfast **H M Revenue & Customs: Trusts & Estates**
Inheritance Tax
Level 3
Dorchester House
52-58 Great Victoria Street
Belfast
BT2 7QL

DX 2001 NR Belfast 2

Contents

	Page
Introduction	5
Obtaining confirmation	6
Completing the Inventory form C1	7
Property that the deceased owned	9
Property owned with someone else	10
Valuing the assets	11
The Inventory	12
Page 4 of form C1	20
What is an excepted estate?	21
Completing form C5	25
Calculation where there is a legitim fund	30
What to do when you have completed the forms	33
What to do if the value of the estate changes	34
Confidentiality	35
Data Protection Act	35
Appendix 1 - Charity exemption	37
Appendix 2 - Exemptions for gifts and transfers	39
Appendix 3 - The right to live in a house	42
Appendix 4 - Pensions	43
Appendix 5 - Legal rights	46

Some definitions

In this guide the person who has died is referred to as “the deceased”

A “spouse” is someone who is legally married to someone else. In this guide it is used to refer to the husband or wife of the person who has died. Where a surviving partner has raised an action of declarator of marriage through cohabitation with habit and repute, the exemption normally granted to a spouse will only be extended when a decree has been granted by the court.

Introduction

If you have decided not to consult a solicitor and wish to administer the estate yourself, you can obtain a useful guide “What to do after a death in Scotland” from the Scottish Executive or, if you have access to the Internet you can download it from the website:

www.scotland.gov.uk

Before you can act as an Executor of any estate in Scotland you normally need to obtain confirmation. If the deceased was domiciled (see below) in Scotland, this enables you to administer the assets throughout the United Kingdom. If, however, the deceased died domiciled in England or Wales or in Northern Ireland you will need to obtain probate there. For guidance in obtaining probate please contact our Helpline.

Confirmation is granted by one of the following

- The Sheriff Court of the Sheriff Court District in which the deceased was domiciled at the date of death, or
- The Commissary Office, 27 Chambers Street, Edinburgh, EH1 1LB if
 - the deceased was domiciled in the Edinburgh Sheriff Court District, or
 - the deceased was not domiciled in the United Kingdom, or
 - the deceased had no fixed or known domicile except that they were domiciled in Scotland.

Where do I start?

You should begin by making a thorough search of all the papers about the deceased’s financial affairs. Make a list of the assets, investments and other financial interests as well as the debts they owed when they died.

If the deceased had to fill in Self Assessment tax returns, there may be records amongst the papers to help fill in those forms and these may give you some pointers. Bank statements and building society pass books will help you to know which institutions to contact and may help you to discover whether any gifts of money were made. Remember that although certain assets such as PEPs and ISAs are not liable to income tax, they are liable to Inheritance Tax.

You may also find it useful to ask others what they know of the deceased’s financial affairs. People who might be able to help are

- any solicitor or accountant who dealt with the deceased’s affairs,
- anyone named in the Will who might have knowledge of the deceased’s finances,
- any close business associates of the deceased,
- the deceased’s close family (especially to discover gifts). Although gifts should not be listed on form C1, they must be taken added in to calculate the gross estate for inheritance tax - see page 21.

- the deceased's bank, stockbrokers or other financial advisors (the bank may have papers or other valuables lodged with them for safekeeping).

When checking with a bank or building society about a known bank account remember to ask whether the deceased held any other account (or items in safe custody) with them. Remember also to ask about standing orders. This may alert you not only to other bank accounts (or gifts for inheritance tax purposes) but to policies for which these payments were premiums, or to debts for which they represented repayment instalments.

You will need to make detailed enquiries so that you can find out everything that made up the deceased's estate. It is very important that you as Executor provide full and accurate information because you may make yourself liable for a financial penalty if you provide information about the assets or their values incorrectly due to your fraud or negligence.

You will find guidance on valuing assets below at page 11.

Before you can obtain confirmation, you must pay any inheritance tax which is due, or be able to show that there is none payable. If there is tax to pay, or if the affairs of the deceased do not meet certain conditions, you will have to make a formal return of the estate to us. However, in most estates this is not necessary. Form C5 together with this leaflet will guide you through the various conditions that apply and help you to decide whether or not you need to send in a formal account to us.

Obtaining Confirmation

What form should I use?

You must complete a form C1 in order to obtain confirmation. We tell you below how to complete a C1. If the deceased's death occurred before 18 March 1986 you should use a form A3. Please contact our Helpline for a copy of this form and for assistance in completing it, if necessary.

Form C1

If the gross total value of the following:

- the heritable and moveable (and real and personal) estate of the deceased, wherever that is situated,
- the deceased's share of property jointly held with another person, but NOT property where the title is held to pass to "the survivor",
- assets that have been nominated to another person during the deceased's lifetime, but which are part of the estate, for example, friendly society funds or a death benefit, (see page 32 for more about nominated assets)

is less than £25,000 you can obtain Confirmation under the Small Estates Act. The Sheriff Clerk will help you to complete the C-1 if you ask him.

Completing the Inventory form C1

Please use only black ink or type your answers. The information on pages 1-3 plus any supplementary pages is part of the public document of the Certificate of Confirmation, but page 4 will not be made public.

Page 1

- Applicant** Fill in the name, address and reference (if appropriate) of the person to whom the form should be returned.
- IR:CT reference** Please leave this blank unless you have had previous correspondence with us about this estate and have been given a reference.
- Surname and forename(s)** Give only the first two forenames of the deceased and their last name. Any further names should be given at box 1 on page 2. If the deceased was known by a name other than that shown in the Will, please show it here, e.g. John Smith otherwise known as Jack Smith.
- Dates of birth and death** These should be shown as numbers. For example, 8th March 1949 becomes 08/03/1949.
- Address** Only the last known address is required. The address should be set out in the following way and the postcode included in the space provided
- 24 My Street
Anytown
Fife
- KY28 5FR
- Any former address referred to in the Will or codicil must be shown in the Declaration in the box at the top of page 2.
- Title and occupation** "Title" is "Mr.", "Mrs.", "Dr.", "Rev." etc. Please give the deceased's occupation and say whether or not they were retired. If they were retired please give their previous occupation (retired). If the deceased did not have an occupation, please say "none".
- Testate or Intestate** If the deceased died having made a valid Will, the estate is testate and the assets listed for confirmation usually pass according to the deceased's wishes. If there was no Will, the estate is intestate and will pass according to certain rules laid down by statute. You can obtain a leaflet setting out these rights of succession from the Scottish Executive or, if you have access to the Internet, by downloading the leaflet "Rights of Succession" from the website www.scotland.gov.uk
- Total estate for Confirmation** Please show the gross value of the estate for which confirmation is required. This is the total value of the estate shown in the Inventory part of the form.

Executors	Please include the names and current addresses of all the Executors. “Nominate” means “appointed by the Will”. If no person who is named in the Will is to act as executor, or if the deceased died without leaving a Will, the Executor(s) will be Executor(s) “Dative” as appointed by the Court.
Page 2	
Declaration	Please enter the full name and address of the Executor who is applying for Confirmation (the declarant). This must be the Executor who signs the form at the foot of page 2.
Paragraph 1	Show here the full name of the deceased, including any forenames omitted on page 1 of the form. The name should correspond to the name used in the Will.
Domicile	<p>If the domicile is in Scotland, give the name of the Sheriffdom and add “...in Scotland”, or if the residence and therefore the Sheriffdom is uncertain write “Without any fixed or known domicile, except that the same was in Scotland.” If you are uncertain of the Sheriffdom, telephone the local Sheriff Clerk whose telephone number is available from directory enquiries.</p> <p>Do not say that the deceased simply “died domiciled in Scotland”.</p> <p>If the domicile was outside Scotland give the name of the country and state or province.</p>
Paragraph 2	<p>Fill in here the full title of the Declarant Executor and describe the documents (Will etc.) which appointed him/her. All the relevant deeds must be sent to the Sheriff Clerk. Please say whether the Declarant is Executor Nominated, Executor Dative (in which case give the capacity and the date and description of the decree) or is making the Declaration in some other capacity. If it is made by an attorney or an authorised officer of a company, etc. on the Executor’s behalf, describe the document giving that authorisation.</p> <p>If there are any other Executors, add “...along with ...” and give their full names, current addresses and all previous addresses as given in the Will etc. in the order shown in the Will or deed which appoints them.</p> <p>If any Executors have died, please say so. If any of the Executors have declined to act as Executors, please give details of any writings relating to their declining to act.</p> <p>Please describe the Will, i.e. give the date and, if there were any codicils or associated documents, say what they are and give their dates. If such deeds were recorded, please say when and where.</p> <p>All Wills, Codicils, Informal Writings , etc. that you mention in this paragraph must be sent to the Sheriff Clerk, or, if any of the documents have already been recorded, extracts of them must be produced. All such documents must be docquetted as follows:- “Referred to in my</p>

declaration of this date to the Inventory of the estate of the late...(full name of the deceased)" and have the docquet signed by the Declarant.

Paragraph 3 State the full name(s) of any other Executor(s). If there are none, leave this box blank.

Paragraph 4 Make sure that all documents relating to the deceased's estate are described in paragraph 2 and send them to the Sheriff Clerk.

Paragraph 5 Enter the number of the last page of the Inventory of the estate, i.e. the last page of the list of the deceased's assets ignoring page 4. Continuation sheets (forms C2) should be numbered C2/1, C2/2, C2/3 etc. No part of this paragraph should be deleted.

Paragraph 6 Enter the gross value for confirmation in this box. This is the total value of the UK assets listed in the Inventory part of the form and should be the same figure as shown on page 1.

The Declaration Before the Declarant Executor makes the declaration and signs the form, the Executor(s) must make full enquiries and be satisfied that the estate has been fully and correctly returned in the Inventory and that the information given on page 4 is correct. If they do not do so, they may be liable to pay financial penalties.

