

## Gifts of Pre-Eminent Objects

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### Who is likely to be affected?

This measure will affect individual and corporate owners of pre-eminent objects (such as a work of art or other item that is of national, scientific, historic or artistic interest) who want to donate them to the nation.

### General description of the measure

The aim of this scheme is to stimulate lifetime giving by encouraging taxpayers to donate pre-eminent objects, or collections of objects, to the nation. The objects may be loaned or given to appropriate institutions including certain charities and accredited museums for safe keeping and to provide public access. In return, donors will receive a reduction in their UK tax liability based on a percentage of the value of the object they are donating.

### Policy objective

The objective of this policy is to encourage and support greater philanthropy.

### Background to the measure

At Budget 2011 the Government announced a series of substantial reforms to encourage more philanthropy and charitable giving.

This measure was the subject of a consultation over the summer and is a scheme to provide a tax reduction to people who, during their lifetime, donate works of art or historical objects of pre-eminent importance to the nation.

At the Autumn Statement, the Government announced that the annual limit available for both tax reductions under the new scheme to encourage gifts of pre-eminent objects, and taxes offset under the existing inheritance tax Acceptance in Lieu (AIL) scheme, would be increased from £20 million to £30 million.

## Detailed proposal

### Operative date

The measure will take effect on an appointed day after the date that Finance Bill 2012 receives Royal Assent.

### Current law

There is no scheme already in existence to encourage people to give pre-eminent objects to the nation in return for a reduction in a donor's tax liability. The AiL scheme enables estates to offer pre-eminent objects (including land, buildings and contents) to set against an inheritance tax liability based on the value of the item(s). There is no philanthropic element to the AiL scheme, and it only applies to inheritance tax liabilities and not to other taxes.

## Proposed changes

A potential donor will offer to give a pre-eminent object (or collection of objects) to the nation with a self-assessed valuation of the object. A panel of experts will consider the offer and, if it considers the object is pre-eminent and should be accepted, the panel will agree the value of the object with the donor. If the donor decides to proceed based on that valuation they will receive a tax reduction (for individuals, income tax and/or capital gains tax, and for companies, corporation tax) as a fixed percentage of the object's agreed value. The fixed percentage will be 30 per cent for individuals and 20 per cent for companies. Individuals will be able to spread the tax reduction forward across a period of up to five years starting with the tax year in which the object is offered. The donor will specify in advance how the tax reduction is to be used.

## Summary of impacts

<b>Exchequer impact (£m)</b>	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
	-	-15	-15	-15	-15	-15
	These figures are set out in Table 2.1 of the Autumn Statement and have been certified by the Office of Budget Responsibility. More detail can be found in the policy costings document published alongside the Autumn Statement.					
<b>Economic impact</b>	This measure is not expected to have significant economic impacts. However, in the longer term the scheme will increase the attractiveness of the UK as a cultural tourism destination, which will have associated benefits for the economy.					
<b>Impact on individuals and households</b>	This measure will affect only a small number of individuals who are owners of pre-eminent works or objects who might wish to consider donating them to the nation.					
<b>Equalities impacts</b>	The potential equality impacts of this policy have been considered. No different impact on any equality group has been identified.					
<b>Impact on business including civil society organisations</b>	There will be negligible impact on businesses as the scheme will be of interest to only a very few businesses. Museums, galleries, archives etc, many of which are charities, will be interested in the new scheme as it will open a new route for them to receive pre-eminent objects.					
<b>Operational impact (£m) (HMRC or other)</b>	HM Revenue & Customs will need to set up processes to apply and monitor tax reductions given to taxpayers under the new scheme. The extent of the processes and the costs will depend on the number of donors using the scheme. The Department for Culture, Media and Sport will need to refresh the panel of experts currently serving on the AiL panel.					
<b>Other impacts</b>	No other impacts were identified.					

## Monitoring and evaluation

The scheme will be kept under review through communication with taxpayer groups and museums and galleries affected by the measure, and through assessment of the demand for the scheme, including the impact on the AiL scheme.

**Further advice**

If you have any questions about this change, please contact Keith Nichol on 020 7211 6216 (email: [keith.nichol@culture.gsi.gov.uk](mailto:keith.nichol@culture.gsi.gov.uk)) in regards to the general scheme, and Joanne Shelling on 020 7147 2401 (email: [joanne.shelling@hmrc.gsi.gov.uk](mailto:joanne.shelling@hmrc.gsi.gov.uk)) in regards to the tax reduction.

