
Briefing Note

Inheritance Tax and Charitable
Legacies

A new measure to incentivise charitable giving on death was introduced on 6th April 2012. Where someone dies on or after that date and leaves at least 10% of their net estate to a qualifying charity or charities, the rate of inheritance tax on the chargeable part of their estate is reduced from 40% to 36%.

Qualifying charities

The relief only applies where at least 10% of the net estate is left to a qualifying charity or charities. A charity is qualifying if it is recognised as a charity for tax purposes by HM Revenue & Customs. It is important to check if the charity has a HMRC reference number, as not all charities registered by the Charities Commission in England or the Office of the Scottish Charity Regulator (OSCR) are also recognised as charities by HMRC.

How the reduced rate applies

In an estate where all property is owned outright in the deceased's own name, a straightforward calculation can be done to establish if the donation made to charity on death constitutes at least 10% of the value of the estate on which tax would be paid. The test is 'all or nothing', so a gift made to charity of less than 10% will not give rise to any relief. The following illustration shows how the relief operates.

Estate:	£1,325,000
Less: Nil rate band	£ 325,000
Taxable estate	£1,000,000

Legacy of £90,000 to Charity (9% of taxable estate)

Taxable Estate less Charity Exemption	£ 910,000
Tax at 40%	£ 364,000
Net estate after tax	£ 961,000

Divisible:

(i) Charity	£ 90,000
(ii) Taxable beneficiaries	£871,000

Legacy of £100,000 to Charity (10% of taxable estate)

Taxable Estate less Charity exemption	£ 900,000
Tax at 36%	£ 324,000
Net estate after tax	£1,001,000
Divisible:	
(i) Charity	£100,000
(ii) Taxable beneficiaries	£901,000

If the estate also includes assets in trust or assets owned jointly with someone else that pass by survivorship (i.e. assets that pass automatically on death in terms of the title to the asset), it is necessary to look at the net value of each of these components separately to establish if the value of the charitable donation being made from that component meets the 10% threshold.

In certain cases it may be beneficial to make an election to merge different components of the estate and apply the 10% test to the merged components.

Making use of the relief

As the relief is based on a percentage of the value of a person's estate at the date of their death, leaving a specific legacy of a sum of money or certain assets in your will may not be sufficient to ensure that the test is satisfied at that time. Instead, a carefully worded clause enabling assessment to be made at the date of death will be required to ensure that the charitable legacy or legacies always meet the 10% test.

Opting out

A valuation of the assets gifted to charity is required. In certain, probably rare, cases the costs of valuing certain assets will exceed the benefit of the reduced rate. In such circumstances, it is possible to elect to disapply the lower rate.

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Turcan Connell would be happy to provide such advice.

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