

GUIDE TO

# INHERITANCE TAX PLANNING

PLANNING AHEAD TO ENSURE THAT YOUR  
ASSETS ARE PASSED ON TO YOUR LOVED ONES  
AS EFFICIENTLY AS POSSIBLE

# WELCOME

## *Few taxes are quite as emotive – or as politicised – as Inheritance Tax*

Welcome to our *Guide to Inheritance Tax Planning*. Few taxes are quite as emotive – or as politicised – as Inheritance Tax (IHT). The structures into which you transfer your assets can have lasting consequences for you and your family. We can help you choose structures and trusts designed to protect your assets and give your family lasting benefits.

Historically, IHT planning used to be an activity confined to the very rich. However, growing affluence means that this is no longer the case. Even families and individuals with a relatively moderate level of wealth should consider planning ahead to ensure that their assets are passed on to their loved ones as efficiently as possible.

Property price increases have dragged many middle-class working families into the IHT bracket. The Office for Budget Responsibility (OBR) calculates that 4.8% of the population currently pays IHT. By 2018/19, it estimates that figure will have more than doubled to 10%. Many argue that the threshold should at least rise each year in line with inflation, but now the rate has been fixed since 2009.

Effective estate planning is about getting the right balance between maintaining access to your money when you need it and saving tax. This is because, in general, the more tax-efficient a solution is, the less access you have to your assets. Safeguarding your own financial future is very important, and giving too much away could put this at risk.

The best way to avoid paying any IHT is to reduce your estate value to below the current £325,000 IHT threshold, but this is not practical for many people. New changes to pension legislation could also offer a way around IHT. From 6 April 2015, pension pots are now no longer subject to a 55% tax when passed on to loved ones after the saver dies.

This means that any funds in a pension pot can be passed on to a named individual without any tax implications if they die before the age of 75. In some situations, it may be appropriate to consider transferring all your non-pension assets to fund your pension. By shifting your savings into a drawdown scheme, they will no longer be included in your final estate valuation, and therefore will avoid Inheritance Tax.

This is a very complex area of financial planning, and despite all the options available, unless you give your home away, it may be difficult to avoid IHT on what is probably your most valuable asset.

### **Protecting and preserving your wealth**

One thing is certain: you should obtain professional financial advice if you have any concerns about how to mitigate IHT. To find out more about our services, or to discuss how we could help you to protect and preserve your wealth, please contact us. We look forward to hearing from you.

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# HISTORY LESSON

## *Inheritance Tax matters*

Inheritance Tax was introduced in the UK in 1796 and stemmed from the influence of the French Revolution. The concept of IHT was supposed to protect poorer members of society and interrupt the legacy of inherited wealth.

When the tax was first introduced, it was known as 'legacy, estate and succession duties' and was collected on properties worth over a certain value. By 1857, this value had settled at £20, but duties were rarely collected on properties under £1,500. The duties evolved into death duties in 1894 and did have a significant role to play in breaking up large estates in the UK. In this sense then, the original aim of the tax yielded some results.

Recent history of the tax includes the introduction of Capital Transfer Tax in 1975, which was renamed Inheritance Tax in 1986.

Rules for IHT which took effect from October 2007 mean that married couples and registered civil partners can now make use of each other's tax-free

allowance without special tax planning.

In 2010, further changes to IHT were made, increasing the nilrate threshold to come into line with rising house prices.

IHT is paid if a person's estate (their property, money and possessions) is currently worth more than £325,000 when they die. It doubles to £650,000 for a married couple or registered civil partnership – as long as the first person to die leaves their entire estate to their partner. This is called the 'Inheritance Tax threshold'.

The rate of Inheritance Tax is 40% on anything above the threshold. The rate may be reduced to 36% if 10% or more of the estate is left to charity.

*Recent history of the tax includes the introduction of Capital Transfer Tax in 1975, which was renamed Inheritance Tax in 1986.*

# TAKING PREVENTATIVE ACTION

## *Reducing your beneficiaries' potential Inheritance Tax bill – or mitigating it out altogether*

**W**ith careful planning and professional financial advice, it is possible to take preventative action to either reduce your beneficiaries' potential Inheritance Tax bill or mitigate it out altogether.

### 1. Make a Will

A vital element of effective estate planning is to make a Will – unfortunately, a significant number of adults with children under 18 fail to do so. This is mainly due to apathy, but also a result of the fact that many of us are uncomfortable talking about issues surrounding our death. Making a Will ensures your assets are distributed in accordance with your wishes.