**1 Gifts to the nation**

Schedule 1 contains provision for a person's tax liability to be reduced in return for giving pre-eminent property to the nation.

SCHEDULE 1

Section 1

GIFTS TO THE NATION

PART 1

INTRODUCTION

*Qualifying gifts*

- 1 (1) For the purposes of this Schedule, a person makes a “qualifying gift” if the person makes a gift in the circumstances described in sub-paragraph (2).
- (2) The circumstances are –
  - (a) the person offers to give pre-eminent property to be held for the benefit of the public or the nation,
  - (b) the person is legally and beneficially entitled to the property and the property is not owned jointly (or in common) with others,
  - (c) the offer is made in accordance with a scheme set up by the Secretary of State for the purposes of this Schedule,
  - (d) the offer is registered in accordance with the scheme,
  - (e) the offer, or a part of the offer, is accepted in accordance with the scheme, and
  - (f) the gift is made pursuant to the offer, or the part of the offer, accepted.
- (3) In this Schedule –
  - (a) “the agreed terms” means the terms on which acceptance is agreed, as recorded in the manner prescribed by the scheme, and
  - (b) “the offer registration date” means the date when the offer was registered in accordance with the scheme.

PART 2

INCOME TAX AND CAPITAL GAINS TAX

*Taxes affected*

- 2 (1) This Part applies to an individual’s liability to income tax and capital gains tax.
- (2) It does not apply to any liability arising as a trustee or personal representative.
- (3) Subject to sub-paragraph (2), a reference in this Part to an individual’s “tax liability” is to the individual’s liability to income tax and capital gains tax.

*The basic rule*

- 3 (1) If an individual (“N”) makes a qualifying gift, a portion of N’s tax liability for each relevant tax year is to be treated as satisfied, as if N had paid that portion when it became due (or on the offer registration date, if the portion became due before that date).
- (2) A “relevant tax year” is a tax year identified in the agreed terms as a tax year to which this paragraph is to apply.
- (3) Up to 5 tax years may be identified in the agreed terms, but each one must be either –
  - (a) the tax year in which the offer registration date falls, or
  - (b) one of the 4 tax years following that tax year.

*The portion treated as satisfied*

- 4 (1) The portion of N’s tax liability for a relevant tax year that is to be treated as satisfied is an amount equal to the smaller of –
  - (a) the tax reduction figure allocated to that tax year, and
  - (b) the amount of N’s tax liability for that tax year less any portion of that amount that is treated as satisfied in consequence of any qualifying gift made by N on a previous occasion.
- (2) The amount determined under sub-paragraph (1) may be nil.
- (3) The tax reduction figure allocated to a tax year is such part of the total tax reduction figure as is expressed in the agreed terms to be allocated to that tax year.
- (4) The figures allocated to the relevant tax years must in total add up to no more than the total tax reduction figure.
- (5) “The total tax reduction figure” is 30% of the value set out in the agreed terms as the agreed value of the property forming the subject of the qualifying gift.
- (6) The Treasury may by order substitute a different percentage for the percentage specified for the time being in sub-paragraph (5).

*Order in which benefit is applied*

- 5 (1) If the tax reduction figure allocated to a relevant tax year is less than the amount determined under paragraph 4(1)(b) for that tax year, the benefit of paragraph 3(1) is to be applied to N’s tax liability in the order specified in the agreed terms.
- (2) If no order is specified, the order is –
  - (a) first, to N’s liability to income tax for that year, and
  - (b) then, to N’s liability to capital gains tax for that year.

*Effect of basic rule on interest and penalties*

- 6 (1) This paragraph explains the effect of paragraph 3(1) as regards late payment interest and late payment penalties.

- (2) The effect is that liability to pay amounts specified in sub-paragraph (3) ceases when the qualifying gift is made, as if the liability had never arisen.
- (3) The amounts are –
  - (a) any late payment interest that accrued on the relevant portion during the negotiation period, and
  - (b) any late payment penalty to which N became liable in the negotiation period for failing to pay the relevant portion (together with any interest on such a penalty).
- (4) “The relevant portion” is the portion of N’s tax liability for a relevant tax year that is treated under paragraph 3(1) as satisfied.
- (5) In determining for the purposes of sub-paragraph (2) whether or to what extent –
  - (a) late payment interest accruing on an amount of (or on account of) N’s tax liability for the relevant tax year is attributable to the relevant portion, or
  - (b) a late payment penalty incurred for failing to pay an amount of (or on account of) N’s tax liability for the relevant tax year is attributable to the relevant portion,any attribution or apportionment is to be done in the way that maximises the relief obtained by N by virtue of this paragraph.
- (6) “The negotiation period” is the period –
  - (a) beginning with the offer registration date, and
  - (b) ending with the day on which the qualifying gift is made.
- (7) Nothing in this paragraph affects any late payment interest that accrued, or any late payment penalty to which N became liable, before the offer registration date.

