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# **British Tax Guide:**

## **Inheritance Tax**

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**General Editor**

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**STRATEGIC PARTNER**



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# 2009-10

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# **British Tax Guide: Inheritance Tax 2009-10**

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# About the authors

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## About the general editor

### **Roger Barnard LLB LLM FCA FTII**

Roger Barnard has worked for over 30 years as a tax practitioner in a medium-sized firm. He is a Director of Tax at Tenon Ltd, a Chartered Accountant and a Fellow of the Chartered Institute of Taxation. He has been involved for many years with the examinations of the Chartered Institute of Taxation, including the setting of examination papers and marking scripts. He also holds the Advanced Financial Planning Certificate.

## About the author

### **Julie Clift BA (Hons.) CTA**

After graduating, Julie worked at Arthur Andersen and then at Ernst & Young mainly specialising in personal tax issues. She then joined *The Tax Journal* as Deputy Editor before returning to practice as a Tax Editor in Deloitte & Touche's Tax Policy Group. She joined CCH as a Senior Technical Editor in 2003 and has worked on some of their leading tax products, including the *British Tax Reporter* and the *Inheritance Tax Reporter*. Julie is a Chartered Tax Adviser and a member of the Chartered Institute of Taxation.

# Preface

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The fourth edition of *British Tax Guide: Inheritance Tax* provides clear, practical and accessible commentary on the tax issues likely to be of widespread interest to tax advisers dealing with their clients' 2009–10 inheritance tax affairs. To achieve this aim, it has been necessary either to omit, or to cover in summary form, some less mainstream topics. The authors welcome comments from readers about the scope and depth of the coverage.

The focus of this work is specifically on the inheritance tax rules applying for the year 2009–10 and the book reflects the law as it stands at 31 July 2009 (though a few later developments have also been included where possible (eg legislation in FA 2009 to extend the new information and inspection powers to inheritance tax and the new inheritance tax penalty regime)). Changes include the new form IHT 400 introduced in November 2008 and the extension of agricultural property relief and woodlands relief to property in an EEA state by FA 2009. The High Court decision in *Bower* has confirmed that discounted gift schemes for older settlors are ineffective and, as the value of estates fall due to the current recession, we may continue to see a more aggressive approach by HMRC IHT towards other inheritance tax planning schemes.

Also included in this work are a number of practical case studies written by Roger Barnard, Director of Tax at Tenon Ltd, while Jenny Nelder of Bruce, Sutherland & Co. provides commentary on share valuations.

The other books in the British Tax Guide series provide straightforward but authoritative commentary on the UK's other main taxes. In each book, extensive cross-referencing is provided to relevant legislation, cases and HMRC guidance as well as to CCH's in-depth commentary in the British Tax Reporter and British VAT Reporter making them an ideal desktop companion to CCH's comprehensive online services.

**Julie Clift**  
August 2009

# What's new?

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There follows a series of summaries highlighting the main changes and developments relevant to inheritance tax that have occurred since the last edition of *British Tax Guide: Inheritance Tax*.

6-000: All key data updated as appropriate for FA 2009.

244-300: FA 2009 provisions to extend information and inspection powers to IHT.

244-750: FA 2009 provisions for the new IHT penalty regime.

245-500: Application of new tribunal system to IHT.

245-700: FA 2009 provisions on inspections for the purposes of valuation.

246-050: Commentary updated for *Smith v R & C Commrs* (2009) Sp C 742.

246-150: Commentary updated for new form IHT400, and accompanying schedules IHT401 to IHT423.

246-350: FA 2009 provisions to create a harmonised interest rate regime for overdue and overpaid IHT.

246-550: Alignment of time limits for changing the amount of tax due.

247-800: Commentary updated for *Bower Anor (executors of Bower dec'd) v R & C Commrs* [2009] BTC 8,106.

249-050: Commentary updated for *Taylor Anor v R & C Commrs* (2008) Sp C 704.

249-300: Commentary updated for *Lau v R & C Commrs* (2009) Sp C 740.

256-500: IHT consequences of Bradford Bingley transfer.

259-100: Commentary updated for *McKelvey v R & C Commrs* (2008) Sp C 694.

259-650 and 249-300: Commentary updated for *Bailhache Labesse Trustees Ltd v R & C Commrs* (2008) Sp C 688.

