

Call in for a Coffee Christmas Edition

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Introduction

Welcome to RSM's Christmas Edition of "Call in for a Coffee". We wish you all a *Merry Christmas and Happy New Year*. Our British based Bangkok readers have requested that we explain some of the British Inheritance Tax on Lifetime Gifts issues facing UK residents as well as expatriates and accordingly, this edition focusses on these.

What is an 'estate'?

- Everything owned in an individual's name.
- Share of jointly owned assets.
- Assets held in trust resulting in personal benefit.
- Gifts whereby certain benefits are retained by the donee.

What is an 'asset'?

- Immoveable property such as land or real estate.
- Moveable property such as cash or shares.

What is a potentially exempt transfer?

- An outright gift to an individual is a potentially exempt transfer, provided that seven years passes between the gift, donation and date of death.

What is an 'outright gift'?

- An outright gift is one in which the donor does not retain any benefit.

What is a 'gift with reservation of benefit'?

- A gift whereby the donee received the benefit with conditions and restrictions attached.
- The donor of the gift retains some benefit for him or herself.

Am I a 'donor' or a 'donee'?

- If you give away any of your assets you are known as a donor and if you are the recipient of a gift you are known as the donee.

What about joint assets and gifts?

- If you make a gift of property that you own jointly with your spouse, special valuation rules can apply.

What is the 'taxable threshold' at the moment?

- The taxable threshold from 6 April 2003 is £255,000.

What is the rate of tax due on gifts?

On amounts exceeding the taxable threshold a gift is taxed

- at 40% when you die; and,
- immediately at 20% in your lifetime.

If you make an immediately taxable gift and die within seven years, if the chargeable value of the gift is above the threshold

at your date of death, tax will be due at 40% on the amount exceeding the taxable threshold. A credit will be given for the tax previously paid at 20%.

However, if death occurs more than three years after the giving of the gift, taper relief ensures that only a percentage of the death percentage rate is charged at the following rates:-

- 3 to 4 years before death – 80%
- 4 to 5 years before death – 60%
- 5 to 6 years before death – 40%
- 6 to 7 years before death – 20%

If I make a gift, will any inheritance tax be payable in my lifetime?

- Usually not. If you make an outright gift to someone during your lifetime it is a 'potentially exempt transfer' and will only become chargeable to inheritance tax if you die within seven years of making the gift.
- However, if you make a gift to a company or to certain types of trusts (known as discretionary trusts) the gift is immediately chargeable and you might have to pay some tax in your lifetime – if the total value of those gifts exceed the taxable threshold.

If I make a gift, will inheritance tax be payable when I die?

- When you die, all the potentially exempt transfers you have made in the seven years before death become chargeable transfers. They are all added together to work out whether any inheritance tax is payable. Any immediately chargeable gifts you have made in those seven years are also taken into account.

At the date of your death if the total value of the gifts you have made

- is more than the taxable threshold, there will be some inheritance tax to pay on the gifts;
- is less than the taxable threshold but added to your assets at the death the total comes to more than that threshold, there will be some inheritance tax to pay on your assets; and,
- is added to your assets at death and is still below the taxable threshold, there will be no inheritance tax to pay.

Are there any exemptions from inheritance tax?

- Gifts made to individuals more than seven years before your death.
- **Anything you give to your husband or wife, but there is a limit of £55,000 if you are domiciled in the UK but your spouse is domiciled elsewhere, is exempt (We consider 'domiciled' to mean the country in which you have your permanent home). This of course would potentially affect Bangkok**

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based residents where one spouse resides in the UK and the other in Thailand. The overall tax free threshold for an expatriate wife or husband of a UK resident would become £310,000.

- Gifts not exceeding £3,000 in any tax year are generally exempt.
- Payments for the maintenance of your husband or wife, ex-husband or ex-wife, relatives who are dependent on you through old age or infirmity, and usually any of your children (including adopted children and step-children) who are under 18 or in full-time education are exempt.
- Wedding gifts of up to:-
 - £5,000 for each of your children;
 - £2,500 to each grandchild, great grandchild or the person your grandchild or great grandchild is marrying; and,
 - £1,000 to anybody else.
- Gifts to UK based charities, registered housing associations and qualifying Parliamentary political parties.
- Gifts to national museums, universities, the National Trust and certain other bodies.
- Gifts in any tax year up to a total of £250 to as many people as you wish, but such gifts are only exempt if the total given to any one person in any tax year is not more than £250.
- Gifts out of your income after tax. To qualify, you must show that the gifts are a part of your normal 'usual expenditure', and leave you with sufficient income to maintain your usual standard of living.

Other Issues for Expatriates

1. Generally the transfer of property situated overseas to an individual domiciled overseas is not subject to inheritance tax.
2. Certain property is exempt from inheritance tax despite being situated in the UK and they can be summarised as follows:-
 - Government Securities.
 - Certain property owned by persons domiciled in the Channel Islands or the Isle of Man.
 - Certain property owned in the UK by visiting forces.
 - Overseas pensions.
 - Non sterling bank accounts.
3. There is Double Taxation Relief for Non-Excluded Property which can be provided in the following two ways:-
 - (i) If there is a tax treaty between the UK and the country in question.
 - (ii) When no tax treaty exists, unilateral relief is given in the form of a tax credit.

The tax implications of inheritance tax on lifetime gifts in the UK are far more substantial than the summary mentioned above. However, RSM has a copy of the UK Inland Revenue guideline and would be happy to provide this document to its readers should they be interested.

RSM News

RSMNW, as mentioned in previous editions is expanding its business into the following areas during 2004:-

- 1) Auditing listed companies.
- 2) Provision of additional Legal services.
- 3) Provision of Financial Investment products to individuals residing in Thailand.
- 4) Financial and Legal Due Diligence.
- 5) Feasibility Studies to overseas investors considering starting up business in Thailand.

Free Consultation

If you have any queries relating to inheritance tax on lifetime gifts issues in the UK or alternatively you need assistance with Legal, Financial, Taxation, Accounting, Auditing or other problems requiring innovative solutions, please contact the RSM Team and "Call in for a Coffee" for a free consultation.

Translation of business idea into realistic projects requires expert advice. RSM can assist you in formulating practical solutions to obstacles which may be encountered while undertaking business in Thailand.

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