*Changes to N’s tax liability*

- 7 (1) If the amount of N’s tax liability for a relevant tax year is revised at any time, the portion of that liability that is treated under paragraph 3 as satisfied is to be re-calculated.
- (2) But nothing in this paragraph permits any revision of the agreed terms.

*Gifts set aside etc*

- 8 If a qualifying gift is set aside or declared void after it is made –
  - (a) the portion of N’s tax liability for each relevant tax year treated as satisfied ceases to be treated as satisfied,
  - (b) the effect described in paragraph 6 is negated, and
  - (c) N is required to pay the portion due for each relevant tax year, together with any late payment interest and late payment penalties in respect of it, by the later of –
    - (i) the end of the period of 30 days beginning with the day on which the gift was set aside or declared void, and
    - (ii) the day by which N would have been required to pay those amounts but for this Schedule.

PART 3  
CORPORATION TAX

*Taxes affected*

- 9 (1) This Part applies to a company's liability to corporation tax.
- (2) A reference in this Part to a company's "tax liability" is to the company's liability to corporation tax.

*The basic rule*

- 10 (1) If a company ("C") makes a qualifying gift, a portion of C's tax liability for the relevant accounting period is to be treated as satisfied, as if C had paid that portion when it became due (or on the offer registration date, if the portion became due before that date).
- (2) "The relevant accounting period" is the accounting period of C's in which the offer registration date falls.

*The portion treated as satisfied*

- 11 (1) The portion of C's tax liability for the relevant accounting period that is to be treated as satisfied is an amount equal to the smaller of –
- (a) the tax reduction figure, and
  - (b) the amount of C's tax liability for that period less any portion of that amount that is treated as satisfied in consequence of any qualifying gift made by C on a previous occasion.
- (2) The amount determined under sub-paragraph (1) may be nil.
- (3) The tax reduction figure is –
- (a) 20% of the value set out in the agreed terms as the agreed value of the property forming the subject of the qualifying gift, or
  - (b) such lower figure as may be specified in the agreed terms as the tax reduction figure.
- (4) The Treasury may by order substitute a different percentage for the percentage specified for the time being in sub-paragraph (3)(a).

*Effect of basic rule on interest and penalties*

- 12 (1) This paragraph explains the effect of paragraph 10 as regards late payment interest and late payment penalties.
- (2) The effect is that liability to pay amounts specified in sub-paragraph (3) ceases when the qualifying gift is made, as if the liability had never arisen.
- (3) The amounts are –
- (a) any late payment interest that accrued on the relevant portion during the negotiation period, and
  - (b) any late payment penalty to which C became liable in the negotiation period for failing to pay the relevant portion (together with any interest on such a penalty).

- (4) “The relevant portion” is the portion of C’s tax liability for the relevant accounting period that is treated under paragraph 10 as satisfied.
- (5) In determining for the purposes of sub-paragraph (2) whether or to what extent –
- (a) late payment interest accruing on an amount of (or on account of) C’s tax liability for the relevant accounting period is attributable to the relevant portion, or
  - (b) a late payment penalty incurred for failing to pay an amount of (or on account of) C’s tax liability for the relevant accounting period is attributable to the relevant portion,
- any attribution or apportionment is to be done in the way that maximises the relief obtained by C by virtue of this paragraph.
- (6) “The negotiation period” is the period –
- (a) beginning with the offer registration date, and
  - (b) ending with the day on which the qualifying gift is made.
- (7) Nothing in this paragraph affects any late payment interest that accrued, or any late payment penalty to which C became liable, before the offer registration date.

*Changes to C’s tax liability*

- 13 (1) If the amount of C’s tax liability for the relevant accounting period is revised at any time, the portion of that liability that is treated under paragraph 10 as satisfied is to be re-calculated.
- (2) But nothing in this paragraph permits any revision of the agreed terms.