Page 3 and continuation sheets (C2) These pages make up the Inventory of the deceased's estate. You should list all items of the deceased's estate, even those which have been or can be ingathered without confirmation e.g. assets passing by nomination or where the investment organisation concerned offers a low cost indemnity to enable the heirs to encash the asset. The assets should be listed in the order described at the top of page 3. If there is not enough room in the main form use continuation sheets numbered C2/1, C2/2 etc.

Property that the deceased owned

You must include all the assets which were part of the deceased's estate as at the date of death.

Although this sounds obvious, we say it because where two people die in close succession, it is possible for the beneficiaries of the second to die to alter the devolution of the estate of the first to die by executing a Deed of Variation within two years of that earlier death. The effect of that is to direct assets away from the estate of the second to die.

This does not, in reality, alter what that person owned at the date of death nor what should be confirmed to. So, where a deed has been executed, it is the gross value of the second estate, ignoring the Deed of Variation, which must be included for Confirmation.

Property owned with someone else

Heritable property held in common

If the deceased owned heritable property with someone else and the title is written in the name of the deceased and someone else without further qualification or as “and their respective heirs and assignees”, only the deceased’s share and its value should be shown in the Inventory.

You should consider whether there was a gift by the deceased to the other person when the property was put into joint names and, if appropriate, take this into account when completing the Inland Revenue form later.

Where there is a special destination, i.e. there are words of survivorship in the title to the property, the property will normally pass to the survivor without the need for confirmation and you should return the appropriate value on the Inland Revenue form - see page 31 of this booklet). Again, for inheritance tax, you should consider whether both parties provided equal funds or whether there was a gift by one party to the other when the title was taken into joint names.

Jointly held moveable property (shares, bank accounts, furniture, policies etc.)

Where two or more people each provide funds to purchase an asset, each person’s share of the asset equates to their respective contributions. If there is no special destination, the deceased’s share passes under the Will or under the rules governing intestacy and you should include that share in the Inventory.

In Scotland, when one person opens a bank or building society account in joint names unless they specify at the outset that they are actually making a gift at the time, the addition of a second name operates only for the bank’s administrative purposes; it authorises the bank to deal with someone other than the investor. It also means that the survivor can operate the account after the deceased’s death, but it does not give them legal title to the deceased’s share. It does not mean that the funds belong to the named individuals jointly.

So where the funds in a joint account have been wholly provided by the deceased, we would expect to see the whole funds as part of the estate. Conversely of course, if the other joint owner had put in all the funds, none of the account would belong to the deceased and would not be included as part of their estate. Where the funds are provided jointly, the current balance reflects the proportionate share of the provider and where withdrawals are made for the benefit of any of the owners, their share is reduced proportionately.

If any withdrawals have been made by or for the benefit of anyone other than the owners, there may have been a gift by the deceased to be taken into account when completing the C5 or IHT 400 later.

If the deceased provided more than an equal share of the funds to purchase any other asset in joint names there may have been a gift which needs to be taken into account for inheritance tax. Please read the guidance notes for the C5 (later in this leaflet).

If there has been an effective gift, you may include the deceased's share only as part of the estate.

Where there is a survivorship destination and either the funds were provided equally or there was an effective document of gift at the time the asset was put into joint names, you should not include the asset here, but include the value of it on the Inland Revenue form. This will be dealt with later in completing the C5.

If the deceased owned an insurance policy jointly with someone else, you should include the deceased's share of the policy as a joint asset. If the policy is known as "joint life and survivor" policy, you should still include the deceased's share of the policy. The insurance company should be able to give you an estimate for the value of the whole policy at the date of death, so you can work out the value of the deceased's share.

Where, for example, a grandparent opens an account in their own name in trust for a grandchild, although that grandchild may be named on the passbook or title of the account, unless the grandparent has taken additional steps to make an effective gift of the account, the funds are still within the control of the grandparent and no effective disposal has been made. The value of the account should be included for confirmation.

Valuing the assets

For both confirmation and inheritance tax you have to value all the assets at their "open market value", that is, as if each item had been sold on the open market at the date of death.

You should be able to value some of the estate assets, for example, money in bank accounts or stocks and shares, quite easily. In other instances, you may need the help of a professional valuer. If you do decide to employ a valuer, make sure that you make it clear that you require an open market value.

When you list the values of the assets, you can round down to the nearest pound.

There is more help in valuing different types of assets later in this leaflet.

If you cannot find out the exact value of an asset, you should not put off applying for confirmation just because of this. You may use an estimated figure. You should not guess at a figure, but should try to work out a reasoned estimate based on the information available to you. You should also make it clear in the description that the value is estimated.

The Inventory

Heritable Estate in Scotland

Please list each item of heritable estate (land, houses etc) in Scotland, giving sufficient detail in the description to allow each item to be recognised as a separate part of the estate. If the property includes fishing or sporting rights you should mention these and show them also at their market value.

You do not have to get the property professionally valued, but you must take all reasonable steps to put an accurate open market value on the property. If you do decide to use a professional valuer you must tell him that you require an open market value.

The valuation should take account of the state of repair of the property (which may decrease its value). But it must also take account of any features that might make the property attractive to a builder or developer, such as large gardens, or access to other land that is suitable for development (which may increase its value).

If, after the estimate has been made and before you apply for confirmation, you become aware of other information that casts doubt on the estimate, you must reconsider it. For example, if you hear of a sale of similar property at a significantly higher value or, having marketed the property, you receive offers over the estimate that suggests that the open market value for the property is likely to be more than the estimate, we recommend that you do reconsider your estimate, taking into account the length of time since the death and movements in the property market, and revise your estimate as necessary.

If the property is licensed or used in a business, please say so and indicate what type of business is carried on, e.g. hotel, shop, factory etc.

If a debt or other liability is secured on the heritable property, you should state

- the name of the creditor
- when the debt was incurred and
- the amount of the debt

You should then show only the net value of the heritable estate in the fourth column. You should add the amount of the debt back in working out the gross value for confirmation on page 4, because you will then identify it and deduct it as one of the deductions to be made against the estate for inheritance tax. Remember that if the property was jointly owned, you may only deduct a share of the amount of the mortgage due.

The rest of the estate

Please list the rest of the estate in the order and under the headings given at the top of page 3 of the form. Where the estate includes real (freehold or leasehold) property in England, Wales or Northern Ireland, please describe it, and arrive at a value for it, in the same way as for heritable estate in Scotland above.

The following notes relate to particular assets which may have belonged to the deceased. The list is not exhaustive. There may be other types of asset which are not specifically described here.

Stocks, shares, debentures and other securities

You should include the following

- all stocks, shares, debentures and other securities quoted in the Stock Exchange Daily Official List
- unit trusts
- Investment Trusts
- Open-Ended Investment companies (OEICs)
- Personal Equity Plans (PEPs)
- shares which are part of an Individual Savings Account (ISA)
- foreign shares which are listed on the London Stock Exchange
- Treasury bills, Treasury annuities, Treasury stock, Exchequer stock, Convertible stock, Consolidated stock and loan, Funding stock, savings bonds, Victory bonds, War loan
- government stock held on the Bank of England Register (previously held on the National Savings Register)
- all UK municipal securities, mortgages, debentures, and stock in counties, cities or towns, dock, harbour and water boards, Port of London Authority, Agricultural Mortgage Corporation, N. Ireland municipal stock
- unlisted shares and securities in private limited companies
- shares held in a Business Expansion Scheme (BES) or in a Business Start-up Scheme (BSS)
- shares listed on the Alternative Investment Market (AIM)
- shares traded on the Unlisted Securities Market (USM)
- shares traded on OFEX (an unregulated trading facility for dealing in unquoted shares)
- dividends, interest, capitalisation and rights issues due to the deceased at the date of death.

The value to be shown for quoted stocks and shares is either

- one quarter up from the lower to the higher limit of the prices quoted or
- halfway between the highest and lowest bargains recorded for the day, but excluding bargains at special prices.

How to value stocks and shares

The Stock Exchange Official List shows the market price for stocks and shares. It shows a range, giving the higher and lower limit. For example, if the quotation is 98-108, the market price is 98p plus 2 ½p (1/4 of 10p) = 100½ p.

A newspaper such as the Financial Times will show only one price, which is the halfway price for bargains on the day. If you are using a newspaper to value the shares, remember to use the prices given in the paper published on the day after the deceased died. If, however, the deceased died on a day when the Stock Exchange was closed, you may take the price for either the next day or the last day when the Stock Exchange was open. For example, if the deceased died on a Sunday,

you may take the price for each holding for either the Monday after or the Friday before, whichever gives the lower valuation.

The Stock Exchange can tell you what the price was for all the stocks and shares on the Stock Exchange Daily Official List. There is a charge for this service.

If you want to use this service and you have access to the Internet, you can log on at www.londonstockexchange.com/hps or you should write to the Stock Exchange and give a full description of the stocks and shares that you need the price for. You will need to give the date of death and include a cheque to cover the fee.

The address to write to is

Historic Price Service
10th Floor Tower
London Stock Exchange
Old Broad Street
LONDON EC2N 1HP

You can telephone the Stock Exchange to find out what the current fees are on 0207 797 1206 or email historicpriceservice@londonstockexchange.com

For unit trusts, investment trusts and open-ended investment companies (OEICs), the newspaper may show two prices. Take the lower of the two prices. If there was no price published for the day the person died, take the last price published before the date of death. Often, fund managers will provide a valuation if you ask them. Newspapers do not show dividends due on unit trusts and so you must ask the fund managers for a letter showing you what you should include as the declared dividend.

If the deceased owned a PEP or ISA, you should include the shares and value them in the same way as other shares. You should include any uninvested cash with the value of the shares. PEP and ISA Managers will inform you of the values if you write to them.

You should take particular care with the “unit of quotation” shown in the Stock Exchange List. Because of company reorganisations the units on the share certificates, for example £1 ordinary shares, may be different from the unit quoted at the date of death. If this is the case, the company should be able to tell you how many shares of the new unit the deceased owned.