This is particularly important if you have a spouse or partner, as there is no IHT payable between the two of you, but there could be tax payable if you die intestate – without a Will – and assets end up going to other relatives.

### 2. Make allowable gifts

You can give cash or gifts worth up to £3,000 in total each tax year, and these will be exempt from Inheritance Tax when you die.

You can carry forward any unused part of the £3,000 exemption to the following year, but then you must use it or lose it.

Parents can give cash or gifts worth up to £5,000 when a child gets married, grandparents up to £2,500 and anyone else up to £1,000. Small gifts of up to

£250 a year can also be made to as many people as you like.

### 3. Give away assets

Parents are increasingly providing children with funds to help them buy their own home. This can be done through a gift, and, provided the parents survive for seven years after making it, the money automatically ends up outside their estate for IHT calculations – irrespective of size.

### 4. Make use of trusts

Assets can be put in trust, thereby no longer forming part of the estate. There are many types of trust available, and they usually involve parents (called 'settlers') investing a sum of money into a trust. The trust has to be set up with trustees – a suggested minimum of two – whose role is to ensure that on the death of the settlers, the investment is paid out according to the settlers' wishes. In most cases, this will be to children or grandchildren.

The most widely used trust is a 'discretionary' trust, which can be set up in a way that the settlers (parents) still have access to income or parts of the capital.

It can seem daunting to put money away in a trust, but they can be unwound in the event of a family crisis and monies returned to the settlers via the beneficiaries.

### 5. The income over expenditure rule

As well as putting lump sums into a trust, you can also make monthly contributions

into certain savings or insurance policies (not Individual Savings Accounts) and put them in trust.

The monthly contributions are potentially subject to IHT, but if you can prove that these payments are not compromising your standard of living, they are exempt.

### 6. Provide for the tax

If you are not in a position to take avoiding action, an alternative approach is to make provision for paying IHT when it is due.

The tax has to be paid within six months of death (interest is added after this time).

Because probate must be granted before any money can be released from an estate, the executor – usually a son or daughter – may have to borrow money or use their own funds to pay the IHT bill.

This is where life assurance policies written into an appropriate trust come into their own. A life assurance policy is taken out on both a husband's and wife's life, with the proceeds payable only on second death.

The amount of cover should be equal to the expected IHT liability. By putting the policy into an appropriate trust, it means it does not form part of the estate.

The proceeds can then be used to pay any IHT bill without the need for the executors to borrow.

# PAYING INHERITANCE TAX

*Estimating how much liability you could leave behind for your loved ones*

Usually the 'executor' of the Will or the 'administrator' of the estate pays Inheritance Tax using funds from the estate.

An executor is a person named in the Will to deal with the estate – there can be more than one. An administrator is the person who deals with the estate if there's no Will. Trustees are responsible for paying IHT on trusts.

Married couples and registered civil partners are allowed to pass their possessions and assets to each other tax-free, and, since October 2007, the surviving partner is now allowed to use both tax-free allowances (providing one wasn't used at the first death).

Gifts made within the last seven years are not included in the calculations but may be liable to IHT on a sliding scale.

*The calculation for valuation of your estate is for your general information and use only and is not intended to address your particular requirements. It should not be relied upon in its entirety and shall not be deemed to be, or constitute, advice.*

*No individual or company should act upon such information without receiving appropriate professional advice after a thorough examination of their particular situation.*

If IHT is due on the estate, you would need to complete HM Revenue & Customs (HMRC) form IHT400. You may also need to send other forms at the same time.

If no IHT is due, you'll need to complete form IHT205 to tell HMRC that no IHT is due on the estate.

You or your solicitor will need to send the forms with your application for probate ('grant of representation'). This is called 'confirmation' in Scotland.

The grant of representation (confirmation) gives you the right to deal with the estate as the executor or administrator.

#### **Deadline for paying Inheritance Tax**

The executor of a Will or administrator of an estate usually has to pay IHT by the end of the sixth month after the person died. After this, the estate has to pay interest.

*An executor is a person named in the Will to deal with the estate – there can be more than one. An administrator is the person who deals with the estate if there's no Will. Trustees are responsible for paying IHT on trusts.*



## Work out if Inheritance Tax is due on an estate

To estimate how much IHT you could have to pay, add up the value of all your wealth, subtract your liabilities and the £325,000 nil rate band allowance, and then multiply the remainder by 40%.