*Gifts set aside etc*

- 14 If a qualifying gift is set aside or declared void after it is made –
- (a) the portion of C’s tax liability for the relevant accounting period treated as satisfied ceases to be treated as satisfied,
  - (b) the effect described in paragraph 12 is negated, and
  - (c) C is required to pay the portion due, together with any late payment interest and late payment penalties in respect of it, by the later of –
    - (i) the end of the period of 30 days beginning with the day on which the gift was set aside or declared void, and
    - (ii) the day by which C would have been required to pay those amounts but for this Schedule.

PART 4

GENERAL PROVISION

*Orders*

- 15 (1) An order under this Schedule is to be made by statutory instrument.
- (2) It may include transitional and saving provisions.
- (3) A statutory instrument containing an order under this Schedule is subject to annulment in pursuance of a resolution of the House of Commons.

*Pre-eminent property*

- 16 (1) In this Schedule, “pre-eminent property” means –
- (a) any picture, print, book, manuscript, work of art, scientific object or other thing that the relevant Minister is satisfied is pre-eminent for its national, scientific, historic or artistic interest, or
  - (b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the relevant Minister is satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest.
- (2) “National interest” includes interest within any part of the United Kingdom.
- (3) In determining whether an object or collection or group of objects is pre-eminent, regard is to be had to any significant association of the object, collection or group with a particular place.

*The relevant Minister*

- 17 (1) For the purposes of paragraph 16, “the relevant Minister” is –
- (a) for items with a purely Scottish interest, the Scottish Ministers,
  - (b) for items with some Scottish interest, the Secretary of State and the Scottish Ministers concurrently,
  - (c) for items with a purely Northern Irish interest, the Northern Ireland Department of Culture, Arts and Leisure,
  - (d) for items with some Northern Irish interest, the Secretary of State and the Northern Ireland Department of Culture, Arts and Leisure concurrently,
  - (e) for items with a purely Welsh interest, the Welsh Ministers,
  - (f) for items with some Welsh interest, the Secretary of State and the Welsh Ministers concurrently, and
  - (g) for any other items, the Secretary of State.
- (2) An item has a purely Scottish interest if –
- (a) it is located in Scotland, and
  - (b) the offer contains –
    - (i) no wish about where the item is to be displayed, or
    - (ii) a wish that it is to be displayed in Scotland.
- (3) An item has some Scottish interest if it does not have a purely Scottish interest but –
- (a) it is located in Scotland, or
  - (b) the offer contains a wish that it is to be displayed in Scotland.
- (4) References to items with a purely Northern Irish or purely Welsh interest or to items with some Northern Irish or some Welsh interest are to be read in accordance with sub-paragraphs (2) and (3), but replacing references to Scotland with references to Northern Ireland or, as the case may be, Wales.
- (5) “Item” means an object or collection or group of objects.

*General interpretation*

- 18 In this Schedule –

- “company” has the meaning given in section 992 of ITA 2007;  
“corporation tax” includes any amount assessable or chargeable as if it were corporation tax;  
“late payment interest” means interest under section 101 of FA 2009, or under or by virtue of Part 9 of TMA 1970, on amounts payable to HMRC;  
“late payment penalty” means a penalty under Schedule 56 to FA 2009.

- 19 Nothing in this Schedule is to give rise to any right or expectation that an offer made as mentioned in paragraph 1 will be accepted.

*Related amendments*

- 20 IHTA 1984 is amended as follows.
- 21 In section 25 (gifts for national purposes etc), after subsection (2) insert –
- “(3) A transfer of value is an exempt transfer to the extent that the value transferred by it is attributable to property that is being transferred in the circumstances described in paragraph 1 of Schedule 1 to the Finance Act 2012 (gifts to the nation).”
- 22 In section 26A (potentially exempt transfer of property subsequently held for national purposes etc), in paragraph (b), after “below” insert “or in the circumstances described in paragraph 1 of Schedule 1 to the Finance Act 2012 (gifts to the nation)”.
- 23 (1) Section 32 (conditionally exempt transfers: chargeable events) is amended as follows.
- (2) In subsection (3), for “subsections (4) and (5)” substitute “subsections (4), (4A) and (5)”.
- (3) After subsection (4) insert –
- “(4A) A death or disposal is not a chargeable event with respect to any property if –
- (a) in the case of a disposal, the disposal is a Schedule 1 disposal, or
- (b) in the case of death –
- (i) a person who became beneficially entitled to the property on the death makes a Schedule 1 disposal of the property within 3 years of the death, or
- (ii) the death occurs after a disposal within paragraph (a).
- (4B) A reference in subsection (4A) to a “Schedule 1 disposal” is to a disposal made in the circumstances described in Schedule 1 to the Finance Act 2012 (gifts to the nation).”
- 24 (1) Section 32A (associated properties) is amended as follows.
- (2) After subsection (5) insert –
- “(5A) The death of a person beneficially entitled to property, or the disposal of property, is not a chargeable event if –
- (a) in the case of a death, a person who became beneficially entitled to the property on the death makes a Schedule 1 disposal of the property within 3 years of the death, or