261-300: Commentary updated for *Executors of Piercy (deceased) v R & C Commrs* (2008) Sp C 687.

261-300: Commentary updated for *McCall Anor (personal representatives of McClean, dec'd) v R & C Commrs CA (NI)* [2009] 8,059.

261-800 and 261-300: FA 2009 provisions extending agricultural property relief and woodlands relief to a member of an EEA state.

# Key Data: Inheritance Tax

## INHERITANCE TAX

### 6-000 Lifetime transfers

(IHTA 1984, s. 7 and Sch. 1)

#### *Lifetime transfers from 15 March 1988 to 5 April 2010*

FA 2007, s. 4 set the limit for 2010–11 at £350,000

Gross cumulative total £	Gross rate of tax %	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
<b>6 April 2009–5 April 2010</b> 325,000 Over 325,000	Nil 20	325,000 –	$\frac{1}{4}$ –
<b>6 April 2008–5 April 2009</b> 312,000 Over 312,000	Nil 20	312,000 –	$\frac{1}{4}$ –
<b>6 April 2007–5 April 2008</b> 300,000 Over 300,000	Nil 20	300,000 –	$\frac{1}{4}$ –
<b>6 April 2006–5 April 2007</b> 285,000 Over 285,000	Nil 20	285,000 –	$\frac{1}{4}$ –
<b>6 April 2005–5 April 2006</b> 275,000 Over 275,000	Nil 20	275,000 –	$\frac{1}{4}$ –
<b>6 April 2004–5 April 2005</b> 263,000 Over 263,000	Nil 20	263,000 –	$\frac{1}{4}$ –
<b>6 April 2003–5 April 2004</b> 255,000 Over 255,000	Nil 20	255,000 –	$\frac{1}{4}$ –
<b>6 April 2002–5 April 2003</b> 250,000 Over 250,000	Nil 20	250,000 –	$\frac{1}{4}$ –

Key Data: Inheritance Tax

Gross cumulative total £	Gross rate of tax %	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
<b>6 April 2001–5 April 2002</b> 242,000 Over 242,000	Nil 20	242,000 –	$\frac{1}{4}$ –
<b>6 April 2000–5 April 2001</b> 234,000 Over 234,000	Nil 20	234,000 –	$\frac{1}{4}$ –
<b>6 April 1999–5 April 2000</b> 231,000 Over 231,000	Nil 20	231,000 –	$\frac{1}{4}$ –
<b>6 April 1998–5 April 1999</b> 223,000 Over 223,000	Nil 20	223,000 –	$\frac{1}{4}$ –
<b>6 April 1997–5 April 1998</b> 215,000 Over 215,000	Nil 20	215,000 –	$\frac{1}{4}$ –
<b>6 April 1996–5 April 1997</b> 200,000 Over 200,000	Nil 20	200,000 –	$\frac{1}{4}$ –
<b>6 April 1995–5 April 1996</b> 154,000 Over 154,000	Nil 20	154,000 –	$\frac{1}{4}$ –
<b>10 March 1992–5 April 1995</b> 150,000 Over 150,000	Nil 20	150,000 –	$\frac{1}{4}$ –
<b>6 April 1991–9 March 1992</b> 140,000 Over 140,000	Nil 20	140,000 –	$\frac{1}{4}$ –
<b>6 April 1990–5 April 1991</b> 128,000 Over 128,000	Nil 20	128,000 –	$\frac{1}{4}$ –
<b>6 April 1989–5 April 1990</b> 118,000 Over 118,000	Nil 20	118,000 –	$\frac{1}{4}$ –
<b>15 March 1988–5 April 1989</b> 110,000 Over 110,000	Nil 20	110,000 –	$\frac{1}{4}$ –



**Lifetime transfers from 17 March 1987 to 14 March 1988**

Portion of value		Rate of tax %
Lower limit £	Upper limit £	
0	90,000	Nil
90,001	140,000	15
140,001	220,000	20
220,001	330,000	25
330,001	upwards	30

**Grossing up table**

Gross cumulative total £	Gross rate of tax %	Inheritance tax on band £	Cumulative inheritance tax payable £	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
90,000	Nil	Nil	Nil	90,000	$\frac{3}{17}$
140,000	15	7,500	7,500	132,500	$\frac{1}{4}$
220,000	20	16,000	23,500	196,500	$\frac{1}{3}$
330,000	25	27,500	51,000	279,000	$\frac{3}{7}$
Over 330,000	30	—	—	—	—