If you are married or in a registered civil partnership, add up your combined estates and reduce these by two nil rate band allowances of £325,000 each (£650,000) before applying the 40% rate to estimate your potential liability to IHT.

### Estate assets

<b>Property</b> – main residence	£
<b>Other Property</b> – not main residence	£
<b>Savings</b> – current account/s, deposit account/s, premium bonds, Cash ISAs, other savings	£
<b>Investments</b> – shares/equities, investment trusts, Stocks & Shares ISAs, investment bonds, authorised unit trusts and open-ended investment companies (OEICs), other investments	£
<b>Additional assets</b> – cars, holiday home, antiques, jewellery, works of art, alternative investments, gifts of capital made within the previous seven years	£
<b>Life insurance policies</b> – policies not written in an appropriate trust	£
<b>Total (A)</b>	£

### Estate liabilities

<b>Mortgage/s</b>	£
<b>Loan/s/overdraft/s</b>	£
<b>Credit card/s</b>	£
<b>Other liabilities</b> – outstanding bills, hire purchase, funeral expenses	£
<b>Total (B)</b>	£

### Estate summary

<b>Total assets (A):</b>	£
<b>Liabilities (B):</b>	£
<b>Estate value (A minus B):</b>	£
<b>Tax-free allowance (deduct from estate value):</b> current £325,000 nil rate band allowance (frozen until 5 April 2018), or if you are married (or in a registered civil partnership) £650,000	£
<b>Net worth:</b>	£
<b>Inheritance Tax bill:</b> (Net worth @ 40%)	£

You can make early payments before you know what the estate owes. Interest isn't due on this amount.

You can pay IHT in instalments over 10 years on things that may take time to sell, for example, property and some types of shares.

There are different deadlines for paying IHT on a trust.



# GIFTS

## *Small gifts that don't create an Inheritance Tax liability*

**H**M Revenue & Customs allows you to make a number of small gifts each year without creating an Inheritance Tax liability. Remember, each person has their own allowance, so the amount can be doubled if each spouse or registered civil partner uses their allowances. You can also make larger gifts, but these are known as 'Potentially Exempt Transfers' (PETs), and you could have to pay IHT on their value if you die within seven years of making them.

The estate may not have to pay IHT on assets the deceased gave away as gifts while they were alive.

### **A gift can be:**

- Anything that has a value, for example, money, property, possessions
- A loss in value when something's transferred, for example, if a parent sells a house to a child for less than it's worth, the difference in value counts as a gift

There's no IHT payable on any gift married couples or registered civil partners give each other – as long as

they live in the UK permanently.

### **Seven-year rule**

Taper relief applies where tax, or additional tax, becomes payable on your death in respect of gifts made during your lifetime. The relief works on a sliding scale. The relief is given against the amount of tax you'd have to pay rather than the value of the gift itself. The value of the gift is set when it's given, not at the time of death.

The original owner must live for seven years after giving the gift. If they don't, their estate or the person who received it will have to pay IHT on it.

The amount due is reduced on a sliding scale if the gift was given away between three and seven years before the person died.

### **For example:**

- You'd made a non-exempt gift of £350,000 on 1 February 2011 and died on 20 June 2014
- The IHT nil rate threshold at the date of death was £325,000

- The gift exceeds the threshold by £25,000
- Full rate of tax on the gift: 40% x £25,000 = £10,000
- The gift was made within three to four years of death, so taper relief at 20% is due
- Taper relief: £10,000 x 20% = £2,000. Revised tax charge: £10,000 - £2,000 = £8,000

### **When the person who received the gift pays Inheritance Tax**

Anyone who received a gift from the deceased in the seven years before they died may have to pay IHT if the deceased gave away gifts worth more than £325,000 in that time.

HM Revenue and Customs (HMRC) will tell the person that received the gift if they have to pay IHT.

### **Gifts you don't pay Inheritance Tax on**

The estate doesn't pay IHT on up to £3,000 worth of gifts given away by the deceased in each tax year (6 April to 5 April). This is called the 'annual exemption'. Leftover annual exemption can be carried over from each tax year to

the next, but the maximum exemption is £6,000.

Certain gifts don't count towards the annual exemption and no IHT is due on them, for example, wedding gifts and individual gifts worth up to £250.

