



Gifting to Minors

A guide for parents and grandparents



About

Gifting to Minors

Making a straightforward gift in your Will to minor children (under 18) involves more complexities than you might expect.

Before the 2006 Budget, trusts created for minors (e.g., by a parent or grandparent leaving their estate to minor children who would inherit between ages 18 and 25) could qualify for favourable tax treatment.

These were known as Accumulation & Maintenance Trusts (A&M settlements).

However, since the Finance Act 2006, A&M settlements can no longer be created and most trusts will be subject to something called the “relevant property regime” which in simple terms is the tax treatment of the trust.

Parents with taxable estates must now consider the benefits of retaining assets in trust until their children are mature enough to handle a large inheritance, against the disadvantage of a possible tax charge.

The rules differ depending on whether the Testator is a parent or another relation of the minor child.

We have covered the rules for each of the scenarios in this guide.

Advice for Parents

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If your children inherit at age 18, there will be no Inheritance Tax charge on the trust funds (beyond what is payable on your estate) when the money is eventually paid out to your child at 18 and this is known as a 'Bare Trust'.

However, trusts that do not pay out the capital until the child reaches, for example, 25, will be subject to the new "relevant property regime" from the moment the child turns 18 until the capital is paid out at 25. These are known as Age 18-25 Trusts and will incur an Inheritance Tax charge as a proportion of 6% on the amount the Trust Fund exceeds the Nil Rate Band which is currently £325,000. The exact percentage will depend on when the child inherits, so for example, at age 21, the percentage would be 1.8%. If the child inherits at age 25, it will be 4.2%.

If an age greater than 25 is selected, the relevant property trust regime will apply from the date of death rather than when the child turns 18. This means the trust will be assessed for tax on the 10th anniversary and a 6% charge will apply to trust funds in excess of the Nil Rate Band.

In addition to Inheritance Tax, any income on the funds held in the trust, will be taxed at the Rate Applicable to Trusts, which is currently 45% (subject to a standard rate band applicable to the first £1,000 of income). Trustees pay capital gains tax currently at the rate of 28%.

Advice for Parents

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If you decide that your children should inherit at 18, the gift can either take effect immediately on your death or be contingent upon your child reaching 18. The pros and cons are as follows:

1. Vested Interest

The gift belongs to your child outright. However, since minors cannot own assets until 18, it will be held by your trustees as “bare trustees” until the child is no longer a minor. Income and capital gains tax on the bare trust assets will be based on the child’s tax circumstances. If the child dies before 18, the assets become part of their estate, which may not align with your wishes. There may also be Inheritance Tax if the child’s estate exceeds the Nil Rate Band at their death.

2. Contingent Gift

If the gift is contingent upon your child reaching a specified age and the child dies before that age, the assets are not part of the child’s estate but will pass according to your Will.

A final point to consider is that while a child’s access to capital can be restricted by your Will, your trustees have statutory powers to pay out capital and income if deemed beneficial for the child. It is possible to extend the trustees’ powers. Trustees can pay money to the child’s guardian or the child at 18.

You can set a vesting age of, for example, 25 years but give trustees the power to release earlier. Trustees can then decide at 18 whether the risk of distributing the assets is outweighed by the tax saving. This highlights the crucial role of trustees and the importance of selecting the people best suited to this responsible role.

Advice for Grandparents

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Following the changes in the Finance Act 2006, if you were now to write into your Will a gift to a minor which was contingent upon the child reaching a particular age, the funds would be held in a new form of trust known as a “relevant property trust”. These trusts incur a periodic charge to Inheritance Tax on every 10th anniversary of the trust’s existence. There is also an “exit charge” when the money is paid out. The charge as the law currently stands is effectively 6%. It is possible this could increase with future budgets. These charges do not apply to the first £325,000 of the fund (the “Nil Rate Band”).