**Lifetime transfers from 18 March 1986 to 16 March 1987**

(FA 1986, Sch. 19, para. 36)

Portion of value		Rate of tax %
Lower limit £	Upper limit £	
0	71,000	Nil
71,000	95,000	15
95,000	129,000	$17\frac{1}{2}$
129,000	164,000	20
164,000	206,000	$22\frac{1}{2}$
206,000	257,000	25
257,000	317,000	$27\frac{1}{2}$
317,000	upwards	30

Grossing up table

Gross cumulative total £	Gross rate of tax %	Inheritance tax on band £	Cumulative inheritance tax payable £	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
71,000	Nil	Nil	Nil	71,000	$\frac{3}{17}$
95,000	15	3,600	3,600	91,400	$\frac{7}{33}$
129,000	$17\frac{1}{2}$	5,950	9,550	119,450	$\frac{1}{4}$
164,000	20	7,000	16,550	147,450	$\frac{9}{31}$
206,000	$22\frac{1}{2}$	9,450	26,000	180,000	$\frac{1}{3}$
257,000	25	12,750	38,750	218,250	$\frac{11}{29}$
317,000	$27\frac{1}{2}$	16,500	55,250	261,750	$\frac{3}{7}$
Over 317,000	30	–	–	–	–

6-050 Transfers on death or within seven years before death

(IHTA 1984, s. 7 and Sch. 1)

Where a person dies on or after 18 March 1986, his or her estate and all chargeable transfers made within seven years before death are subject to inheritance tax at the rates set out below. There is a tapered reduction in the tax payable on transfers between seven and three years before death.

FA 2008, s. 10 and Sch. 4 allow a claim to be made to transfer any unused nil-rate band of the first deceased spouse or civil partner to the estate of their surviving spouse or civil partner who dies on or after 9 October 2007.

FA 2007, s. 4 set the limit for 2010–2011 at £350,000.

Transfers from 15 March 1988 to 5 April 2010

Gross cumulative total £	Gross rate of tax %	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
<b>6 April 2009–5 April 2010</b> 325,000 Over 325,000	Nil 40	325,000 –	$\frac{2}{3}$ –
<b>6 April 2008–5 April 2009</b> 312,000 Over 312,000	Nil 40	312,000 –	$\frac{2}{3}$ –

Gross cumulative total £	Gross rate of tax %	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
<b>6 April 2007–5 April 2008</b> 300,000 Over 300,000	Nil 40	300,000 –	$\frac{2}{3}$ –
<b>6 April 2006–5 April 2007</b> 285,000 Over 285,000	Nil 40	285,000 –	$\frac{2}{3}$ –
<b>6 April 2005–5 April 2006</b> 275,000 Over 275,000	Nil 40	275,000 –	$\frac{2}{3}$ –
<b>6 April 2004–5 April 2005</b> 263,000 Over 263,000	Nil 40	263,000 –	$\frac{2}{3}$ –
<b>6 April 2003–5 April 2004</b> 255,000 Over 255,000	Nil 40	255,000 –	$\frac{2}{3}$ –
<b>6 April 2002–5 April 2003</b> 250,000 Over 250,000	Nil 40	250,000 –	$\frac{2}{3}$ –
<b>6 April 2001–5 April 2002</b> 242,000 Over 242,000	Nil 40	242,000 –	$\frac{2}{3}$ –
<b>6 April 2000–5 April 2001</b> 234,000 Over 234,000	Nil 40	234,000 –	$\frac{2}{3}$ –
<b>6 April 1999–5 April 2000</b> 231,000 Over 231,000	Nil 40	231,000 –	$\frac{2}{3}$ –
<b>6 April 1998–5 April 1999</b> 223,000 Over 223,000	Nil 40	223,000 –	$\frac{2}{3}$ –
<b>6 April 1997–5 April 1998</b> 215,000 Over 215,000	Nil 40	215,000 –	$\frac{2}{3}$ –
<b>6 April 1996–5 April 1997</b> 200,000 Over 200,000	Nil 40	200,000 –	$\frac{2}{3}$ –