- (b) in the case of a disposal of property, the disposal is a Schedule 1 disposal.
- (5B) A reference in subsection (5A) to a “Schedule 1 disposal” is to a disposal made in the circumstances described in paragraph 1 of Schedule 1 to the Finance Act 2012 (gifts to the nation).”
- (3) In subsection (7) –
  - (a) omit “relevant disposal (that is, a”, and
  - (b) omit the closing bracket after “applies”.
- (4) After subsection (7) insert –
  - “(7A) Where, after a disposal mentioned in subsection (5A)(b) made in circumstances where that subsection applies, a person beneficially entitled to the property dies, the death is not a chargeable event with respect to the property concerned.”
- 25 In section 33 (amount of charge under section 32), in subsection (6) –
  - (a) for “section 32(4)” substitute “section 32(4) or (4A)”, and
  - (b) for “section 32A(5)”, in both places it appears, substitute “section 32A(5) or (5A)”.
- 26 In section 34 (reinstatement of transferor’s cumulative total), in subsection (4) –
  - (a) for “section 32(4)” substitute “section 32(4) or (4A)”, and
  - (b) for “section 32A(5)”, in both places it appears, substitute “section 32A(5) or (5A)”.
- 27 In section 258 of TCGA 1992 (works of art etc), before subsection (2) insert –
  - “(1A) A gain is not a chargeable gain if it accrues on a disposal made in the circumstances described in paragraph 1 of Schedule 1 to the Finance Act 2012 (gifts to the nation).”
- 28 (1) Chapter A1 of Part 14 of ITA 2007 (income tax: remittance basis) is amended as follows.
  - (2) In section 809Y (property that ceases to be exempt property treated as remitted), in subsection (1), after “section 809YA” insert “or 809YD”.
  - (3) After section 809YC insert –
    - “809YD Exception to section 809Y: gifts to the nation**
    - (1) Section 809Y(1) does not apply to property if –
      - (a) it ceases to be exempt property in the second case mentioned in that section, and
      - (b) by no later than the time when it ceases to be exempt property, it has been disposed of in the circumstances described in paragraph 1 of Schedule 1 to FA 2012 (gifts to the nation).
    - (2) Where section 809Y(1) does not apply to property by virtue of this section, the property is to continue to be treated as not remitted to the United Kingdom even though it no longer meets any of the relevant rules.”

*Commencement*

- 29      The amendments made by this Schedule have effect in relation to tax years and accounting periods beginning on or after such day as the Treasury may by order appoint.

**EXPLANATORY NOTE**

**GIFTS TO THE NATION**

**SUMMARY**

1. This clause and schedule provide for a reduction in income tax, capital gains tax and/or corporation tax where individual and corporate donors make gifts of pre-eminent objects to the nation in accordance with a scheme set up by the Secretary of State.

**DETAILS OF THE CLAUSE**

2. The Schedule comprises four parts. Part 1 of the Schedule outlines the circumstances when the tax reduction will apply to a gift of pre-eminent property. Parts 2 and 3 of the Schedule set out the details of how the tax reduction will apply to individual and corporate donors respectively. Part 4 of the Schedule makes general provisions in connection with the tax reduction.
3. Paragraph 1 of the Schedule outlines the circumstances when a gift of pre-eminent property for the benefit of the public or the nation will be a qualifying gift for the purposes of the tax reduction. In particular, a gift that qualifies for the tax reduction must be registered and accepted under the scheme set up by the Secretary of State.
4. Paragraph 2 of the Schedule specifies that the provisions in Part 2 of the Schedule apply to the income tax and capital gains tax liabilities of individual donors. The donor must be acting in their own personal capacity, so the tax reduction does not extend to individuals who are acting as trustees or personal representatives.
5. Paragraph 3 of the Schedule sets out how the tax reduction is to be applied. If an individual makes a qualifying gift then part of that individual's tax liability for a relevant tax year is treated as having been paid, leading to a reduction in the amount of tax the individual still has to pay for that period. An individual may, subject to agreement in accordance with the scheme, apply the tax reduction against their income tax and/or capital gains tax liabilities in the tax year in which the offer was registered or any of the succeeding four tax years.
6. Paragraph 4 of the Schedule sets out how an individual may allocate the tax reduction across more than one relevant tax year. The "total tax reduction" is first computed under paragraph 4(5). The total tax reduction for an individual is 30% of the value of the qualifying gift. The individual may then agree, pursuant to the scheme, that the total