### Wedding gifts

There's no IHT on a gift that was a wedding or registered civil partnership gift worth up to:

- £5,000 to a child
- £2,500 to a grandchild or great-grandchild
- £1,000 to anyone else

The gift must be given on or shortly before the date of the wedding or registered civil partnership ceremony.

### Gifts up to £250

There's no IHT payable on individual gifts worth up to £250 – unless in the same tax year, the deceased gave the same person:

- More than £250 worth of gifts
- Other gifts that are free from Inheritance Tax, for example, a wedding gift or a gift that counts towards their £3,000 annual exemption

### Regular gifts from the giver's income

There's no IHT payable on gifts from the deceased's income (after they paid tax) as long as the deceased had enough money to maintain their normal lifestyle. The gifts include:

- Christmas, birthday and wedding or registered civil partnership anniversary presents
- Life insurance policy premiums
- Regular payments into a savings account

### Payments to help with living costs

There's no IHT payable on gifts to help with other people's living costs. These include payments to:

- An ex-husband, ex-wife or former registered civil partner
- A relative who's dependent on them because of old age, illness or disability

- A child (including adopted and stepchild) under 18 years old or in full-time education

### Charities

There's no IHT payable on gifts to charities, museums, universities or community amateur sports clubs.

### Political parties

There's no IHT payable on gifts to political parties that have either:

- Two members elected to the House of Commons
- One member elected to the House of Commons and received at least 150,000 votes in a general election

*Taper relief applies where tax, or additional tax, becomes payable on your death in respect of gifts made during your lifetime.*



# WHAT A RELIEF

## *Assets that pass on free of Inheritance Tax*

Inheritance Tax reliefs allow some assets to be passed on free of IHT or with a reduced bill.

The executor of a Will or administrator of an estate should claim the reliefs when they're working out how much the estate is worth.

### **Business Relief**

Business Relief allows a business to be passed on as a going concern by reducing the IHT on it by up to 100%.

### **Agricultural Relief**

Agricultural Relief allows a working farm to be passed on as a going concern without paying IHT on it.

### **Woodland Relief**

You don't include the value of the timber in a woodland when you're working out the value of an estate but must include the value of the land.

Whoever inherits the woodland may have to pay IHT when they sell the timber – unless it qualifies for Agricultural or Business Relief.

If the woodland also qualifies for

Agricultural Relief or Business Relief (for example, if it's part of a working farm or business), it won't qualify for Woodland Relief.

### **Heritage assets**

Some buildings, land and works of art which have historic or scientific interest may be exempt from IHT.

The assets must be made available for the public to view and meet other conditions to qualify as exempt.

Heritage assets can also be transferred to the Crown to pay an IHT bill.

### **Passing on a home**

How much IHT is charged on a home depends on how the person who died owned it and how they passed it on.

### **Passing on a home as a gift**

If a person passed on their home to their children (or someone else) before they died, it's treated as a gift and the seven-year rule applies.

But if they continued to live in it rent free, their estate has to pay Inheritance Tax on the home even if they lived for seven

years after giving it away. This is known as a 'gift with reservation of benefit'.

### **Giving away the home and moving out**

The original owner can make social visits and stay for short periods in a home they've given away without affecting the seven-year rule.

### **Giving away part of the home to someone who moves in**

If a person gave away half their home to their children (or someone else), who moved in and shared the bills, the half given away won't be included in the valuation of the estate.

### **Giving away the home and living in it**

If the original owner lives in the home after giving it away, they must pay the new owner a 'market rent' (the going rate for similar local rental properties).

### **Selling a home and giving away the money**

If someone sold their home and gave the money to their children (or someone else), the money will be treated as a gift and the seven-year rule will apply.

If they bought a new home as a joint

owner with one or more others, the home may count as a 'pre-owned asset', and there may be Income Tax to pay on it.

### Leaving a home in a Will

When a home was wholly owned by the person who died, the value of the whole home is included in the estate for IHT purposes.

When a home was owned by more than one person, only the share owned by the person who died is included in the estate for IHT purposes.

### Passing on a home to a husband, wife or registered civil partner

A widow, widower or bereaved registered civil partner automatically inherits the deceased's share of the house if they owned the home as 'joint tenants'. There's no IHT if they continue to live in it.

If they owned the home as 'tenants in common', each can pass on their share of the home to anyone else in their Will.

### Second homes

If someone gives away a home that isn't their main home, they may have to pay Capital Gains Tax if the value of it has increased since they first owned it.

