

Inheritance Tax (IHT)



If you are concerned that when you die the value of your estate may exceed the IHT threshold (currently £325,000) then you may find the following information helpful.

Please note that it is based on tax legislation in force at the time of printing and this may vary at any time in the future. In the event of such change further advice should be sought.

1. Lifetime Gifts

Small gifts made during your lifetime will be tax-free if they fall within the annual gift allowances. These include the Annual Exemption currently of £3,000 per annum. Larger gifts of whatever amount will also be tax-free if the donor survives for at least 7 years from the date of the gift. These are known as Potentially Exempt Transfers (PETs) as tax will only become payable if the donor dies within that time.

These are simple but effective ways of reducing the potential IHT liability on death. However professional advice should always be sought before making large gifts for tax planning purposes.

2. Death In Service Benefits (DIS), Occupational Pension Schemes (OPS) and Life Assurance Policies

Most DIS and OPS are paid at the discretion of the scheme's trustees and so will fall outside your estate. As such they will be paid tax-free. In most schemes there is the opportunity of nominating who you would wish to receive the benefits on your death, although this is always subject to the trustees' duty to ensure that your dependants are provided for.

Similarly Life Assurance policies written in trust will pass outside your estate and so be paid tax-free.

It is usually advisable therefore to complete a nomination where possible, but you should confirm the position with your scheme/policy administrators.

3. The Transferable Nil Rate Band (applies to married couples/civil partners only)

IHT planning was simplified by introduction in 2007 of the transferable nil rate band. Where a person dies not having used up all of his tax allowance (nil rate band) the unused part can be transferred and added to the allowance of the surviving spouse/civil partner when they themselves die if the first death occurred **after 1975**. This can effectively double up the tax reliefs available on the second death. For most couples whose estate value is less than double the nil rate band (currently £650,000) IHT should not apply.

The transfer of the unused nil rate band is **not automatic** however and will need to be claimed by the executors acting on the second death by providing H M Revenue & Customs with certain documentation. If you have been widowed then in order to maximise the tax reliefs available you should collect together a pack containing the information that will be needed to make the claim when you yourself die. This should include copies of the death certificate of the first spouse/ civil partner to die, their Will, Grant of Probate (or Letters of Administration) and any accompanying tax forms, the marriage certificate and any Deed of Variation or valuations of assets. This information could be very valuable in the future and so should be stored safely. We would recommend that it is stored with your own Will.

4. Residential Nil Rate Band

A further Inheritance tax allowance was introduced from April 2017 which allowed a further allowance for individuals who are leaving their estate or a portion of it to qualifying beneficiaries. Qualifying beneficiaries are the testators issue (children, grandchildren and so on).

The measure introduces an additional nil-rate band when a residence is passed on death to a direct descendant.

This will be:

- £100,000 in 2017 to 2018
- £125,000 in 2018 to 2019
- £150,000 in 2019 to 2020

£175,000 in 2020 to 2021

It will then increase in line with Consumer Prices Index (CPI) from 2021 to 2022 onwards. Any unused nil-rate band will be able to be transferred to a surviving spouse or civil partner.

The additional nil-rate band will also be available when a person downsizes or ceases to own a home on or after 8 July 2015 and assets of an equivalent value, up to the value of the additional nil-rate band, are passed on death to direct descendants. There will be a tapered withdrawal of the additional nil-rate band for estates with a net value of more than £2 million. This will be at a withdrawal rate of £1 for every £2 over this threshold.

The existing nil-rate band will remain at £325,000 from 2018 to 2019 until the end of 2020 to 2021.

Operative date

The measure will take effect for relevant transfers on death on or after 6 April 2017. It will apply to reduce the tax payable by an estate on death; it will not apply to reduce the tax payable on lifetime transfers that are chargeable as a result of death.

The main residence nil-rate band will be transferable where the second spouse or civil partner of a couple dies on or after 6 April 2017 irrespective of when the first of the couple died. The nil-rate band will continue to be £325,000 from 2018 to 2019 until the end of 2020 to 2021

5. Nil Rate Band Discretionary Trusts

These trusts can be used in tax planning for wealthy clients, business owners, widowed spouses and civil partners who have remarried and cohabitants. Professional advice should be obtained.

6. Deeds Of Variation

These deeds enable variations to be made to Wills within two years of the date of death subject to certain conditions and they may provide a useful 'fallback' to executors to take advantage of possible tax planning opportunities, but again professional advice should be sought.

The information contained in this leaflet is intended as a guide only. It is not intended to be comprehensive or to provide specific legal advice and should not be relied upon as doing so. Further detailed advice appropriate to your individual circumstances should be obtained from our Legal Department, telephone us on 01934 836159.

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