tax reduction amount is to be allocated across the five relevant tax years in whatever amounts they wish, including nil amounts for any year. Where an individual has on a previous occasion made a gift of another pre-eminent object under the scheme, any amount of tax reduction already allocated to a particular tax year in respect of that earlier gift of pre-eminent property is applied in priority to any tax reduction allocated to the same tax year in respect of the later gift. The individual is not required to use the whole of the tax reduction available, for example where the value of the gift is very high and/or the individual knows that their tax liabilities will not be sufficiently large so as to be able to use the full amount of the tax reduction.

7. Paragraph 4(6) of the Schedule provides that HM Treasury may, by order, amend the rate of the tax reduction, as set out in paragraph 4(5).
8. Paragraph 5 of the Schedule enables the individual to specify how the tax reduction is to be split between their income tax and capital gains tax liabilities. If the individual does not express any preference, the tax reduction will be applied first to the individual's income tax liability and thereafter to any capital gains tax liability.
9. Paragraph 6 of the Schedule makes clear that where an offer of a gift is accepted under the scheme, resulting in an amount of the tax liability being treated as having been satisfied as provided for in paragraphs 3 and 4, then no late payment interest or late payment penalties will be payable on that amount from the date of registration. Paragraph 6(5) specifies that where there are multiple due dates for a tax year, the deemed payment should be allocated to due amounts in a manner that minimises any late payment interest and penalties due. Paragraph 6(7) makes it clear that late payment interest and late payment penalties that accrue before the registration date are not affected by anything in these provisions.
10. Paragraph 7 of the Schedule provides that, where the donor's tax liability for a year subsequently changes, the portion of that tax liability for a relevant tax year (to which the tax reduction has applied) is to be recalculated. In many cases, the effect of this provision is limited. Paragraph 7(2) makes plain that the schedule of set off of the tax reduction (as contained in the agreed terms) cannot be revised once agreed, even if the donor's circumstances subsequently change.

**Example**, a donor (Alan) had originally allocated a tax reduction figure of £100,000 to Year 3. A's tax liability for Year 3 was initially found to be £75,000, in which case Alan would have £25,000 of tax reduction figure which could be not be utilised. However, if Alan's tax liability were subsequently revised and found instead to be £150,000, Alan could then

apply the initially unused balance of £25,000 of the tax reduction figure to set against a part of the additional £75,000 liability which had become due after the revision of Alan's tax liability occurred. The unused tax reduction would be available to set against tax liabilities only; penalties or interest due as a result of an enquiry into the person's tax affairs for that year would be payable in full.

11. Paragraph 8 of the Schedule makes provision for the tax reduction to be withdrawn where the qualifying gift is set aside or declared void, for example by order of a Court. Where the tax reduction has already been used, an amount representing the tax reduction (together with any late payment penalties and interest) due up to and including the date of payment, is payable within 30 days of the date the gift was set aside or declared void. Where the tax reduction has not yet taken effect, the normal due dates for the payment of the tax will apply.
12. Paragraph 9 of the Schedule specifies that the provisions in Part 3 of the Schedule apply to the corporation tax liabilities of company donors.
13. Paragraph 10 of the Schedule provides that the tax reduction is to be applied to the accounting period in which the offer is registered. The date on which the corporation tax is treated as being satisfied is the date on which the tax liability became due (or, if the liability was due before the offer of gift was registered, the date on which the offer was registered).
14. Paragraph 11 of the Schedule specifies that the amount of the tax reduction for a gift under the scheme by a company is 20% of the value of the property forming the gift. The company may choose to accept a lower percentage if it wishes, for example where the value of the gift is very high or the company's tax liability for that particular accounting period will not be sufficient to use the full amount of the tax deduction.
15. Paragraph 11(4) of the Schedule provides that HM Treasury may, by order, amend the rate of the tax reduction in paragraph 11(3)(a).
16. Paragraph 12 of the Schedule makes clear that where an offer of a gift is accepted under the scheme, resulting in an amount of the tax liability being treated as having been satisfied as provided for in paragraphs 10 and 11, then no interest or late payment penalties will be payable on that amount from the date of registration. Paragraph 12(5) specifies that where there are multiple due dates for an accounting period, the deemed payment should be allocated to due amounts in a manner that minimises any late payment interest and penalties due. Paragraph 12(7) makes it clear that late payment

interest and penalties that accrue before the registration date are not affected by anything in these provisions.