With unit trusts etc., listed in the Financial Times under the “FT Managed Funds Service” take care to find the right management group. Many companies will be listed more than once because they offer a wide variety of investments. Please enter the full name of the unit trust, for example “AXA Equity and Law Unit Trust Managers, Pacific Basin Trust Accumulation Units”

You will also find prices for shares traded on the markets below listed in the Financial Times

- AIM, the Alternative Investment Market
- OFEX, an unregulated trading facility for dealing in unquoted shares
- USM, the Unlisted Securities Market. This is relevant only if the deceased died before December 1996
- Transactions under Stock Exchange Rule 535 or 4.2. This is only relevant if the deceased died before September 1995.

The following markings should be taken into account

- XD (ex-dividend) – the dividend that is due remains payable to the deceased and the net value should be included as a separate asset.
- IK (gilts plus interest) – the interest that has accrued is part of the value at the date of death. Include the net interest that has accrued from the date interest was last paid up to the date of death.
- IK...X (gilts minus interest) – interest due from the date of death to the date of payment of interest is deducted from the value at the date of death. Take away from the value of the stock the net interest that has accrued from the date of death to the date interest was paid. If a separate interest payment has been received, include it as a separate asset.
- IM and IM ...X (fixed interest securities, loan and debenture stock plus interest) – these are the same as IK and IK ...X but apply to a different type of security. Treat these in the same way as IK and IK ...X.
- XC (ex-capitalisation) – include the new shares.
- XR(ex-rights) – account for the value of the new shares or rights.
- XE (ex-entitlement) – include the new shares or warrants, if any.

If you do not know how many new shares, rights or warrants to include, the company registrars should be able to tell you. Include them with the original holding.

For British Government stock held on the Bank of England register you can find out the value by writing to the Registrar's Department, Southgate House, Southgate Street, Gloucester, GL1 1 UW, or you can telephone the General Enquiry line 01452 398080 (fax 01452 3980980) or e-mail stockenquiries@bankofengland.co.uk .

Shares not quoted on the Stock Exchange

You should include

- shares in a private family company which are not quoted on the Stock Exchange
- shares listed on the Alternative Investment Market (AIM)
- shares traded on OFEX (an unregulated trading facility for dealing in unquoted shares).

You will be able to value shares on AIM or OFEX in the same way as quoted stocks and shares (see above).

For private company shares, you should give an estimate of the open market value of the shares. You may need to contact the company's

secretary or accountant to get this value. You should not include just the nominal value of such shares (for example the nominal value for 1,000 £1 ordinary shares is £1,000) unless that genuinely reflects your estimate of the open market value of the shares.

Premium Bonds

Show the total value of all Premium Bonds. Remember to include any unclaimed or uncashed prizes.

National Savings Investments

These include

- National Savings Certificates
- National Savings Capital or Deposit Bonds
- National Savings Income Bonds
- Pensioners' Guaranteed Income Bonds
- Children's Bonus Bonds
- First Option Bonds
- Save as You Earn Contracts
- Year Plans

You can find out the value of all National Savings investments by sending off form DNS 904, which you can obtain from the Post Office or you can telephone the National Savings Enquiry Line 0845 964 500 or e-mail to customerenquiries@nsandi.com. If the reply gives separate figures for capital and for interest owed, but not paid, up to the date of death, please show them separately.

Bank and Building Society Accounts

List each account or investment separately and show separate figures for capital and interest. Types of account include

- current, deposit, high interest, fixed interest, term, bond and money market accounts with a bank, building society, mutual, friendly or co-operative society
- accounts with supermarkets or insurance companies
- National Savings Bank accounts
- travellers cheques
- TESSA accounts
- cash held in a cash-only ISA

The bank or building society will be able to give you the figures to be shown at the date of death.

Sterling travellers cheques should be included at face value. If the cheques are in one of the major foreign currencies, you should convert them to sterling using the closing mid-price at the date of death from the "Pound Spot Forward against the Pound" table in the Financial Times. Otherwise, convert them at the rate shown in the "FT Guide to World Currencies" which is published every Monday in the Financial Times.

Cash (other than cash held in a bank or building society)

This should include

- any cash kept at the deceased's home or elsewhere, such as a safe deposit box
- any cash held for the deceased by someone else e.g. a stock broker,
- any uncashed cheques made out to the deceased.

Mortgages and other debts owed to the deceased

These include

- any money the deceased had lent to someone which had not been repaid at the date of death (whether it was secured by a standard security or mortgage or not),
- money for which the deceased held a promissory note or I O U,
- money owing to the deceased from a director's loan account or current account with a company,
- money which the deceased had lent to trustees linked to a life insurance policy held in trust.

For each debt give the name of the borrower, the date of the loan, the original amount of the loan, the amount outstanding at the date of death and any interest due at the date of death. Only the amount outstanding with interest should be extended to the fourth column.

Income due to the deceased

This includes

- money due to the deceased from the sale of heritable, real and leasehold property where the missives (or contract for sale) had been completed before the death but the money had not been handed over by the time the deceased died. (Remember that where the transaction is not settled but the sale price is included as cash, the heritable property should be listed at a 'Nil' value),
- accrued income, i.e. income from property held in trust where the trustees had received the income, but had not paid it over to the deceased before the date of death (most modern trusts are now drawn so that apportionment is not necessary, but you may wish to check),
- apportioned income, i.e. income that had arisen on property held in trust between the date when income was last paid to the deceased and the date of death,
- any money owed in salary, wages or director's fees,
- other benefits owed from pensions or annuities,
- payments under guaranteed annuities
- benefits or arrears of pension due but unclaimed from the Benefits Agency,
- rents due to the deceased from property which was let but had not been paid at the date of death. (You should list the property from which the rent was due separately under heritable estate in Scotland or real estate if it is elsewhere),
- refunds from private health schemes
- refunds of gas, electricity, insurances or licences etc.

Life insurance Policies

These include sums payable to the estate

- from insurance policies, including bonuses
- under mortgage protection or endowment policies,
- under unit linked investment schemes which pay 101% of the unit value on death,
- under investment plans, bonds or contracts with a financial services provider which pay out on death,

- which reflect the value of insurance policies under which the deceased was a life insured, but which remain in force after death,
- from insurance policies held in an ISA,
- which reflect the value of insurance policies on the life of another person but under which the deceased was to benefit. These policies may have been bought from a company specialising in the sale and purchase of policies,
- under investment or re-investment plans, bonds or contracts with a financial services provider which pay out on death.

Private Health Schemes

Enter any payments due to the deceased or the estate under private medical insurance to cover hospital or other health charges incurred before death.

Pension benefits

If the deceased was receiving a pension from a pension scheme or pension policy, the payments may have been guaranteed for a certain period of time. If the guarantee period ends after the death, the payments will continue to be made to the estate, and the right to receive those payments is an asset of the estate.

If you have access to the Internet, you can download some software called 'Annuity Calculator' from the HMRC website at www.hmrc.gov.uk/inheritancetax/index.htm. that will work out the value of this right. Otherwise add up all the payments that still have to be made and deduct 25% to give a reasoned estimate. You should ignore any pension that continues to be paid directly to the deceased's surviving spouse from the pension provider.

If the deceased dies before taking their retirement benefits, a lump sum may be payable under the pension scheme or pension policy. See Appendix 4 on how to return the lump sum.

Income Tax or Capital Gains Tax repayments

Include any income or capital gains tax repayment actually repaid to the estate after death (or a reasonable estimate of any sum which may be due to the estate) for the period up to the deceased's date of death. An income tax repayment may be due if the deceased died early in the tax year and received a pension or other income where tax is deducted at source. Payments which have been made to account may also be due to be repaid to the estate.

Household goods and personal effects

These include all household and personal goods such as furniture, pictures, china, jewellery, books, stamp, coin and other collections, cars, boats, caravans etc. The value shown should be the open market value, i.e. the price which the items would fetch if they were sold on the open market; this might be at auction or through the local paper.

You should show the gross proceeds of sale (without deduction of the costs of sale) of any items which have already been sold as a separate figure from the value of any items remaining unsold.

Interest in another estate

Where the deceased had the right to a legacy or a share of an estate of someone who died earlier and the deceased died before receiving the full legacy or share to which they were entitled you should include the value of the interest still to be received.

If the deceased's interest in any asset or estate was subject to the life interest of a third party, i.e. it was an interest in expectancy, or reversionary interest, you should include the commercial value for confirmation, but unless

- the deceased had acquired it either from a third party for valuable consideration or from the settlor or the settlor's spouse, or
- it represents the reversionary interest of a lease which was determined from the outset as a lease for the lifetime of an individual

you do not need to include a value for inheritance tax later.

The need to consider a reversionary interest most commonly occurs when property is held by someone for their life and then must pass to the deceased in terms of a Will or deed and the deceased dies before the person enjoying the lifetime benefit. If you are in doubt as to whether you need to include a value, please contact our Helpline.

Business interest

If the deceased was a sole trader, you should list all the assets of the business as separate assets and include the business liabilities in the total figure for liabilities on page 4 of the form C1.

If the deceased had an interest in a partnership, please show the value of that interest as a single item in the Inventory. Ideally, accounts of the business should be prepared at the date of death and it will be the total of the deceased's capital and current accounts that will be the starting point. Remember to make any adjustment necessary to reflect the open market value of the business assets, and if the accounts are prepared prior to death, to make adjustments for movement in the period between.

If the deceased was an Underwriter at Lloyds, you should list all the holdings individually, but clearly identify those which are comprised in the underwriting interest.

When you have listed the items for which Confirmation is required

After you have listed the items for which confirmation is required, you should show a summary of the amounts to be confirmed to as below. The summary should be contained in the second column and no values carried into the fourth column.