### Leaving assets to a spouse or registered civil partner

An estate is exempt from IHT if the deceased left everything to their husband, wife or registered civil partner who lives permanently in the UK.

Married couples and registered civil partners can give any value of gifts to each other during their lifetime without IHT being due on them.

This is known as 'spouse or registered civil partner exemption'.

### Transferring Inheritance Tax thresholds

If someone's estate is less than the IHT threshold of £325,000, the remaining

threshold can be transferred to their husband, wife or registered civil partner's estate when they die – even if they remarried.

This means the surviving partner's estate can currently be worth up to £650,000 before any IHT is due.

The transfer is made when the surviving husband, wife or registered civil partner dies, and is done by the executor of their Will or administrator of their estate when they work out how much it's worth.

### Exceptions

#### The rules for transferring a threshold are different if:

- The estate of the first spouse or registered civil partner qualified for relief on woodland or heritage assets
- The surviving spouse or registered civil partner had an unsecured pension as the 'relevant dependant' of a person who died with an Alternatively Secured Pension
- The first spouse or registered civil partner died before 1975

### Keeping records

The executor or administrator of the estate should give the surviving husband, wife or registered civil partner documents that show any unused IHT threshold.

These will be needed to transfer the threshold to the surviving partner's estate when they die.

*A widow, widower or bereaved registered civil partner automatically inherits the deceased's share of the house if they owned the home as 'joint tenants'. There's no IHT if they continue to live in it.*

# GIVING TO CHARITY

## *Reducing an Inheritance Tax – it's good to give*

**A**n estate can pay Inheritance Tax at a reduced rate of 36% on some assets (instead of 40%) if 10% or more of the 'net value' of their estate is left to charity.

**The net value of an estate is the total value of all the assets after deducting:**

- Debts and liabilities
- Reliefs
- Exemptions, for example, anything left to a husband, wife or civil partner
- Anything below the IHT threshold of £325,000 (the nil rate band)

An estate doesn't have to pay IHT on any gifts given to charities, museums, universities or community amateur sports clubs.

**Which charities you can leave assets to**

**To pay the reduced rate, the assets must be left to:**

- Charities with an HM Revenue and Customs (HMRC) charity reference number
- Community amateur sports clubs (CASCs)

### **Writing a Will**

You can write a clause into your Will to make sure that you'll leave 10% of your estate to charity.

### **Change a Will**

The beneficiaries of an estate can change the Will to make or increase a donation to a charity so the estate meets the 10% test.

### **Opt out of paying the reduced rate**

If you're the executor of a Will or administrator of an estate, you can choose to pay IHT at 40% rather than the reduced rate – if the beneficiaries agree.

This can make it easier to deal with the estate, for example, if the cost of getting some of the assets professionally valued would outweigh the benefits of paying the reduced rate.

*An estate doesn't have to pay IHT on any gifts given to charities, museums, universities or community amateur sports clubs.*

*You may be able to avoid or reclaim tax through a double-taxation treaty if IHT is charged on the same assets by the UK and the country where the deceased lived.*

# LIVING OUTSIDE THE UK

## *What happens when someone dies?*

**When someone living abroad dies, the rules for paying Inheritance Tax usually depend on:**

- How long they lived abroad
- Whether their assets (property, money and possessions) are in the UK or abroad
- If their assets in the UK are 'excluded assets'
- If their assets were put into a trust

### **How long the deceased lived abroad**

**For IHT purposes, HM Revenue and Customs (HMRC) can treat someone who had their permanent home ('domicile') abroad as if it was in the UK (known as 'deemed domicile') if they had either:**

- Had their permanent home in the UK at any time in the three years before they died
- Been resident in the UK for at least 17 of the 20 Income Tax years up to their death

If the deceased is deemed domiciled in the UK, their estate has to pay UK IHT on all their assets.

**If they aren't deemed domiciled, their estate:**

- Has to pay IHT on their assets (except excluded assets) in the UK
- Won't have to pay UK IHT on their assets outside the UK

HMRC only recognises a change of domicile if there's strong evidence that someone has permanently left the UK and intends to live abroad indefinitely.