17. Paragraph 13 of the Schedule allows the tax liability for the relevant accounting period to be recalculated where the company's corporation tax liability for the accounting period subsequently changes. The effect of this provision is limited.

**Example,** B Ltd had a tax reduction due of £100,000. B Ltd's corporation tax liability for the relevant accounting period was only £75,000 and so B Ltd was not able to utilise £25,000 of its tax reduction. B Ltd's corporation tax liabilities for the year were subsequently revised to £95,000. B Ltd could therefore use £20,000 of the unused balance of £25,000 to set against the additional £20,000 liability. The unused tax reduction would be available to set against tax liabilities only; penalties or interest due as a result of an enquiry into the company's tax affairs for that accounting period would be payable in full.

18. Paragraph 14 of the Schedule makes provision for the tax reduction to be withdrawn where the qualifying gift is set aside or declared void, for example by order of a Court. Where the tax reduction has already been used, an amount representing the tax reduction (together with any late payment penalties and interest) due up to and including the date of payment, is payable within 30 days of the date the gift was set aside or declared void. Where the tax reduction has not yet taken effect, the normal due dates for the payment of the tax will apply.
19. Part 4 of the Schedule makes a number of general provisions.
20. Paragraph 15 provides that an order amending the percentage of a tax reduction is to be made by statutory instrument using the negative procedure.
21. Paragraph 16 of the Schedule defines the property that may be gifted under the terms of the scheme. The definition is intended to mirror the definition which applies for the Acceptance in Lieu scheme under section 230 of the Inheritance Act 1984, with the exception of land and buildings. In practice objects or collections of objects may be pre-eminent if they have an especially close association with our history and national life; or are of especial artistic or art-historical interest; or are of especial importance for the study of some particular form of art, learning or history; or have an especially close association with a particular historic setting. The decision as to whether an object is pre-eminent rests with the "relevant Minister".
22. Paragraph 17 of the Schedule defines the term "relevant Minister". The relevant Minister is the Secretary of State for Culture, Media and

Sport unless the item, defined as an object or collection of objects, has an interest with one of Scotland, Northern Ireland or Wales. Two levels of interest are defined:

- An item has purely Scottish, Northern Irish or Welsh interest where it is already located in that country and the donor has not expressed a preference for the item to be displayed in a different country of the UK. In such a case the relevant Minister is the Minister of that country.
  - An item may have some Scottish, Northern Irish or Welsh interest if it is located in that country or the owner would prefer the item to be displayed in that country. In such a case the relevant Minister is the Minister of that home country and the Secretary of State for Culture Media and Sport concurrently.
23. Paragraph 18 of the Schedule defines a number of terms used in the Schedule.
  24. Paragraph 19 of the Schedule makes plain that there is no obligation for an offer of a gift under the scheme to be accepted, even if it meets all of the qualifying circumstances pursuant to the scheme.
  25. Paragraphs 21 provides for exemption from inheritance tax of a gift of property under the scheme.
  26. Paragraph 22 of the Schedule amends the inheritance tax rules where the donor of the object under the scheme had received it in a potentially exempt transfer (PET). It ensures that there is no chargeable transfer if the person from whom the donor received the object dies within 7 years of the PET.
  27. Paragraphs 23 and 24 of the Schedule exempt a gift of a conditionally exempt object from inheritance tax recapture charges. Paragraph 23(3) inserts new subsections (4A) and (4B) into section 32 of the Inheritance Tax Act 1984 (IHTA).
  28. New subsections (4A)(a) and (4B) of section 32 IHTA ensures that, where a donor gives a conditionally exempt object under the scheme, the gift will not be a chargeable event which would otherwise result in the inheritance tax held over on the object to become payable.
  29. New subsections (4A)(b) and (4B) of section 32 IHTA apply where a person inherits a conditionally exempt object on the death of its previous owner. That person may give that object to the nation under the scheme within 3 years of the previous owner's death without triggering the inheritance tax recapture charge that would otherwise have become due on the death of the previous owner and without any

need to renew its conditional exemption. It also confirms that that person's later death would not itself occasion such a recapture charge.

