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Your Legal Questions

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Q My Dad has recently died. Five years ago he gave me his house I have been told that this must now be taken into account - why?

A This is due to the rules relating to Inheritance Tax. To put it simply Inheritance Tax is calculated upon the market value of all assets owned by a person immediately prior to death, this will include any share in jointly owned property; in addition the regulations also require any assets given away by the deceased within the last seven years of his lifetime to be included together with any assets which may have been given away more than seven years ago but from which the deceased still benefits at the date of death e.g. a gift of shares 12 years ago but where the deceased still received the dividend income (this is known as a gift with reservation). There are also rules covering situations where benefits or interests are enjoyed under a trust or settlement and additional regulations in respect of life assurance policies and pensions where there are continuing benefits payable to others after the deceased's death.

In your case the house has to be included because it is a gift made by your father within seven years of his death. Even if your father had made the gift more than seven years earlier it might still be caught for Inheritance Tax purposes if he had retained a benefit e.g. was still living there at his death rent free.

The seven year rule is designed to prevent death bed giving as a way of avoiding Inheritance Tax. Some gifts will be more effective than others and I would strongly recommend that anyone considering gifting any asset should take legal advice.

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