Estate in Scotland	£
Estate in England and Wales	£
Estate in Northern Ireland	£
Total for Confirmation	£
Estate elsewhere	£

If you have already obtained probate to the deceased's estate elsewhere and are simply requiring confirmation to the estate in Scotland, you only need to list that Scottish estate and the Summary should reflect only that estate.

Page 4 of form C1

None of the information on this page of the C1 is part of the public record but you should complete all the boxes unless directed otherwise. If you cannot find the answer, please insert "Not known".

Part 1

Value for confirmation 1.1

This is the total value of all the assets listed on the previous pages, i.e. if the deceased was domiciled in the UK, all their assets worldwide or if the deceased was domiciled abroad, all their assets in the UK. If you have deducted the mortgage or standard security from the value of the heritable property in the Inventory proper, you should add it to find the gross value of all the assets.

Liabilities 1.2

Please give the total amounts deducted for each category. You may include in the funeral expenses a reasonable deduction for mourning expenses of the deceased's close family. You may also deduct the cost of a headstone marking the site of the deceased's grave.

1.3

You should deduct here the value of the outstanding mortgage or standard security or the deceased's share of any mortgage or standard security over property that the deceased owned with anyone else. (If there was a mortgage protection policy, the money which the policy paid out should be returned in the Inventory on page 3 and the amount of the debt should be deducted here.)

1.4

You should only include in this box debts which the deceased actually owed when they died. For example, household bills, uncleared cheques for goods and services provided before the death and credit card debts. Do not include fees for professional services carried out after the death, such as solicitors' or valuation fees.

If the person who has died had written a cheque to make a gift before they died and the cheque had not cleared by the death, you must not treat the cheque as a deduction and you must include the value for the deceased's bank account without deducting the cheque.

The amount of a guarantee made on behalf of another's debt may only be deducted if/when it has been called in by the creditor.

Part 2.

Marital status

Please tick the appropriate box. (Remember that a spouse is a person who is legally married to the deceased or where there is a declarator of marriage by cohabitation with habit and repute.) If you are completing an IHT 400 you may score through these boxes.

Surviving descendants

Please tick the appropriate box for surviving spouse, parent or siblings but state the number in each case of children and grandchildren surviving. We need to know this for the purposes of calculating legal rights, if this becomes appropriate. If you are completing a form IHT 200, you may score out these boxes.

Tax district and reference etc. If you cannot find the information, please enter "Not known" or, if you are completing a form IHT 400, you may score out these boxes.

Part 3.

Gross value of the estate for Inheritance Tax The gross value of the estate for Inheritance Tax may differ from that for Confirmation.

The gross value for Inheritance Tax is the total of the following:

- property for which confirmation is being sought (with the amount of any secured debt deducted in the body of the Inventory added back to the total);
- joint property passing by survivorship
- nominated property (see page 32 below);
- settled property in which the deceased had an interest in possession (heritable or moveable property held in a trust in which the deceased had a right to benefit);
- gifts within seven years of the date of death, unless otherwise exempt; and
- any asset given away, which the deceased or their spouse kept an interest in.

Net value for inheritance tax The net value for inheritance tax is the value after deduction of liabilities, but without deduction of any exemptions and reliefs.

Net qualifying value The net qualifying value is the gross value of the estate less liabilities and any relief due as a result of benefits passing on the death to either the surviving spouse or to a registered charity (but of no other reliefs or exemptions which you may consider due). In order to calculate the amount of spouse or charity exemption for the purposes of the excepted estates regulations, where there are people entitled to claim legitim, you will have to calculate the amount of the legitim fund and then adjust the amount which would be payable to the spouse or charity if the legitim fund were claimed in full after taking account of any legitim claimed or renounced before the application for Confirmation is made.

Part 4. Before ticking box D, E or F you should move on to complete form C5. This will help you decide the category of the estate and, if necessary will direct you to complete an Inheritance Tax Account (IHT 400)

What is an excepted estate?

You may have obtained confirmation under the Small Estates Acts because the estate for confirmation was below £25,000. However, for inheritance tax the value of the estate for confirmation is only one component of the gross estate. It is most likely that the estate will also qualify as an excepted estate but if the deceased made substantial gifts during life or received an income from substantial assets which they were not free to dispose of, you should read the following to decide whether the estate was one for which you need to provide detailed information on form C5 or to complete a formal account, an IHT 400.

For the different rules governing excepted estates from 1 April 1991 to 5 April 2004 you should read our leaflet IHT12(S) obtainable from the website or the stationery telephone or fax line.

UK domicile

Where the deceased was domiciled in the UK at death, the estate is an excepted estate where either

Excepted estate
(C1, page 4, Box D)

- the gross estate for inheritance tax does not exceed the excepted estates limit, **OR**

Exempt and
excepted estate
(C1, page 4, Box E)

- the gross value of the estate is less than £1,000,000 and because all or part of the estate passes to the deceased's spouse who is also domiciled in the UK, or a charity or other body qualifying as exempt from inheritance tax, after deducting liabilities and those exemptions only the estate is less than the excepted estate limit

AND (for both categories)

- if there are any "specified transfers" (see below), their total chargeable value does not exceed £100,000,
- if the deceased had made a gift of land or buildings, it was made to an individual and not to trustees of a trust or to a company and it did not exceed £100,000 in chargeable value,
- if the estate for inheritance tax includes assets held in a trust, there is only one trust and the total value of those assets does not exceed £100,000 (unless the estate is an exempt excepted estate when the value limit is waived),
- if the estate includes any foreign assets, the total gross value of these does not exceed £75,000, and
- the deceased did not give away any property whilst retaining the benefit of it.

Specified
transfers

To qualify as 'specified transfers' the assets given away can only be

- cash, or
- quoted stocks and shares, or
- household and personal goods, or
- land and buildings (see below).

Any gift of land and buildings only qualifies if it was an outright gift between individuals. If the gift of land and buildings was to a trust, or a company, or the deceased kept back any kind of benefit from the property or was entitled to use it, it cannot qualify as specified transfer.

What is the
excepted estate
limit?

The excepted estate limit for UK domiciles is normally the same as the amount above which inheritance tax is payable (the tax threshold). The exception to this rule is where

- the death occurred after 5 April and before 6 August and
- you apply for Confirmation before 6 August

In this case it is the tax threshold for the previous tax year which applies.

For example, the tax threshold was

- £255,000 for the tax year 2003/04 and
- £263,000 for the tax year 2004/05.

So, if the deceased died on 21 April 2004 and you apply for confirmation before 6 August 2004, the excepted estate limit is £255,000, but if you apply for confirmation on or after 6 August 2004, you can use the higher limit for 2004/05 of £263,000.

You can find out what the current tax thresholds are by telephoning our helpline 0845 30 20 900.

What do we mean by 'spouse'?

A spouse is the husband or wife who was legally married to the deceased. Where the surviving spouse has raised an action of declarator of marriage by cohabitation with habit and repute, the exemption normally granted to a spouse will only be extended when a decree has been granted by the court.

What do we mean by 'charity or other qualifying body'?

By charity, we mean any organisation or body that is registered in the United Kingdom as a charity. All such organisations will have a registered charity number, but not all organisations that are treated as charitable for tax purposes have a registered number. You can find whether the particular charity qualifies by visiting www.oscr.org.uk for Scottish charities and www.charity-commission.gov.uk for England and Wales. National organisations such as the National Trust for Scotland and the National Galleries of Scotland also qualify.

Schools and churches may qualify. Appendix 1 to these notes tells you more about the organisations that qualify for exemption.

Why does it matter whether the estate passes to the spouse or to charity?

Broadly, assets which pass to the deceased's spouse or to a charity are exempt from Inheritance Tax. So if most of the assets pass to the deceased's spouse or to a charity, it is likely that there will be no tax to pay. If there is no tax to pay because of these exemptions (ignoring any other reliefs or exemptions) and the estate meets the other conditions that apply (mainly that the gross value does not exceed £1,000,000) you will not have to fill in a formal Inheritance Tax Account. (See page 21 'Net qualifying value' for the adjustment you will need to make to the spouse or charity exemption in certain circumstances in order to find out whether the requirement for a formal account is waived.) **But there are some restrictions to these exemptions.**

Assets which pass to the spouse

Where assets pass to the deceased's spouse, both the deceased and the spouse must have been

- born in the United Kingdom, and
- domiciled in the United Kingdom when the deceased died,

but it does not matter whether the assets pass directly to the spouse or whether they pass to a trust from which the spouse is entitled to benefit.

If either the deceased or the spouse does not meet these conditions and the gross estate is likely to be more than the excepted estate limit,

do not fill in form C5. You will need to complete form IHT 400.

Assets which pass to a charity

Where assets pass to an organisation that you think might qualify as a charity, make sure that it does qualify according to the rules in Appendix 1 to these notes. The benefit must also pass directly to the organisation; it must not be held in trust for the organisation or have any conditions attached to it.

If an organisation benefiting under the Will does not meet these conditions, you must not deduct charity exemption for the benefit it receives in working out whether form IHT400 must be filled in.

What if the deceased was domiciled outside the UK?

Where the deceased died domiciled outside the UK, to qualify as an excepted estate,

- the deceased's UK estate must consist only of cash and/or quoted shares passing under a Will or intestacy or by survivorship,
- the gross value of the deceased's estate in the UK including the deceased's interest in any jointly owned assets (only cash or quoted shares) must not exceed £100,000,
- the deceased's domicile of origin must not have been the UK,
- the deceased must not have been domiciled for income tax purposes at any time in the 20 years ending with the year of assessment in which the death occurred,
- the deceased must not have been resident in the UK for income tax purposes at any time in the 20 years ending with the year of assessment in which the death occurred.

If the estate qualifies as above as an excepted estate of someone domiciled abroad, please tick box D on page 4 of the C1 and complete form C5(OUK). Notes on the reverse of that form will help you.

This option does not apply where the deceased died before 5 April 2002. In the case of an earlier death, even where the above criteria applied, the estate was not an excepted estate and you should submit a formal account IHT 400 with the supplementary schedule IHT 401.