30. Paragraph 24(2) of the Schedule similarly inserts new subsections (5A) and (5B) into section 32A IHTA in relation to gifts to the nation under the scheme of objects conditionally exempt from inheritance tax because of their historical association with an outstanding building.
31. Paragraph 24(4) of the Schedule inserts new subsection (7A) into section 32A IHTA. This provision confirms that the later death of the person who made the gift under the scheme would not itself occasion such a recapture charge.
32. Paragraphs 25 and 26 of the Schedule make consequential amendments to sections 33 and 34 IHTA.
33. Paragraph 27 of the Schedule inserts new subsection (1A) into section 258 of the Taxation of Chargeable Gains Act 1992 (TCGA). New subsection (1A) exempts the donor of an object under this scheme from capital gains tax or corporation tax on a chargeable gain, which would normally arise on the disposal of a chargeable asset.
34. Paragraph 28 of the Schedule applies to non-domiciled and/or not ordinarily UK resident donors who use the remittance basis of tax. Normally, a tax charge is triggered when property derived from untaxed foreign income or gains is brought to the UK, subject to a number of limited exemptions. Paragraph 28(3) inserts new section 809YD into the Income Tax Act 2007 which ensures that, where such property has been brought into the UK and has been accepted under the scheme, there will be no charge to income tax or capital gains tax on the remittance of that property.
35. Paragraph 29 of the Schedule provides for the scheme to commence on an appointed day by order of the Treasury. The first tax period to which the scheme may apply is the tax year beginning on 6 April 2012.

#### BACKGROUND NOTE

36. The details of how the application and acceptance process in connection with the scheme will operate are set out in detailed [draft] guidance issued by the Department for Culture, Media and Sport. [*Consultees should refer to the website of the Department for Culture, Media and Sport*]
37. The basic rules for an individual in deciding how to allocate a tax reduction across the relevant tax years are that:

- the amounts set against each of the five relevant tax years must always add up to no more than the total tax reduction figure;
- such amount must be specified and agreed in advance in respect of each relevant tax year. For example, it will not be possible to specify, that say £100,000 to be set against year 1 in the above example, with £400,000 to be distributed across years 2 to 5 in some way to be specified at a later time; and
- under paragraph 7(2), once the schedule of tax reductions has been accepted within the terms of a qualifying gift, the schedule cannot be varied, even where it is subsequently found that the individual does not have enough tax liability in a relevant tax year to utilise the tax reduction specified for that year. In such a case the unutilised amount of tax reduction will be lost.

38. The following table gives examples of how an individual might choose to apply a total tax reduction of £500,000 across five relevant tax years.

**Example**

Year 1	Year 2	Year 3	Year 4	Year 5	Total
500,000	-	-	-	-	500,000
-	-	-	-	500,000	500,000
-	100,000	-	300,000	100,000	500,000
200,000	50,000	50,000	50,000	50,000	400,000

39. Paragraph 6 ensures that where an offer of a gift is accepted under the scheme, resulting in an amount of the tax liability being treated as having been satisfied (as set out in the scheme) then no late payment interest or late payment penalties will be payable on that amount from the date of registration. It is being explored whether, and to what extent, provisions should be made to defer payments of tax, interest and late payment penalties during the negotiation period in respect of tax becoming payable on or after the registration of an offer, where the offer has been made in good faith. However, if a qualifying gift was not made for any reason (say, for example, because the offer was rejected in accordance with the scheme or because the offer was withdrawn by the donor), then the donor would be required to pay to HMRC both the tax due and any late payment interest due up to and including the date of payment. It is currently envisaged that if the tax and interest remains unpaid within 30 days the donor will be subject to late payment penalties.
40. Paragraphs 23 to 26 of the Schedule provide for exemption from inheritance tax where an object that is conditionally exempt from inheritance tax is given under the scheme. It is intended to make similar provisions for objects that are conditionally exempt from

estate duty. However gifts of such objects will not be eligible for the tax reduction set out in Parts 1 and 2 of the Schedule.

41. If you have any questions about this change, or comments on the legislation, please contact Jo Shelling on 020 7147 2401 (email: [joanne.shelling@hmrc.gsi.gov.uk](mailto:joanne.shelling@hmrc.gsi.gov.uk)).