**UK assets you don't pay Inheritance Tax on**

The estate doesn't have to pay IHT on some assets in the UK if the deceased was domiciled abroad. These are known as 'excluded assets'. They include:

- Holdings in authorised unit trusts and open-ended investment companies (OEICs)
- Foreign currency accounts with a bank or the Post Office
- UK government gilts which were issued 'free of tax to residents abroad'
- Overseas pensions
- Pay and possessions of members of visiting armed forces and staff of allied headquarters

### **Government gilts**

**There's no IHT payable on government gilts issued:**

- Before 30 April 1996 – and the deceased wasn't deemed domiciled or resident in the UK
- On or after 30 April 1996 – and the deceased wasn't resident in the UK

### **Channel Islands and Isle of Man**

National Savings Certificates or certain other forms of small savings are excluded from IHT if the deceased was domiciled (not deemed domiciled) in the Channel Islands or the Isle of Man.

### **Double-taxation treaties**

You may be able to avoid or reclaim tax through a double-taxation treaty if IHT is charged on the same assets by the UK and the country where the deceased lived.

### **Trusts**

There are different rules if the deceased put assets outside the UK into a trust while they were domiciled in the UK.

# A WILL IS THE FIRST STEP

## *Sharing out your estate*

**P**lanning your finances in advance should help you ensure that when you die, everything you own goes where you want it to. Making a Will is the first step in ensuring that your estate is shared out exactly as you want it to be.

If you don't make a Will, there are rules for sharing out your estate called the 'Law of Intestacy', which could mean your money going to family members who may not need it, with your unmarried partner or a partner with whom you are not in a registered civil partnership receiving nothing at all.

If you leave everything to your spouse or registered civil partner, there'll be no Inheritance Tax to pay because they are classed as an exempt beneficiary. Or you may decide to use your tax-free allowance to give some of your estate to someone else, or to a family trust.

### **Good reasons to make a Will**

**A Will sets out who is to benefit from your property and possessions (your estate) after your death. There are many good reasons to make a Will:**

- You can decide how your assets are shared – if you don't have a Will, the law says who gets what
- If you're an unmarried couple (whether or not it's a same-sex relationship), you can make sure your partner is provided for
- If you're divorced, you can decide whether to leave anything to your former partner

- You can make sure you don't pay more Inheritance Tax than necessary

Before you write a Will, it's a good idea to think about what you want included in it.

### **You should consider:**

- How much money and what property and possessions you have
- Who do you want to benefit – your spouse or partner, children or other friends and relations? They become known as the beneficiaries who should look after any children under 18 years of age
- How much do you want to give them? You can either give a named legacy – such as a family heirloom or treasured item – or a monetary gift
- How do you own your home? If you own it as 'tenants in common' with your spouse or partner, then you each own a percentage that can be left to another person on death. Owning a property as 'joint tenants' means that you both own 100% and it solely belongs to the other on your death. Different property ownership rules apply in Scotland
- Who do you want to look after any of your children under the age of 18 when you die? They will become their legal guardians
- Who do you want to administer your Will when you die? They're called 'executors', and their tasks include collecting in any outstanding debts to your estate, paying off any loans and IHT due, and then paying out what is left according to your wishes. Many couples name their partner as executor,

but it could be worth choosing a second one in case you should both die at the same time

- Do you want to put your money into trust when you die to provide an income and capital for your dependants? If you do, consider getting professional financial advice about the best trust to use
- Who will look after the trust? A trustee can either be a family member or friend, or a professional such as a solicitor

### **Passing on your estate**

An executor is the person responsible for passing on your estate. You can appoint an executor by naming them in your Will. The courts can also appoint other people to be responsible for doing this job.

Once you've made your Will, it is important to keep it in a safe place and tell your executor, close friend or relative where it is.

It is advisable to review your Will every five years and after any major change in your life, such as getting separated, married or divorced, having a child, or moving house. Any change must be by codicil (an addition, amendment or supplement to a Will) or by making a new Will.

Scottish law on inheritance differs from English law.

*If you don't make a Will, there are rules for sharing out your estate called the 'Law of Intestacy', which could mean your money going to family members who may not need it, with your unmarried partner or a partner with whom you are not in a registered civil partnership receiving nothing at all.*

*If the estate is worth less than £5,000, or all assets are jointly owned and pass to the surviving owner, then Probate, Confirmation or Letters of Administration may not be needed.*

## DYING INTESTATE

### *If there's no valid Will*

**W**hen you die, your estate has to be distributed one way or another. If you have a Will, your executors have to gain a Grant of Probate in England and Wales or Northern Ireland (a Grant of Confirmation in Scotland). If there's no valid Will, or the named executors in the Will are unwilling or unable to carry out their duties, a Grant of Letters of Administration is needed. This is known as 'dying intestate'.