*Key Data: Inheritance Tax*

Gross cumulative total £	Gross rate of tax %	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
<b>6 April 1995–5 April 1996</b> 154,000 Over 154,000	Nil 40	154,000 –	$\frac{2}{3}$ –
<b>10 March 1992–5 April 1995</b> 150,000 Over 150,000	Nil 40	150,000 –	$\frac{2}{3}$ –
<b>6 April 1991–9 March 1992</b> 140,000 Over 140,000	Nil 40	140,000 –	$\frac{2}{3}$ –
<b>6 April 1990–5 April 1991</b> 128,000 Over 128,000	Nil 40	128,000 –	$\frac{2}{3}$ –
<b>6 April 1989–5 April 1990</b> 118,000 Over 118,000	Nil 40	118,000 –	$\frac{2}{3}$ –
<b>15 March 1988–5 April 1989</b> 110,000 Over 110,000	Nil 40	110,000 –	$\frac{2}{3}$ –

***Transfers from 17 March 1987 to 14 March 1988***

Portion of value		Rate of tax %
Lower limit £	Upper limit £	
0	90,000	Nil
90,000	140,000	30
140,000	220,000	40
220,000	330,000	50
330,000	upwards	60

**Grossing up table**

Gross cumulative total £	Gross rate of tax %	Inheritance tax on band £	Cumulative inheritance tax payable £	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
90,000	Nil	Nil	Nil	90,000	$\frac{3}{7}$
140,000	30	15,000	15,000	125,000	$\frac{2}{3}$
220,000	40	32,000	47,000	173,000	1
330,000	50	55,000	102,000	228,000	$1\frac{1}{2}$
Over 330,000	60	—	—	—	—

**Transfers from 18 March 1986 to 16 March 1987**

(FA 1986, Sch. 19, para. 36)

Portion of value		Rate of tax %
Lower limit £	Upper limit £	
0	71,000	Nil
71,000	95,000	30
95,000	129,000	35
129,000	164,000	40
164,000	206,000	45
206,000	257,000	50
257,000	317,000	55
317,000	—	60

**Grossing up table**

Gross cumulative total £	Gross rate of tax %	Inheritance tax on band £	Cumulative inheritance tax payable £	Net cumulative total £	Tax on each £ over net cumulative total for grossing up
71,000	Nil	Nil	Nil	71,000	$\frac{3}{7}$
95,000	30	7,200	7,200	87,800	$\frac{7}{13}$
129,000	35	11,900	19,100	109,900	$\frac{2}{3}$
164,000	40	14,000	33,100	130,900	$\frac{9}{11}$
206,000	45	18,900	52,000	154,000	1
257,000	50	25,500	77,500	179,500	$1\frac{2}{9}$
317,000	55	33,000	110,500	206,500	$1\frac{1}{2}$
Over 317,000	60	—	—	—	—

**6-100 Nil rate band for capital transfer tax from 13 March 1975 to 17 March 1986**

From	To	nil rate band
13.03.1975	26.10.1977	£15,000
27.10.1977	25.03.1980	£25,000
26.03.1980	08.03.1982	£50,000
09.03.1982	14.03.1983	£55,000
15.03.1983	12.03.1984	£60,000
13.03.1984	05.04.1985	£64,000
06.04.1985	17.03.1986	£67,000

**6-150 Nil rate band for estate duty from 16 August 1914 to 12 March 1975**

From	To	nil rate band
16.08.1914	09.04.1946	£100
10.04.1946	29.07.1954	£2,000
30.07.1954	08.04.1962	£3,000
09.04.1962	03.04.1963	£4,000
04.04.1963	15.04.1969	£5,000
16.04.1969	30.03.1971	£10,000
31.03.1971	21.03.1972	£12,500
22.03.1972	12.03.1975	£15,000

**6-200 Annual and small gift exemption**

(IHTA 1984, s. 19 and 20)

	On or after 6 April 1981 £	6 April 1980 to 5 April 1981 £	6 April 1976 to 5 April 1980 £
Annual	3,000	2,000	2,000
Small gift	250	250	100

**6-250 Gifts in consideration of marriage/civil partnership**

(IHTA 1984, s. 22)

<b>Donor</b>	<b>Exemption limit</b> £
Parent of party to the marriage/civil partnership	5,000
Remote ancestor of party to the marriage/civil partnership	2,500
Party to the marriage/civil partnership	2,500
Any other person	1,000

**6-300 Gift by UK-domiciled spouse/civil partner to non-UK domiciled spouse/civil partner**

(IHTA 1984, s. 18)

<b>Transfer on or after</b>	<b>Exemption limit</b> £
9 March 1982	55,000

**6-400 Agricultural and business property relief**

(IHTA 1984, s. 103ff. and 115ff.)