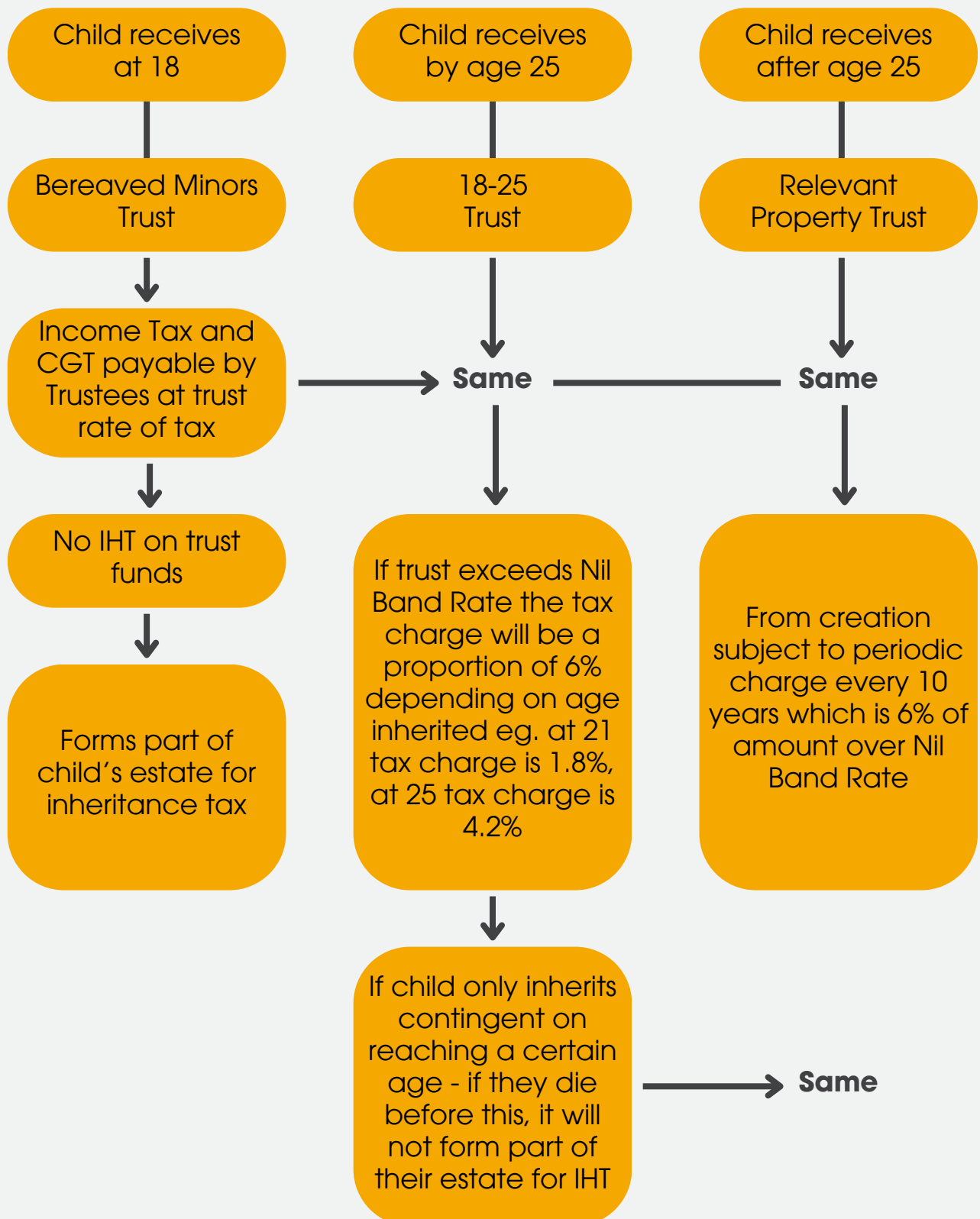
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The residence nil rate band (available up to £175,000 if you own property and it is being left to your direct/lineal descendants) will only be claimable if your grandchildren inherit the property at the age of 18. If you place an age-condition on the legacy which exceeds the age of 18, the residence nil rate band will not be able to be claimed by your Executors.

Please note: This information is for guidance only and should not be relied upon without specific advice. They relate to trusts created by Will; lifetime gift trusts are generally treated less favourably for Inheritance Tax purposes.

Appendix

Gifting to Minors



Heritage Estate Planning

*For peace of mind that you've
planned for the future*

