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Collectors of art and cultural property may benefit from several tax-saving and deferral schemes put in place by the UK Government.

These schemes enable the public to benefit from access to cultural items that might otherwise be kept privately or sold abroad, in return for some form of tax saving or deferral for the collector or their estate.

The four principal schemes are as follows:

- **Acceptance in Lieu scheme (AIL)** – reduces or eliminates UK inheritance tax (IHT) payable usually on an estate after death;
- **Cultural Gifts scheme** – a relief from income tax, CGT and corporation tax to encourage people to make gifts of works of art during their lifetime.
- **Conditional Exemption from IHT** – a deferral of tax that would otherwise be due following a taxable event, rather than a complete exemption.
- **Gifts for National Purposes** – a relief from CGT and IHT where heritage assets are transferred to one of a list of specified institutions, e.g. the British Museum, National Gallery etc.



ACCEPTANCE IN LIEU SCHEME

The AIL scheme allows people who are liable to IHT (including executors of an estate) to apply to settle the tax by offering property in full or part payment of the tax liability.

To qualify for the scheme, objects or collections must be:

- of pre-eminent importance on the grounds of their national, scientific, historic or artistic interest; or
- associated with an important historic building in public ownership or belonging to a charity such as the National Trust; or
- land or buildings that are important to the National Heritage. The procedures for land or building differ from those for objects and are not discussed further.



How does the scheme work?

HMRC initially checks any offer in lieu, to ensure it meets the basic criteria of the tax scheme. If so, the Acceptance in Lieu (AIL) Panel, made up of independent experts, determines whether the object is pre-eminent and of acceptable physical condition, and the value at which it may be accepted.

The Department for Culture, Media and Sport (DCMS) (or the appropriate Minister in Scotland and Wales) considers the Panel's recommendations and determines whether to recommend acceptance of the object to HMRC.

Once accepted, objects or collections are allocated to a public institution or charity, for example, the National Trust.



Benefits for the property owner

If property is accepted in lieu of tax, its agreed value, i.e. the open market value of the property (net of CGT and IHT) had it been sold, is deducted from the estate's IHT liability (where the tax liability arises following the owner's death). No IHT is payable on the property itself.

As an incentive to use the scheme rather than sell on the open market, a "douceur" is also offered. For land and buildings this is 10% of the potential tax liability of the property, and for valuable objects it is 25%. This is added to the net value of the property, and set against the tax liability of the estate.

For example:

- **Mrs A's art collection has an open market value of £20 million and a potential IHT liability of £8 million – a net value of £12 million.**
- **The collection is accepted onto the AIL scheme, and a douceur of 25% of the IHT liability (£2 million) is added to the net value.**
- **The collection is accepted in lieu of £14 million of IHT that would otherwise be payable on the other assets in Mrs A's estate.**

Unfortunately, HMRC cannot give change if a piece of property is valued at more than the IHT payable on the estate. However, institutions may be able to pay the difference if this is agreed with them beforehand. These are known as "hybrid offers".



CULTURAL GIFTS SCHEME

The Cultural Gifts Scheme (CGS), also known as "Gifts to the Nation", enables UK taxpayers to donate pre-eminent works of art and other cultural objects for the benefit of the public in return for a reduction of income tax or CGT for individuals, or corporation tax for companies, proportionate to the value of the gift made.

The decision as to pre-eminence is made by the AIL panel and based on the same criteria as the AIL Scheme. The overall process is similar, but acceptance will depend on the annual budget available for both schemes.

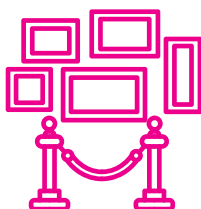


Eligible tax savings

For individuals, the tax reduction available is a maximum of 30% of the agreed value of the object, which may be spread across up to five tax years starting with that in which the offer is registered by the Arts Council.

Subject to certain rules and exceptions, the donor will not be liable to IHT or CGT on the gift itself.

For companies, the limit is 20% of the agreed value and the corporation tax liability may only be offset in the accounting period in which the offer is registered.



Non-tax benefits to the donor and public

Individual owners will see their valuable objects and collections placed in institutions for the benefit of the public during their lifetime. The property will be maintained in good condition and

will be available to the public, generally for a minimum of 100 days per year. Donated objects may not be sold without the prior consent of the relevant Minister.



CONDITIONAL EXEMPTION (IHT)

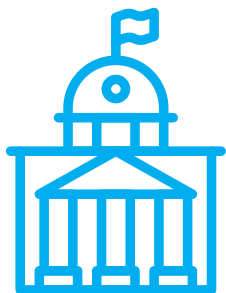
This scheme provides relief from IHT on a conditional basis following a taxable event, for example, the death of the owner, or a gift. Relief is offered in exchange for the provision of undertakings to preserve the property, to allow reasonable public access and publicise arrangements for such access, and, in the case of works of art and other objects, to keep them in the UK unless otherwise approved by HMRC.

If the item is sold, or any undertaking is breached, the conditional exemption is withdrawn and a charge to tax arises. This will also occur on the death of the person then treated as beneficially entitled to the property.

To be eligible for the conditional exemption, the property must be:

- **a building, estate or parkland of outstanding historical or architectural interest;**
- **land of outstanding natural beauty and spectacular views;**
- **land of outstanding scientific interest, including special areas for the conservation of wildlife, plants and trees; or**
- **an object with national scientific, historic or artistic interest, either in its own right, or due to a connection with historical buildings.**

HMRC decides whether an asset qualifies for exemption on the advice of the government's heritage advisory agencies.



GIFTS FOR NATIONAL PURPOSES

An exemption from CGT and IHT is also available for gifts of heritage assets to certain qualifying bodies approved by the Treasury, e.g. the National Gallery.

The exemption has no value limit and applies to transfers made during lifetime and on death. One advantage of this exemption over the other heritage property reliefs is that it is not necessary to prove the pre-eminence of the item.



BENEFITS AND POINTS TO CONSIDER

In addition to providing valuable tax savings and deferrals for property owners and their estates, the schemes discussed above benefit institutions by giving them ownership, or a long-term loan, of valuable pieces of art and cultural property at no, or a lower than market value, cost to themselves.

Nevertheless, the conditions and rules for the reliefs summarised above are potentially complex, and may have implications for how and where heritage property may be enjoyed by its owner. Where relevant, consideration must be given to security, both of the work of art or other item, and the location in which it is kept, especially if this is a residential address.

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