

Adviser guide

CGT hold-over relief when gifting to trusts

At a glance

- Gift hold-over relief allows clients making gifts to discretionary trusts to defer and pass on the CGT liability to the trustees.
- Relief must be claimed from HMRC, it is not automatically given.
- Certain criteria must be met for the relief to be available.

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Background

Since the announcement that pensions will be included in the deceased's estate for inheritance tax (IHT) purposes from 6 April 2027 there has been increased interest in using trusts as an estate planning vehicle.

Trusts can be an effective planning tool, but care is needed to ensure all the tax implications are understood before a decision is made to move assets into a trust. Many clients looking to reduce the size of their estate will hold investments, rather than just cash, and so gifting assets may involve a disposal for capital gains tax (CGT) purposes.

When will CGT apply?

CGT applies when most types of assets are sold at a profit, if they are not already held in a tax wrapper such as a pension or ISA. If the disposal creates a gain above the annual exempt amount (£3,000), the gain is taxed at 18% (non / basic rate taxpayers) or 24% (higher / additional rate taxpayers).

- **Gifting can still be a disposal:** a gift to an individual or to a trust is normally treated as a disposal at market value for CGT – even if the donor receives no money.
- **Practical issue:** the donor may face a CGT bill without having liquid funds to pay it.
- **Possible solution:** in certain cases, hold-over relief may be available to defer the gain.

Also note:

- CGT does not apply to disposals inside an **ISA** or **pension**.
- Clients can sell assets inside a wrapper and gift the **cash proceeds** (for example by taking PCLS from a pension) without CGT arising.
- Gifts between **spouses / civil partners** are exempt from CGT.

What is hold-over relief?

Hold-over relief lets the donor **defer** the gain on a gift and pass it to the recipient. The recipient is treated as acquiring the asset at the donor's original base cost, so when the recipient later sells, they pay CGT on:

- the gain that arose while the donor owned the asset (the amount held over), **plus**
- any additional gain while the recipient owns it.

When can hold-over relief be used?

Availability is limited. The main gift relief provisions in the Taxation of Chargeable Gains Act 1992 (TCGA 1992) are:

- **S.165:** gifts of certain **business assets**.
- **S.260:** gifts that are **immediately chargeable to IHT**.

S.165 relief for business assets

To use S.165 hold-over relief, check:

- The donor is a **sole trader** or **business partner**, or holds at least **5% of the voting rights** in a company (so it is their “personal company”).
- If shares are gifted, they are either in the donor's **personal company** or are **unlisted** (not quoted on a recognised stock exchange).

In practice, S.165 is commonly used for gifting business assets to family members or into certain **interest in possession** family trusts.

S.260 relief where gifts are immediately chargeable to IHT

When S.260 can apply: the disposal must be a **chargeable transfer** for IHT purposes that is **not** a potentially exempt transfer (PET). So, a direct gift to an individual (e.g., child / grandchild) is usually a PET, so it **won't** qualify for S.260 hold-over relief.

Why discretionary trusts often qualify: a gift into a discretionary trust is a **chargeable lifetime transfer (CLT)**, so it is immediately chargeable for IHT. That means S.260 hold-over relief can be available.

- **No IHT bill is required:** a CLT can qualify for hold-over relief even if it falls within the available nil-rate band with no immediate IHT liability.
- **Remember:** this is about whether the transfer is immediately chargeable to IHT, not whether tax is actually due.

S.260 relief – further exemptions

S.260 relief can also apply to certain other IHT-related transfers, including:

- exempt transfers to **political parties**;
- transfers to **maintenance funds** for historic buildings;
- transfers that are **conditionally exempt** (as designated by HM Treasury); and
- certain transfers from **accumulation and maintenance trusts**, bereaved minor trusts or **18–25 trusts** to beneficiaries or on a beneficiary's death.

Other considerations for relief to apply

Eligibility checks (common pitfalls)

- **Settlor-interested trusts:** if the client (settlor) can benefit from the trust, hold-over relief will not apply. The restriction can also apply where a spouse / civil partner or a minor child / stepchild can benefit.
- **UK residence (recipient):** in most cases, the person receiving the gift (e.g., trustees) must be UK resident for relief to apply.

How hold-over relief works

Mechanics (S.165 and S.260 work the same way):

1. **Calculate the gain** on the gift as if sold at market value.
2. **Donor:** the chargeable gain is reduced by the amount held over (so CGT may be reduced to nil).
3. **Recipient (e.g., trustees):** the asset's base cost is reduced by the gain held over, increasing the gain on a later sale.

For the recipient, e.g. the trustee of the discretionary trust, the base cost of the asset received is reduced by the gain held over.

- ! **Important:** hold-over relief does **not** remove the CGT liability – it **defers** it. The deferred gain crystallises when the recipient disposes of the asset. If the trust lacks liquidity at that point, trustees may need to sell assets to meet the CGT bill.

Record-keeping: trustees should keep a clear audit trail (market value at transfer, the hold-over claim, and the resulting CGT base cost). This may be needed many years later.

Where both S.165 and S.260 could apply (e.g., gifting personal company shares into a discretionary trust), **S.260 takes precedence** and the claim should be made under that section.

Case study (worked example)

1. **Client context:** John is a higher rate taxpayer with shares in an investment account, plus substantial funds in a pension and ISA. He is concerned about estate planning (especially considering the IHT treatment of pensions from 6 April 2027).
2. **Planning objective:** he wants to make lifetime gifts, but not as outright gifts due to complicated family arrangements.
3. **Action:** John sets up a discretionary family trust for children and grandchildren (including future grandchildren). John is one of the trustees.
4. **Transfer:** he transfers shares worth **£250,000** into the trust. Original / base cost (book value) is **£180,000**.
5. **IHT position:** the gift is a CLT. John has a full nil-rate band of **£325,000**, so no IHT is payable. If he dies within seven years, the transfer uses £250,000 of the nil-rate band (leaving £75,000 for the rest of the estate, plus any applicable residence / inherited nil-rate band).
6. **CGT calculation:** gain = £250,000 – £180,000 = **£70,000**.
7. **Hold-over claim:** John claims hold-over relief for £70,000, so no CGT is payable at the time of the gift. The trustees' base cost becomes £250,000 – £70,000 = **£180,000**, meaning the deferred gain will fall on the trust on a later disposal.
8. **Rate of CGT payable:** As John is a higher rate taxpayer, the rate of CGT of 24% is the same for both John and the trustee (assuming the annual exempt amount has already been used).

How to apply for hold-over relief

- **Complete the hold-over relief claim form** (usually submitted with the self-assessment return; if filing online, attach a scanned PDF).
- **Report the disposal** on the capital gains pages as if sold at market value (even though no cash was received).
- **Signatures:** for transfers into a trust, typically only the settlor signs; in other cases (e.g., S.165 gifts to individuals), both transferor and transferee need to sign.
- **Deadline:** claims must be made within **four years** from the end of the tax year of disposal (e.g., a 2026/27 disposal must be claimed by **5 April 2031**). In practice, aim to submit with the relevant self-assessment return (e.g., by **31 January 2028** for 2026/27).

More information (HMRC)

[Capital Gains Tax relief on gifts and similar transactions \(Self Assessment helpsheet HS295\) - GOV.UK](#)