The estate doesn't seem to be an excepted estate or an exempt excepted estate

Where, either

- no part of the estate passes to the surviving spouse and/or charity and the gross estate for inheritance tax exceeds the taxable threshold, or
- part of the estate does pass to the spouse or charity but the gross estate exceeds £1m, or
- part of the estate passes to the spouse or a charity and the value after deducting liabilities and the spouse or charity relief exceeds the taxable threshold,

you should complete a form IHT400. Guidance in completing that form can be found in the booklet IHT400 notes. When you have completed the form, enter the figures from the appropriate boxes on the form IHT 400 to the C1.

In this case you should send both the C1 and form IHT400 to us and if no tax is prima facie payable, we will stamp the C1 provisionally as no

tax due and return it to you to send to the Sheriff Clerk. If there is any Inheritance Tax to pay you should send the IHT 400 and the Form C1 to us with payment of the tax due. Our Cashier will complete the receipt and return the C1 to you to send to the Sheriff Clerk for confirmation.

Completing form C5

Form C1 contains a lot of information and there is no need to repeat it on form C5. We do need to be sure, however, that you have taken into account all the circumstances affecting inheritance tax.

As we have said, you should complete a C5 if the estate qualifies as either an excepted estate or an exempt excepted estate. When working through the C5 you may find that there are other conditions which mean that the estate does not qualify and that you have to stop and complete a formal account, an IHT400.

Part 1 Please repeat this basic information in case the C5 becomes detached from the Inventory

Question 2 If the deceased had made any gifts (or other transfers of assets) during their lifetime, you may need to take these into account in working out Gifts and transfers whether there is any inheritance tax to pay.

A gift or transfer will be relevant for inheritance tax if, having made the gift or transfer, the value of the deceased's estate has gone down. So this will include straightforward cash gifts or a gift of a particular asset. Other transactions such as the sale of a house for less than its full market value, or a gift of shares that results in the deceased losing control of a company will also be relevant. If you are not sure what the effect of a transaction is for inheritance tax, please call our Helpline and ask their advice.

Remember that where the deceased has provided all the funds to purchase an item which is then put into joint names with someone else, or into the sole name of someone else, there will be a gift.

If the deceased moved into a nursing home and the proceeds of their house were paid into an account in someone else's name, this may also be a gift unless the proceeds were used for the deceased's benefit.

Question 2(a) You can answer 'No' to this question if the only gifts the deceased made did not exceed £3,000 each year or were gifts which did not exceed £250 in any one tax year to any individual.

If the deceased did make gifts (or other transfers) that exceeded £3,000 in any one year, you can deduct certain exemptions from the gifts. Appendix 2 to these notes tells you more about these exemptions. These are the only exemptions that you can deduct in working out whether the estate qualifies as an excepted estate.

You can still answer 'No' to this question if the only gifts the deceased made

- were all made more than 7 years before the death, or
- were fully covered by the exemptions.

Question 2(b)

We explain what a trust is for inheritance tax in the notes for question 4 on page 27.

If you answer question 2(b) 'Yes', the deceased is treated as if they had made a transfer or gift of the trust assets in which their right to benefit ceased. This means that the trust assets must conform to the rules that apply to gifts and should be added to any other gifts or transfers that the deceased had made themselves.

Specified transfers

If you answer 'Yes' to either part of question 2, the gifts and transfers must qualify as 'specified transfers' (see page 22) and the total value of all the gifts at the time the gifts were made, after taking away any of the exemptions in Appendix 2 that are due, must be less than £100,000.

You should show what was gifted, the name of the person(s) receiving the gift and the individual value of each at box 12 for all the gifts which have a value after deducting the allowed exemptions. If the transfers are because the deceased gave up their right to benefit from a trust, also write the name of the person who set up the trust and the date it was set up in box 12. Use page 4 if you need more space. You should include the value of all the gifts and transfers in box 13.4.

Gift of land or buildings

A gift of land and buildings can only qualify as a 'specified transfer' if it was an outright gift between individuals (see page 22). If the gift does not meet this condition, **stop filling in form C5 now - you will need to fill in form IHT400.**

If the value of all the gifts and transfers, after deducting any exemptions, is more than £100,000, or the assets given away were not of the type listed above (specified transfers), stop filling in form C5 now - you will need to fill in form IHT400.

Gifts made more than 7 years before death

In most cases, you can ignore gifts and transfers that were made more than 7 years before the death. But you should not ignore such gifts or transfers where

- the deceased kept back some benefit or interest in the assets given away or was entitled to use the assets given away (when you should answer question 3 'Yes'), or
- the deceased had made a gift or transfer within 7 years of death and within 7 years of that gift the deceased had transferred assets to a discretionary trust or to a company.

In the second situation, you do not need to tell us about the gift or transfer made more than 7 years ago. But the person who received the gift or transfer made within 7 years of the death may have a separate liability to inheritance tax.

If you are aware that these circumstances apply to the deceased, we recommend that the person who received the gift or transfer should telephone our Helpline to discuss their circumstances.

Question 3

Gifts with reservation of benefit

If the deceased had made a gift where they have either

- kept back any kind of benefit in the assets given away, or
- are entitled to continue to use the assets given away, or
- the person receiving the assets has not taken full and exclusive ownership of them,

the gift is known as a "gift with reservation of benefit". An example is when a person gives their house to someone else, often their children, but carries on living in the house, or purchases a house and has the title put into the names of their children but lives in it themselves.

If the asset given away was a house, but either the deceased or their spouse continued to benefit from, or have use of, the property through a lease or trust or similar right or arrangement, the gift may be regarded as a gift with reservation.

If anything like this applies to the deceased, and you are not sure whether the arrangements should be treated as a gift with reservation, you should call our Helpline. Depending on the complexity of the arrangements, we may not be able to give a definitive answer over the telephone. In these circumstances we recommend that you answer question 3(a) 'Yes'.

If you answer 'Yes' to either part of question 3, stop filling in form C5 now - you will need to fill in form IHT400.

Question 4

Assets held in trust

A trust is an obligation binding a person who legally owns the assets (the 'trustee') to deal with the assets for the benefit of someone else. A trust might be in the form of a trust deed or set up by a Will.

Examples of when a person will benefit from assets held in a trust are where they do not own the assets but they have the right to

- receive the income from assets (for example dividends from stocks and shares or interest from a building society account) but not the assets themselves,
- receive payments of a fixed amount each year, often in regular instalments, or
- live in a house and use the contents without paying rent.

When someone has a right to live in a house, this can have the same effect as a trust for inheritance tax, even though the right to live in the house is not formally a trust for that person's benefit. Often this type of right arises under another person's Will and can apply whether or not the house is owned jointly.

If the deceased did not own their home and was not a tenant either, they may have been living there under this sort of arrangement. If so,

you may need to include the value of the deceased's home on form C5. You should read Appendix 3 to find out more about this.

Proper liferent

A liferent of an asset may be granted by disposition or gift to a liferenter (the person who enjoys the asset during their lifetime) and fiar (the person entitled to receive the asset on the death of the liferenter) without trustees being involved. The deceased may even have transferred the asset in this way to make sure that they had the benefit during their life, but to be sure that it passed to someone particular on their death. Both the liferenter's and the fiar's name may appear on the land register. The value of the asset should be determined in the same way in which all other assets in the deceased's name are. If the deceased is the fiar, who has died before the liferenter, then subject to the same provisos as shown on page 18 for interests in another's estate, you do not need to include a value for inheritance tax.

If you answer 'Yes' to question 4 the deceased must have had

- the right to benefit from a single trust only, and
- the gross value of the assets in the trust must be less than £100,000.

Provided the trust meets these conditions, you should include the gross value of the trust assets in box 13.5 but include the value of any debts payable by the trustees at box B on page 3. If the trustees only give you one figure which is after deduction of any debts, include this figure in box 13.5.

If the deceased had the right to benefit from more than one trust, or the value of the assets in a single trust was more than £100,000, stop filling in form C5 now - you will need to fill in form IHT400, but see immediately below.

Trust assets passing to the deceased's spouse or a charity.

Where the estate is an exempt excepted estate, if all the assets in the trust pass to the deceased's spouse or to a charity (either when the deceased died or when their right to benefit ceased during their lifetime), this £100,000 limit does not apply. You should include the trust assets and debts on the form as explained above and deduct the appropriate exemption in box 14 on page 3 of the form.

Question 5

Foreign assets

Inheritance tax is charged on the worldwide assets of someone who is domiciled in the United Kingdom. You will have listed any foreign assets on form C1, but will not have included them for confirmation. You need to bring them into account for inheritance tax now. You should include the sterling value of any overseas assets in box 13.7.

The Isle of Man and the Channel Islands are not part of the United Kingdom.

The £75,000 limit applies to the estate as a whole, so to be sure that the limit of £75,000 is not exceeded, you will need to add together

- any foreign assets that the deceased owned in their own name, plus
- their share of any jointly owned foreign assets, and
- any foreign assets held in a trust.

If the answer to question 5 is 'Yes', and the gross value of the overseas assets is more than £75,000, stop filling in form C5 now - you will need to fill in form IHT400.

Where the deceased owned foreign assets, you may also need to take out a separate grant in the country where the assets are, so that you can deal with them.