<b>Type of relief</b>	<b>Rate of relief for disposals</b>			
	<b>before 10/3/92 %</b>	<b>10/3/92– 31/8/95 %</b>	<b>1/9/95– 5/4/96 %</b>	<b>on or after 6/4/96 %</b>
<b>Agricultural property</b> (1)(2)				
Vacant possession or right to obtain it within 12 months	50	100	100	100
Tenanted land with vacant a possession value	50	100	100	100
Entitled to 50% relief at 9 March 1981 and not since able to obtain vacant possession	50	100	100	100
Agricultural land let on or after 1 September 1995	N/A	N/A	100	100
Other circumstances	30	50	50	50
<b>Business property</b>				
<i>Nature of property</i>				
Business or interest in business	50	100	100	100

## Key Data: Inheritance Tax

Type of relief	Rate of relief for disposals			
	before 10/3/92 %	10/3/92– 31/8/95 %	1/9/95– 5/4/96 %	on or after 6/4/96 %
Controlling shareholding in quoted company	50	50	50	50
Controlling shareholding in unquoted <sup>(3)</sup> company	50	100	100	100
Settled property used in life tenant's business	50/30 <sup>(4)</sup>	100/50 <sup>(4)</sup>	100/50 <sup>(4)</sup>	100/50 <sup>(4)</sup>
Shareholding in unquoted <sup>(3)</sup> company: more than 25% interest	50 <sup>(5)</sup>	100	100	100
Minority shareholding in unquoted <sup>(3)</sup> company: 25% or less	30 <sup>(6)</sup>	50	50	100
Land, buildings, machinery or plant used by transferor's company or partnership	30	50	50	50

### Notes

<sup>(1)</sup> FA 2009, s. 122 extends agricultural property relief to property in the European Economic Area. IHT due or paid on or after 23 April 2003 in relation to agricultural property located in a qualifying EEA state at the time of the chargeable event will become eligible for relief. The earliest deadline for reclaiming overpayments on such property will be 21 April 2010.

<sup>(2)</sup> From 6 April 1995, short rotation coppice is regarded as agricultural property.

<sup>(3)</sup> With effect from 10 March 1992 'unquoted' means shares not quoted on a recognised stock exchange and therefore includes shares dealt in on the Unlisted Securities Market (USM) or Alternative Investment Market (AIM).

<sup>(4)</sup> The higher rate applies if the settled property is transferred along with business itself.

<sup>(5)</sup> 30% if a minority interest transferred before 17 March 1987, or if transferor had not held at least 25% interest throughout preceding two years.

<sup>(6)</sup> The relief was 20% for transfers after 26 October 1977 but before 15 March 1983.



## 6-450 Quick succession relief

(IHTA 1984, s. 141)

Years between transfers		Percentage applied to formula below
More than	Not more than	
0	1	100
1	2	80
2	3	60
3	4	40
4	5	20

  

<b>Formula</b>		
Tax charge on earlier transfer $\times \frac{\text{Increase in transferee's estate}}{\text{Diminution in transferor's estate}}$		

## 6-500 Instalment option

(IHTA 1984, s. 227)

Interest-free:

- Controlling shareholdings.
- Holdings of 10% or more of unquoted shares with value over £20,000.
- Certain other death transfers of unquoted shares.
- Business or interest in business.
- Agricultural value of agricultural property.
- Woodlands.

Not interest-free:

- Land, wherever situated, other than within categories above.
- Shareholdings in certain land investment and security dealing companies, or market makers or discount houses.

## 6-550 Fall in value relief

(IHTA 1984, s. 179 and s. 191)

Type of property	Period after death
Quoted securities sold	One year
Qualifying investments cancelled or whose quotations suspended – deaths after 15 March 1992	One year
Interests in land – deaths after 15 March 1990	Four years
Interests in land – deaths before 16 March 1990	Three years