If the estate is worth less than £5,000, or all assets are jointly owned and pass to the surviving owner, then Probate, Confirmation or Letters of Administration may not be needed.

### **Once a Grant has been gained, the executors or administrators have to:**

- Work out the assets and liabilities of the estate
- Pay any outstanding loans and collect any outstanding debts
- Work out and pay any IHT due – or make arrangements for it to be paid off over 10 years in the case of properties and certain other assets
- Pay out the remaining assets in accordance with the Will or the rules of intestacy

*A trust is a legal arrangement where one or more trustees are made legally responsible for assets.*

# TRUSTS

## *Helping you control and protect your assets*

One of the most effective ways you can manage your estate planning is through setting up a trust. The structures into which you can transfer your assets can have lasting consequences for you and your family, so it is important that you obtain professional advice, as the right structures can protect assets and give your family lasting benefits.

A trust is a legal arrangement where one or more trustees are made legally responsible for assets. The assets – such as land, money, buildings, shares or even antiques – are placed in trust for the benefit of one or more beneficiaries.

They are not the sole domain of the super-rich. Trusts are incredibly useful and flexible devices that people employ for all sorts of different purposes, including Inheritance Tax planning.

In its simplest form, a trust is just a legal mechanism for separating the ownership of an asset into two parts: the 'legal' ownership (or title to the asset) on the one hand, and the 'beneficial' ownership on the other hand.

It is in the course of IHT planning, though, that people are most likely to come face to face with trusts and seek to get an understanding of what they are and how they work. Their use is widespread and, despite some recent adverse changes in tax law, they remain an important tool in estate planning.

The trust is created when the settlor transfers assets to the trustees, who hold the assets in trust for the beneficiaries. The main reason a person would put assets into a trust rather than make an outright gift is that trusts offer far more flexibility than outright gifts.

The trustees are responsible for managing the trust and carrying out the wishes of the person who has put the assets into trust (the settlor). The settlor's wishes for the trust are usually written in their Will or given in a legal document called the 'trust deed'.

### **The purpose of a trust**

#### **Trusts may be set up for a number of reasons, for example:**

- To control and protect family assets
- When someone is too young to handle their affairs
- When someone can't handle their affairs because they are incapacitated
- To pass on money or property while you are still alive
- To pass on money or assets when you die under the terms of your Will – known as a 'will trust'
- Under the rules of inheritance that apply when someone dies without leaving a valid Will (England and Wales only)

There are several types of UK family trusts, and each type of trust may be

taxed differently. There are other types of non-family trusts. These are set up for many reasons, for example, to operate as a charity or to provide a means for employers to create a pension scheme for their staff.

### **When you might have to pay Inheritance Tax on your trust**

#### **There are four main situations when IHT may be due on trusts:**

- When assets are transferred or settled into a trust
- When a trust reaches a ten-year anniversary of when it was set up
- When assets are transferred out of a trust or the trust comes to an end
- When someone dies and a trust is involved when sorting out their estate

*The treatment of trusts for tax purposes is the same throughout the United Kingdom. However, Scottish law on trusts and the terms used in relation to trusts in Scotland are different from the laws of England & Wales and Northern Ireland.*

# TRUST SOLUTIONS

## *Different trust solutions to managing your wealth*

**W**e can advise you on a range of different trust solutions, each designed with a particular purpose in mind. Some types of trust are treated differently for Inheritance Tax purposes.

Many people would like to make gifts to reduce IHT but are concerned about losing control of the money. This is where a trust could help. The rules changed in 2006, making some of them less tax-effective, as a small minority will require you to pay IHT even before you have died, but they're still worth considering. When talking about trusts, you will hear the terms:

- **Settlor** – the person setting up the trust
- **Trustees** – the people tasked with looking after the trust and paying out its assets
- **Beneficiaries** – the people who benefit from the assets held in trust

There are now three main types of trusts. Any number of different types of investments can be held in a trust, so

you should obtain professional financial advice to decide which is best for you.

### **Bare (Absolute) trusts**

With a bare trust, you name the beneficiaries at outset, and these can't be changed. The assets, both income and capital, are immediately owned and can be taken by the beneficiary at age 18 (16 in Scotland).