Question 6	If the deceased was paying insurance premiums on a policy that will pay out to someone else, you may need to take the premiums paid into account as gifts. You can answer 'No' to this question if the policy was for the benefit of the deceased's spouse. If you answer 'Yes' to this question, you must also answer question 9.
Insurance premiums	
Question 7	If the deceased was entitled to a pension, either from a pension scheme or a personal pension policy and they had not taken their full retirement benefits by the time they died, you may need to take into account any changes they made to their pension benefits. You can ignore the state pension in answering this question.
Transfer of pension	
	You can also answer 'No' to this question where the deceased was drawing their retirement pension in full. If you answer 'Yes' to this question, you must also answer question 10.
Question 8	You will have included on form C1 any pension entitlement or lump sum which you consider to be part of the estate. If there is a lump sum pension payment, but you do not consider it part of the estate you should answer "Yes" to this question and give the name of the pension scheme and say at box 12 why you do not think it is part of the estate. If you need more space, please use page 4.
Pension entitlement paid to the estate	
Question 9	Only answer this question if your answer to question 6 was 'Yes'
Insurance premiums	Where the deceased was paying premiums on an insurance policy for the benefit of someone else, you can answer 'No' to question 9(a) if <ul style="list-style-type: none"> • the insurance policy is not held in trust, and • the premiums paid each year are covered by the exemption for regular gifts out of income (see "About gifts and transfers: Gifts made out of income Appendix 2), and • the answer to question 9(b) is 'No'. <p>If the insurance policy is not held in trust and the premiums are not covered by the exemption, then each premium is a gift of cash. You must answer 'Yes' to question 9(a) and take the premiums into account in answer to question 2.</p>

You can also answer 'No' to question 9(a) if

- the insurance policy **is** held in trust (this will be the most common case), **and**
- it was put into trust more than 7 years ago, **and**
- the premiums paid each year are covered by the exemption for regular gifts out of income (see Appendix 2), **and**
- the answer to question 9(b) is 'No'.

If the insurance policy **is** held in trust, and it was put into trust more than 7 years ago, but the premiums are **not** covered by the exemption, then each premium is a gift of cash. You must answer 'Yes' to question 9(a) and take the premiums into account in your answer to question 2.

In any other case, for example where the policy was put into trust within 7 years of the death, or if you answer both questions 9(a) & 9(b) 'Yes', stop filling in form C5 now - you will need to fill in form IHT400.

Question 10

Only answer this question if your answer to question 7 was 'Yes'

Transfer of pension entitlement

If the deceased had not taken their full retirement benefit from a pension scheme or personal pension policy, any changes to the benefits to which they were entitled may have given rise to a transfer of assets. Such a transfer is not a 'specified transfer' (see page 18) and so the estate cannot qualify as an excepted estate.

Dealings with benefits under pensions can be very complicated. If you answer 'Yes' to question 7, you should read Appendix 4 to find out how to answer questions 10(a) and 10(b).

If your answers are 'Yes' for question 7 and 'No' for questions 10(a) and 10(b), you can continue filling in form C5.

But if the answer to either question 10(a) or 10(b) is 'Yes', stop filling in form C5 now - you will need to fill in form IHT400.

Question 11

Legitim or legal rights

If you are unsure what legitim means, you can find out more about legal rights from the Scottish Executive website www.scotland.gov.uk or by obtaining the leaflet "Rights of Succession" from the website or the Scottish Executive.

Calculation where there is a legitim fund

Where there are people who are entitled to share in the legitim fund on the death of the deceased and they all either claim or discharge all their rights before the executors apply for confirmation, you will be able to calculate an actual figure for the sum payable to the spouse and/or charity under the Will which can not be affected by any further claim on the legitim fund. However, if anyone who has a right to claim has neither exercised their claim nor renounced it, the "spouse or charity transfer" (the amount payable to the spouse or charity on the death of the deceased) might be reduced. If that is the case then, for the purposes of deciding whether you can continue completing this form or

whether you need to complete an IHT 400, you should calculate a notional spouse/charity transfer, as if the legitim which has neither been claimed nor discharged is being claimed in full. You should bear in mind that a claim for legitim may be made, even if the person entitled to make it has been bequeathed an interest under the Will.

Bear in mind also that the amount of legitim to be taken into account in making the adjustment if there are other beneficiaries may not always affect the spouse/charity transfer to the full extent of the possible claim.

Examples of a calculation for legal rights and how they may affect the spouse/charity transfer is given at Appendix 5 of this leaflet.

Show how you have calculated the notional spouse exemption at box 12 or on page 4 if there is insufficient space.

If the value of the estate, calculated by adding the legal rights not already renounced to the remainder of the chargeable estate, exceeds the excepted estate threshold, stop filling in the C5, you must complete an IHT 400.

- Box 12 Use this box for details of gifts, any trust, of the pension scheme etc. for question 8, your calculation of legal rights, details of any property held on special destination or any information you consider relevant. If there is insufficient space, please continue on page 4 of the form or attach a separate sheet.
- Part 13
Summary of
estate You should list here all the elements which make up the chargeable estate for inheritance tax. You should not deduct any exemptions at this stage, nor should you at any stage deduct any other reliefs e.g. business relief or agricultural relief you may consider appropriate.
- 13.1 Carry forward the figure from box 1.1 on page 4 of the C1
- 13.2 Pension
lump sum If you have not included a figure for a pension lump sum which was payable in the C1 for confirmation, but you consider it should be part of the estate, include it here.
- 13.3 Share of joint
assets Heritable property (houses, land etc.)
- If the heritable property is owned in the names of two or more people and “their respective heirs and assignees whomsoever”, each person’s share passes under their Will or intestacy. You should include the deceased person’s share of any such joint property in the Inventory on page 3 of the form C1. The value will then be included at 13.1 above.
- If the property title is in the names of the owners and the survivor or survivors (this is called special or survivorship destination), or if there is any mention of survivorship in the deed of ownership, the share of the first to die will normally pass to the survivor(s), whether or not they receive any other benefit under the Will (or according to the rules of intestacy). This sort of joint property should be included here. Give a brief description of the property at the box at part 12 and the value of the deceased’s share at box 13.3.

13.4 Gifts and other transfers	If you answered 'yes' to question 2, include the value of gifts after deducting the allowable exemptions and adding back the 'specified exempt transfers' (see Appendix 2). List the gifts in box 12 and continue on page 4 if necessary.
13.5 Assets held in trust	If you answered 'yes' to question 4, you should make all possible enquiries of the Trustees to determine the value. Include the gross value here and deduct the liabilities at Box B. If the trustees notify you of the net value only, you may include the net value here.
13.6 Nominated assets	The deceased may have signed a nomination of property to someone during their lifetime. For example they may have nominated a benefit to pass immediately on their death. This may be so that the nominee can gain access to funds immediately on the death without waiting for confirmation. This does not mean, however, that the funds do not form part of the estate. They belong to the deceased until the moment they die. The value of the asset(s) nominated should be shown here.
13.7 Assets outside the United Kingdom	You should include in this box the value of assets owned by the deceased outside the U.K., plus the deceased's share of any foreign assets owned jointly with anyone else. You need to convert the foreign currency value into £ sterling. You can find the conversion rates for the most commonly used currencies in the daily newspapers.
	Include any debts owed to anyone outside the U.K. in the total of liabilities at box B
Box A	Enter the figure from this box at box 3.A on page 4 of the C1 form. If the figure in box A does not exceed the excepted estate threshold, you need only read and complete the declaration at the foot of page 3. You should also tick box 4.D on page 4 of the C1 If the figure is greater than the excepted estate threshold and no part of the estate passes to the surviving spouse or charity etc. the estate cannot be an excepted estate; you should complete an IHT 400. If part of the estate passes to the surviving spouse or to charity, but this figure exceeds £1m, the estate is not an exempt and excepted estate; you should complete an IHT 400.
Box B	This figure is the total of the liabilities deducted at 1.2. to 1.4 on page 4 of the C1 and any deductions from the gross figure for the deceased's interest in a trust at 13.5 above and any liabilities due at the date of death to any person or body outside the U.K.
Box C	Deduct the figure at B from A to give the net figure. Enter this figure at 3.B on page 4 of the C1.
Part 14	If none of the assets passes to the deceased's spouse, or to a charity or other qualifying organisation, write '0' in box D. If any of the assets do pass to the deceased's spouse or to charity or other qualifying body, these assets will be exempt providing they meet

the conditions on page 23 of this guide. (Remember that the spouse or charity exemption should be adjusted by the calculation you may have had to do because of possible legitim claims.) You should show what the exempt benefits are, e.g. residue of estate, legacy of £200,000 etc. at box 14 and deduct the value at box D.

However, if the value at box A is less than the excepted estate limit (see page 22) there is prima facie no tax to pay and you need not complete this section.

Box E

Deduct the exemptions at box D from the figure at Box C to arrive at the figure at box E. This is the “net qualifying value” for an exempt excepted estate. The net qualifying value is the value of the estate after deduction of liabilities and any relief due as a result of benefits passing on the death to either the surviving spouse or to a registered charity (but of no other reliefs or exemptions which you may consider due). Carry this figure to box 3.C on page 4 of the C1.

If this figure does not exceed the excepted estates threshold, the estate is an exempt excepted estate and you should tick box 4.E on page 4 of the C1.

If the figure exceeds the excepted estates threshold, the estate does not qualify and you should complete an IHT 400.

Declaration and signature

Only one signature is required for confirmation on the form C1 and to keep things simple we will accept just one signature on form C5.

However, the inheritance tax law allows for financial penalties where the information supplied is incorrect because of either fraud or negligence. It is important, therefore, that all the executors have checked the content of the form and that the executor who signs the form has the agreement of all the executors to the correctness of the information supplied.

What to do when you have completed the form

If the estate is either an excepted estate or an exempt excepted estate, you should send both the C1 and the C5 to the appropriate Sheriff Clerk or Commissary Office (see page 5 of this leaflet)

Do I need to send a duplicate?

You do not need to send a duplicate, but we recommend that you keep a copy for your own records.

What about all the papers and records I now have?

You do not need to send us copies of any of the other papers you have used to fill in form C5 - just the form itself and any continuation page(s) you have used in completing boxes 12 and 14. But you should keep the papers and records safe in case we ask you for them.

What happens after I get Confirmation?

You can begin to deal with the estate by collecting in the assets and paying the debts. The Sheriff Clerk will send both the original C1 and C5 to us.

