

A LIGHT SHONE ON THE LIMITS OF THE IHT GIFT RULE

Did you know you can make regular gifts free from inheritance tax (IHT) without waiting seven years? The normal expenditure out of income exemption makes this possible - and a recent First-tier Tribunal (FTT) case has clarified exactly what 'normal expenditure' means under HMRC's rules.

EXEMPTION

To be covered by the exemption, gifts must:

- be made as part of the individual's normal expenditure;
- be made out of income; and
- leave the individual with sufficient income to maintain their usual standard of living.

The income aspect might be considered straightforward, but this is not always the case. There is no statutory definition, and income is not necessarily the same as income for tax purposes. It will, for example, include non-taxable income, such as income from individual savings accounts (ISAs). HMRC considers income to become capital after it has been accumulated for a period of two years.

'Usual standard of living' will generally be what was usual for the individual at the time the gift was made. Exemption may, therefore, not be lost where an individual makes a regular commitment, at a time when surplus income was available, but then has to lower their standard of living for another reason, such as redundancy.

NORMAL EXPENDITURE

The case heard by the FTT was only concerned with whether the gifts made by the taxpayer were normal expenditure. To count as normal, gifts must be habitual or regular, but do not have to be a fixed amount.

Although the taxpayer had made many substantial charitable donations, HMRC took issue with donations to campaigns supporting the UK leaving the EU. Exemption for these donations was denied because they were made over a period of just nine months, which was not sufficient time to establish a settled pattern; there was no predictability to the donations. What is more, there was no particular reason for the financial amount given to each gift.

A settled pattern would normally mean gifts being made over three to four years, but a single gift might qualify if there is evidence that it was intended to be the first in a pattern.

Detailed guidance on the normal expenditure out of income exemption is available in HMRC's internal manuals: [IHTM14231](#) to [IHTM14255](#).



WE CAN HELP

If you would like to understand whether this exemption could work for you, or need help reviewing your current gifting arrangements, please get in touch on **01753 888 211** or email info@nhllp.com, we are here to help.