### **Interest in possession trusts**

With this type of trust, the beneficiaries have a right to all the income from the trust, but not necessarily the capital. Sometimes, a different beneficiary will get the capital, for example, on the death of the income beneficiary. They're often set up under the terms of a Will to allow a spouse to benefit from the income during their lifetime but with the capital being owned by their children. The capital is distributed on the remaining parent's death.

### **Discretionary trusts**

Here the trustees decide what happens to the income and capital throughout the lifetime of the trust and how it is paid

out. There is usually a wide range of beneficiaries, but no specific beneficiary has the right to income from the trust.

A few trusts will now have to pay an IHT charge when they are set up, at 10 yearly intervals and even when assets are distributed.

*The treatment of trusts for tax purposes is the same throughout the United Kingdom. However, Scottish law on trusts and the terms used in relation to trusts in Scotland are different from the laws of England & Wales and Northern Ireland.*

*With a bare trust, you name the beneficiaries at outset, and these can't be changed. The assets, both income and capital, are immediately owned and can be taken by the beneficiary at age 18 (16 in Scotland).*

# LIFE ASSURANCE COVER

## *Funding a potential Inheritance Tax liability*

After taking the appropriate steps to put in place an Inheritance Tax planning strategy, if there is still the potential likelihood of a liability on your estate, or if you have made gifts which have created a potential liability for the recipients if you die within seven years, we can help you review how you could fund this liability in the most efficient way.

By using life assurance cover, it is possible to use the proceeds to fund a potential IHT liability whenever it may arise. Life assurance cover is often the only means of providing immediate protection against a future IHT liability. Each premium payment is classed as a gift for IHT purposes.

### **The two common policy types are:**

- **Whole of life policies** – to generate a payment on death to cover the tax liability on the estate
- **Reducing term policies** – to cover the tax liability payable by the recipient of a gift if the donor dies within seven years

Any policy designed to produce benefits free of IHT for your chosen beneficiaries must be written in an appropriate trust. The trust will enable policyholders to retain control over the ultimate destination of the benefits.

*By using life assurance cover, it is possible to use the proceeds to fund a potential IHT liability whenever it may arise.*

*Never take steps that might leave you struggling for money while you are alive in order to save tax after you've died.*

# INHERITANCE TAX CHECKLIST

*Start planning today to spare your family from a potential Inheritance Tax bill tomorrow*

- 1.** The main ways to avoid Inheritance Tax are to spend your money while you are alive or give it away.
- 2.** Work out how much IHT might be due on your estate and regularly review it so you know what potential liability there is.
- 3.** Find out if the rules which took effect from October 2007, which mean that married couples and registered civil partners can now make use of each other's tax-free allowance without special tax planning, apply to you.
- 4.** If you set up special Wills to deal with IHT, review them to see if they are still relevant.
- 5.** Make full use of any tax-free gifts you can make whilst you are alive.
- 6.** Put life insurance policies under an appropriate trust.
- 7.** If there's going to be a big IHT bill, think about taking out an insurance policy for your heirs to pay the bill.
- 8.** Make a Will if you don't have one – otherwise the people you want to inherit may not.
- 9.** Anything you leave to charity is free of IHT, so it can be a useful way of reducing your potential IHT liability while benefiting a good cause.
- 10.** Never take steps that might leave you struggling for money while you are alive in order to save tax after you've died.

## **INHERITANCE TAX IN THE UK MAY BE ONE OF LIFE'S UNPLEASANT FACTS, BUT WITH PLANNING AND QUALITY ADVICE, WE COULD HELP YOU PAY LESS TAX ON YOUR ESTATE**

There are many options available to tackle the problem of Inheritance Tax (IHT). It's important to remember that when you die, your estate could be subject to IHT if it's worth more than the IHT threshold. With careful planning, you could reduce the amount payable – but it can be complex. To arrange a consultation with one of our advisers, please contact us to discuss your requirements.

*The content of this guide is for your general information and use only, and is not intended to address your particular requirements. The content should not be relied upon in its entirety and shall not be deemed to be, or constitute, advice. Although endeavours have been made to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No individual or company should act upon such information without receiving appropriate professional advice after a thorough examination of their particular situation. We cannot accept responsibility for any loss as a result of acts or omissions taken in respect of the content. Thresholds, percentage rates and tax legislation may change in subsequent Finance Acts. Levels and bases of, and reliefs from, taxation are subject to change and their value depends on the individual circumstances of the investor. The value of your investments can go down as well as up and you may get back less than you invested.*