Providing you have used the form C5 correctly, it is unlikely that you will hear from us. If we have any questions concerning the information you have provided we will contact you within 60 days from the date that you obtain Confirmation. If we do not write to you within that time, you will not have to pay any inheritance tax. However, this does not apply if there is anything which you have not told us or if any of the information you have provided is incorrect or misleading.

What to do if the value of the estate changes

What do I do if there are changes to the estate?

If, after you have obtained confirmation, you find more assets, you will need confirmation to these and you should complete a form C4 (Corrective Account) and form C4(S) available for the Inland Revenue website (see page 3). Amend your working copy of the C5 and if, when you have added in the value of the newly discovered item(s), the value at box C on page 3 is still less than the excepted estate threshold, you do not need to send the forms to the Revenue. Tick the appropriate box on the front page of the C4 and send it directly to the Sheriff Clerk.

If the value at C on page 3 of the C5 is more than the excepted estates threshold you should send the C4 and C4(S) to us with a copy of the original C1 and C5 and the tax due, before you apply for confirmation to the additional assets.

Where you discover that the value of an asset has changed, for example as the result of a sale or that a liability has been reduced, you will not need confirmation, but you should send the C4 with a copy of the C1 and C5 to us if the estate no longer qualifies as an excepted (or exempt excepted) estate.

What do I do if the exemptions change?

The exemptions will change if those who inherit the estate change after the date of death, which can be effected by a Deed of Variation. Our booklet IHT8 tells you more about this. If the beneficiaries of the estate change and as result the estate no longer qualifies as an excepted estate, you must tell us about the changes using the Corrective Account, form C4.

If box 3B still does not exceed the excepted estate limit (see page 22) there is no need to tell us about the change.

What if the changes are covered by other exemptions or reliefs?

This can happen when, for example, all the assets are left to the surviving spouse, but they include (say) a farm which the spouse then redirects to the children. You should reduce the value of exemption to the spouse at box D on page 3 of the C5 by the value of farm (but without deducting agricultural relief).

If box E there still does not exceed the excepted estate limit there is no need to tell us about the change, but if it is more than the excepted estate limit, you must fill in a Corrective Account, form C4.

You should copy the original figure from box E on form C5 to page 4 of the Corrective Account and show the reduction in the spouse exemption on that page. If you consider the farm qualifies for agricultural relief, you should also include the relief on page 4 of the C4.

This may mean that there is still no tax to pay. But as the estate no longer qualifies as an excepted estate (because you can only take spouse and charity exemption into account in deciding if an estate qualifies as an excepted estate), you must still tell us about the change in these circumstances. You should send the C4 to us with a copy of the C1 and C5.

Confidentiality

You have a right to the same high degree of confidentiality that all taxpayers have. We have a legal duty to keep your affairs completely confidential and cannot give information to others about an estate, trust or transfer even if they have an interest in it, unless the law permits us to do so. This means we may only discuss a taxpayer's affairs with that person, or with someone else that the taxpayer has appointed to act for them. In the case of someone who has died, this means that we can only discuss an estate with the people (or person) who have signed and delivered form C5, that is the executors, or another person appointed to act for them, usually a solicitor or an accountant.

Data Protection Act

The Inland Revenue is a Data Controller under the Data Protection Act. We hold information for the purposes of taxes, social security contributions, tax credits and certain other statutory functions as assigned by Parliament. The information we hold may be used for any of the Inland Revenue's functions.

We may get information about you from others, or we may give information to them. If we do, it will only be as the law permits, to

- check accuracy of information
- prevent or detect crime
- protect public funds

We may check information we receive about you with what is already in our records. This can include information provided by you as well as others such as other government departments and agencies and overseas tax authorities. We will not give information about you to anyone outside the Inland Revenue unless the law permits us to do so.

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Appendix 1

Charity exemption

Exemption for charities

Where assets pass directly to any of the bodies or organisations listed below, they are exempt from Inheritance Tax and can be deducted from the estate on page 4 of form C5.

Any organisation that is registered as a charity with the Charity Commissioners or on the Scottish Charity Index. Such organisations will have a registered charity number. You can find out if an organisation is registered as a charity by looking on the Internet at

www.oscr.org.uk or www.charity-commission.gov.uk (for England Wales & Northern Ireland)

Charity exemption is also available for legacies to

- Individual churches, religious houses,
- Friends of cathedrals etc
- Priests, ministers of religion etc., **but only where the gift is for the upkeep of the church etc and not to the person**
- Sunday Schools
- Children's homes
- Community centres
- Convalescent homes, homes for the blind
- Mentally or physically handicapped groups
- Old people's welfare committees
- Orphanages
- Hospices
- Hospital management committees
- Leagues of friends of hospitals
- Medical research funds
- Nursing associations
- Patient amenity funds attached to hospitals
- Samaritan funds attached to hospitals

- Organisations such as
 - Boy Scouts
 - British Red Cross
 - Girl Guides
 - Royal British Legion (branches not clubs)
 - St John Ambulance Brigade
 - Sea Cadet Corps
 - Boys' Brigade
 - Girls' Brigade

- Community Amateur Sports Clubs, provided the legacy can only be used for the purposes of the Club in question and nothing else.

If you are unsure whether a legacy qualifies for charity exemption, please telephone our Helpline 0845 30 20 900.

Exemption for national purposes

Exemption also applies for legacies to

Bodies listed in Schedule 3 Inheritance Tax Act 1984

The National Gallery
The British Museum.
The National Museums of Scotland
The National Museum of Wales.
The Ulster Museum.
The Historic Buildings and Monuments Commission for England.
The National Trust for Places of Historic Interest or Natural Beauty.
The National Trust for Scotland.
The National Art Collections Fund.
The Trustees of the National Heritage Memorial Fund.
The National Endowment for Science, Technology and the Arts (with effect from 2 July 1998)
The Friends of the National Libraries.
The Historic Churches Preservation Trust.
The Nature Conservancy Council for England. } previously the
The Nature Conservancy Council for Scotland. } Countryside
The Countryside Council for Wales. } Commission

Any other similar national institution which exists wholly or mainly for the purpose of preserving for the public benefit a collection of scientific, historic or artistic interest and which is approved for the purposes of this Schedule by the Commissioners Inland Revenue.

Any museum or art gallery in the United Kingdom which exists wholly or mainly for that purpose and is maintained by a local authority or university in the United Kingdom.

Any library the main function of which is to serve the needs of teaching and research at a university in the United Kingdom.

Any local authority.

Any Government department (including the National Debt Commissioners).

Any university or university college in the United Kingdom.

A Health Authority, National Health Trust or similar health service body, within the meaning of section 519A of the Income and Corporation Taxes Act 1988.

You can telephone our Heritage section on 0115 974 2514 if you are not sure whether a particular body falls within the scope of exemption for National purposes.

Appendix 2

Exemptions for gifts and transfers

There are a number of exemptions available which you can deduct from any gifts or lifetime transfers made by the deceased

Spouse exemption

Gifts between husband and wife are exempt, provided both people had their domicile in the UK.

Charity exemption

Gifts to organisations that are registered charities are exempt. Appendix 1 tells more about the type of organisations that qualify for charity exemption.

Small gift exemption

Gifts to any one person which do not exceed £250 in any one tax year to 5 April are exempt. This exemption covers most gifts at birthdays and other festive occasions.

You cannot use this exemption in conjunction with any other exemption. This exemption can **only** be used if **all** the gifts made to the same person in one tax year do not exceed £250.

Annual exemption

Gifts not exceeding £3,000 in any one tax year to 5 April are exempt. This can apply to one gift or the total of a number of gifts to which the small gift exemption does not apply. If the gifts made in one year fall short of £3,000, any surplus can be carried forward to the next year (but no further) and can be used once the exemption for that year has been used up in full. But the exemption cannot be carried back to earlier years.

Gifts made out of income

Gifts that are made as part of the deceased's normal expenditure are exempt from inheritance tax, *provided you can show* that they

- formed part of the deceased's normal expenditure,
- were made out of income, and
- left the deceased with sufficient income to maintain their normal standard of living

'Normal expenditure' means that the payments were a regular part of the deceased's expenditure. Examples are where the deceased was paying a regular premium on an insurance policy for the benefit of another person, or perhaps where they were making a monthly or other regular payment to someone else. A one-off payment, even if it was out of income, will not be exempt.

If the deceased made any gifts out of income, they meet these conditions *and do not exceed £3,000 in total each year*, you can answer 'No' to question 2.

If the gifts come to more than £3,000 per year, you should answer 'Yes' to question 2, give details of the gifts and exemptions in the box at part 12, continuing on page 4 if there is insufficient space.

Include the value of the gifts after exemptions with the value of any other gifts at box 13.4 on page 3.

Gifts on marriage

If the gift was made

- on or shortly before the marriage,
- to one or both parties to the marriage, and
- to become fully effective on the marriage taking place

it will be exempt up to the following limits

- £5,000 if the deceased was a parent to one of the people getting married,
- £2,500 if the deceased was a grandparent or more remote ancestor of one of the people getting married, or
- £1,000 in any other case.

You can still answer 'No' to question 2 (a) if the only gifts the deceased made did not exceed £3,000 each year or were gifts which did not exceed £250 in any one tax year to any individual. If the deceased did make gifts (or other transfers) that exceeded £3,000 in any one year, you can still answer "No" to this question if the **only** gifts the deceased made were

- made more than 7 years before the death, or
- fully covered by exemptions.

Other exemptions that must be added back: specified exempt transfers

There are other exemptions that are available, but you must add these back to establish whether the overall limit for the gross estate of £1,000,000 is exceeded. These are exemptions for transfers to

- the deceased's spouse,
- charity,
- to political parties,
- housing associations,
- maintenance funds for historic buildings, and
- employee trusts.

