

INHERITANCE TAX

In order for our firm to prepare your will, you must provide us with details of the nature and extent of the property which you own and the identity of the persons or organisations which you intend to benefit under your will. It is your responsibility to ensure that the information which you provide to us is accurate and up to date.

Your will may not be effective to pass property which you own which is located outside England and Wales. We do not offer advice on foreign assets as part of our standard will drafting service. If you inform us that you own property abroad and that you require advice in relation to it, we will either provide such advice for an additional fee or we will direct you to alternative specialist advice.

This guide is not intended as a comprehensive or exhaustive explanation of Inheritance Tax or the way in which it is charged.

Inheritance Tax (“IHT”) is a tax on certain transfers which can be made either during a person’s lifetime, or, more commonly, on their death. IHT can also arise when transfers are made into and out of a discretionary trust.

If you are domiciled in the UK, then IHT applies to all your assets world-wide, but if you are not UK domiciled, then only your UK property is liable.

It is possible that your estate will be subject to IHT on your death and that the amount of tax charged will depend upon the nature of the provisions contained in your will. For this reason, advice on IHT is commonly a feature of a comprehensive will drafting service unless expressly excluded.

We will advise you as to the likely IHT consequences of the provisions, which you have asked us to include in your will on the basis of the information which you have given to us.

Introduction

In principle, the value of a person’s estate on death (together with the value of any gifts made in the previous seven years) is subject to IHT at the rate of 40%.

In practice, there are a number of exemptions and reliefs from IHT which mean that, by sensible planning, IHT payable on the value of assets at death and lifetime gifts can be greatly reduced.

Advice designed to minimise IHT can be complicated and will always depend on the circumstances relevant to each individual case. For instance, it may relate specifically to

lifetime gifts, gifts by Will, the creation of trusts or to a combination of all of these. As mentioned above, we cannot guarantee the effectiveness of any scheme because the law changes constantly.

When is IHT paid?

Although both lifetime gifts and the value of assets on death are subject to IHT, in the vast majority of cases, IHT is only actually paid on the death of the individual. This is because the treatment of most lifetime gifts, for IHT purposes, depends on how long the individual survives after making the gift.

Lifetime Gifts

In the majority of cases, lifetime gifts are exempt from IHT if the individual survives for seven years after making them. Such gifts are known as Potentially Exempt Transfers (“**PETs**”). For gifts made over three years but less than seven years before death, the rate of IHT may be reduced.

The amount of IHT on lifetime gifts (if any) can only be calculated when the person who made the gift has died. It is therefore sensible to keep a record of all gifts made which may subsequently be subject to IHT.

IHT is a tax on the transfer of capital so regular gifts of income to beneficiaries can be entirely outside the regime provided that those gifts do not leave the donor without sufficient funds to live on.

The Nil Rate Band

When an individual dies the value of his or her assets is added to the value of any lifetime gifts made in the previous seven years to calculate the total amount subject to IHT.

At present, the first £324,000 of that total is subject to IHT, but at a “nil rate”, and is therefore known as the **nil rate band**. The remainder of the total is subject to IHT at the rate of 40% and the tax must usually be paid before the remainder of the deceased’s estate can be distributed.

The nil rate band of a person who dies and who survived their spouse will now include in addition any un-used nil rate from the estate of the deceased spouse. If therefore the deceased spouse left all his estate to his wife having made no prior lifetime gifts the estate of the surviving spouse would be £648,000 on present rates.

THE MAIN EXEMPTIONS AND RELIEFS FROM IHT

Lifetime Gifts

The first £3,000 worth of gifts made by an individual in any one tax year are exempt from IHT. If the full £3,000 allowance is not used in one year, the unused part (or the whole) may be carried forward for one year only.

Gifts of not more than £250 each may be made to any number of persons in a tax year. Any number of these gifts may be made, but if any gift exceeds £250 it will form part of the £3,000 allowance referred to in the previous paragraph.

Gifts which are regular enough to be normal expenditure out of income. However, they must be made out of income and leave sufficient to maintain the usual standard of living of the person making the gift.

Gifts to an individual's children (£5,000 limit per gift) or grandchildren or great grandchildren (£2,500 limit per gift) on their marriage.

Gifts between Spouses

All gifts between spouses (whether during lifetime or on death) are exempt from IHT except where the recipient spouse is not domiciled in the UK.

Other reliefs and exemptions include agricultural property relief, business property relief and gifts made to charities, political parties and donations to certain organisations.

TAX SAVING SCHEMES

Due to the rapidly increasing property prices many people now find themselves in a situation where considerable Inheritance Tax could be payable on their deaths by their beneficiaries. Inheritance Tax saving schemes are therefore very popular and some of them quite complex. There are alternative approaches to saving Inheritance Tax which include taking out a second death whole of life insurance policy to cover the estimated Inheritance Tax payable on the second death. There are other products as well that have been devised by the insurance industry. Although we can advise you in general terms upon these aspects, if you wish us to we can recommend specialists who can assist.