Example 1

The deceased made gifts of £50,000 to his children, £100,000 to his wife and died leaving an estate of £500,000. The chargeable value of the gifts is:

Total gifts	150,000	
Less		
Annual exemption	-6,000	(previous year's unused)
Spouse exemption	<u>-100,000</u>	
Chargeable value	44,000	

This is under the £100,000 limit for gifts, so the estate can qualify as an excepted estate. However, when filling in form C5, you should ignore the spouse exemption and write the value of £144,000 in box 13.4. When this is added to the estate on death

of £500,000, the gross value does not exceed £1,000,000 - so the estate can still qualify as an excepted estate

Example 2

The deceased made gifts of £50,000 to his children, £50,000 to a charity and died leaving an estate of £950,000. Here, the chargeable value of the gifts is also £44,000, but you must add the charity exemption back and write £94,000 in box 13.4. When this is added to the estate on death of £950,000, the gross value exceeds £1,000,000. The estate does not qualify as an excepted estate, even though the chargeable value for gifts is less than £100,000.

Example 3

The deceased made gifts of £120,000 to his children, £50,000 to a charity and died leaving an estate of £600,000. Here, the chargeable value of the gifts is £114,000.

As this exceeds the £100,000 limit for gifts, the estate cannot qualify as an excepted estate even though when adding back charity exemption to give a total of £164,000 and adding this to the estate on death of £600,000, the gross value does not exceed £1,000,000.

Appendix 3 The right to live in a house

Introduction

It is very common for a married couple to own their house jointly. Usually, they own their house in both names and the survivor (see page 31 above) so that on the death of the first to die their share passes automatically to the survivor, so that when the survivor dies, the whole property is part of their estate.

If, however, a couple own their house in pro indiviso shares, i.e. with no special destination, the first to die can say what is happen to their share of the property in their Will. The Will might say something along the lines that

"...while my husband/wife remains alive and desires to reside in the property and keeps the same in good repair and insured to its full value with insurers approved by my trustees and pays all rates, outgoings etc my trustees shall not make any objection to such residence and shall not disturb or restrict it in any way and shall not take any steps to sell any share therein or to obtain any rent or profit from the property....".

On the survivor's death, the property passes on to someone else, usually a child.

So the surviving spouse continues to live in the house, owning half of it in their own name and occupying the other half under the protection of the Will. Although the Will does not talk in terms of leaving the property in 'trust' for husband/wife for life, the wording is such that, for inheritance tax, it has the same effect.

Effect for inheritance tax

If you are dealing with the survivor's estate and they occupied their matrimonial home (or a property that replaced it) under such terms, you will need to treat the survivor's estate as if they were entitled to benefit from a trust. You should answer 'Yes' to question 4 on form C5.

The same rules about trusts apply (see page 27 above). So if this interest in the house is the only 'trust' asset and the value of the house (or a share of the house) is less than £100,000, you should include the value of the property occupied under the 'trust' in box 13.5

If, within 7 years of their death, the survivor ceases to occupy the property, or the property is sold and not all the proceeds are reinvested in a replacement property, you should answer question 2(b) 'Yes'. The survivor will be treated as making a transfer of the trust capital in which they ceased to benefit. You should include that value as a gift in box 13.4.

If you are not sure how to treat the deceased's interest in a property, you should telephone our Helpline to discuss the circumstances.

Appendix 4 Pensions

Introduction

Where someone has the benefit of a pension in addition to the state pension, then this additional pension will normally provides two types of benefit. These are

- retirement benefits, or
- death benefits.

It is not possible to take both benefits. If the person gets to retirement age and takes their retirement benefits (a lump sum plus pension) then the death benefits no longer apply. However, if they die before taking their retirement benefits, the death benefit is payable according to the pension scheme rules or the policy provisions. No retirement pension is paid.

Approved and unapproved schemes

For income tax purposes, pension schemes and pension policies are divided into two categories: approved or unapproved. The scheme papers or policy documents should say whether or not a particular pension provision is approved or unapproved. If you cannot be sure whether a pension is approved, then the pension provider should be able to tell you.

Including pension benefits for confirmation on form C1 (see page 18)

If the deceased dies before taking their retirement benefits, a lump sum may be payable under the pension scheme or pension policy. A lump sum will be part of the deceased's estate if

- it is payable to their personal representatives as of right or because no-one else qualifies for payment, or
- the deceased could direct who the lump sum was to be paid to by making a binding nomination/instruction, or
- the deceased could manufacture a situation (for example, by revoking a nomination) so that the lump sum would be payable to the estate
- it is a refund of contributions,

In each of these cases, the amount of the lump sum should be included in form C1.

How to deal with pension benefits on form C5

Effect for inheritance tax of unapproved schemes

If the deceased had taken out a pension scheme that is unapproved and they died before taking their retirement benefits, you will need to check to see if the death benefits were written into trust. If they were, then if the people who could benefit from the trust included the deceased, or their estate, or their personal representatives, there will be a gift with reservation.

The estate cannot then qualify as an excepted estate and you should stop filling in form C5 now - you will need to fill in form IHT400.

Question 8

A lump sum will not be part of the deceased's estate if the pension trustees are free to decide who it is payable to (even if they do decide to pay the lump sum to the personal representatives). Similarly, any 'ex gratia' payments paid to the estate are not part of the IHT estate, as the deceased had no 'right' to them.

You must take care to determine exactly how the lump sum is payable. If the deceased has completed a 'letter of wishes', the trustees may well pay the lump in accordance with the letter. But even if that means the lump sum is paid to the estate, it is not part of the deceased's estate for inheritance tax, because the 'letter of wishes' did not bind the trustees. Only if the lump sum was payable under a binding nomination should the lump sum be part of the estate, irrespective of who it is paid to.

If either payments from a pension continue after the deceased's death or a lump sum is payable but you have not included it for confirmation, you should answer "Yes" to question 8(a) or 8(b) as appropriate and use box 12 or the continuation page 4 to say why.

If the deceased was entitled to benefit from a pension scheme or pension policy and they had not taken their full retirement benefits before they died, you should answer question 7 'Yes'. You will also need to answer question 10 and the notes below help you to answer questions 10(a) and 10(b).

Where any dealings took place at a time when the deceased was in normal health for their age, then even if they have died shortly afterwards, you can answer 'No' to both questions 10(a) and 10(b).

The following notes only apply where any dealings with the pension benefits took place at a time when the deceased had been diagnosed with a terminal illness, or was in such poor health as to be uninsurable.

Question 10(a)

A person will dispose of the benefits payable under a pension scheme or pension policy where, for example, they put the death benefits into trust, or allocate some of their pension to someone else. If this disposal took place when the deceased had been diagnosed with a terminal illness, or was in such poor health as to be uninsurable, you should answer question 10(a) 'Yes'.

Question 10(b)

A person can change the benefits to which they were entitled under a pension scheme or pension policy by

- making additional contributions to the pension scheme or policy,
- transferring their benefits from one pension scheme to another,
- failing to take their pension on reaching pension age,
- failing to request ill health retirement where the deceased met the requirements for that form of retirement,
- opting for income drawdown or making any changes to an income drawdown that has already been arranged, or

- opting for phased retirement or making changes to the number of segments taken where phased retirement has already been opted for.

'Income drawdown' is a particular situation where the deceased has reached pension age but has chosen not to use their retirement benefits to buy an annuity. Instead, they decide to 'draw' a certain level of income from the pension funds with a view to buying an annuity at a later date.

'Phased retirement' is where the deceased has divided their pension entitlement into a series of segments and has agreed a plan with their pension provider to take so many segments each year on retirement.

If any such changes took place when the deceased had been diagnosed with a terminal illness, or was in such poor health as to be uninsurable, you should answer question 10(b) 'Yes'.

Appendix 5 Legal rights

Calculating the spouse or charity transfer where there are people entitled to claim legal rights

The deceased died in August 2004 survived by a spouse and two children and leaving heritable estate worth £120,000 and moveable estate worth £840,000. The legitim fund is £280,000 (1/3 x £840,000)

Example 1

By Will the whole estate is left to the surviving spouse. One child has renounced his legal rights before confirmation is applied for. In terms of the Will the spouse receives

heritable property	£120,000
residue	<u>£840,000</u>
total	£960,000.

For the purposes of determining whether the estate is excepted, the spouse transfer is recalculated

heritable property	£120,000
legal rights renounced	£140,000
balance of residue	<u>£560,000</u>
total	£820,000

The net qualifying value is £140,000 (value of legitim fund unclaimed and unrenounced £140,000 + any other chargeable estate £0)

The estate qualifies as an excepted estate since the gross value of the estate does not exceed £1,000,000 and the net qualifying value (£140,000) does not exceed the excepted estates limit.

However, if neither child has renounced or claimed legal rights, the net qualifying value is the whole of the unrenounced and unclaimed legitim fund, £280,000. So that although the gross estate does not exceed £1,000,000, the net qualifying estate exceeds the excepted estates limit.

It is important to remember that actual or potential legitim claims will not always affect the amount of spouse relief by the same amount as the claim itself. Where part of the estate passes to a non exempt third party this is likely to be the case.

Example 2

In terms of the Will

Spouse		Friend	
heritable property	£120,000	2/3 share of residue	£260,000
legacy	£450,000		
1/3 share of residue	<u>£130,000</u>		
total	£700,000		

One child has renounced his claim to legitim leaving the other half of

the legitim (£140,000) unclaimed and unrenounced to be calculated from the residue of the estate. Spouse £130,000 - £46,666.66 and friend £260,000 - £93,333.33

Notional spouse transfer

$$£120,000 + £450,000 + £83,333.33 = £653,333.33$$

Net qualifying value

$$£140,000 + £166,666.67 = £306,666.67$$

(legitim fund unclaimed and unrenounced + other chargeable estate)

Unlike the first situation at example 1, the estate does not qualify as an excepted estate as, although the estate is below £1m and part passes to the spouse, the net qualifying value exceeds the excepted estates threshold.

This booklet has no legal power.
It reflects the tax law at the time of writing.
We may need to take into account special circumstances
for a particular estate.

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