



# Safeguarding your estate

This 2011/12 guide is intended to help you and your estate planning.

That you should leave something behind for loved ones is a gratifying thought, whatever the size of your estate. If your assets exceed £325,000 (including any gifts you have made in your last seven years), your legacy could be diminished by a 40 per cent tax liability.

Estate planning means your family will receive a larger share of your estate. The incidence of estate taxes necessitates careful planning, so due care, attention and execution of your plans is essential.

Did you know that it is expected that only two per cent of estates this year will have liability to IHT? Plan with us to ensure that your liability is minimised.

## **START BY ASKING YOURSELF THE FOLLOWING QUESTIONS:**

**Who?** Who do you want to benefit from your wealth? What do you need to provide for your spouse? Should your children share equally in your estate – does one or more have special needs? Do you wish to include grandchildren? Would you like to give to charity?

**What?** Should your business pass only to those children who have become involved in the business, and should you compensate the others with assets of comparable value? Consider the implications and complications of multiple ownership.

**When?** Consider the age and maturity of your beneficiaries. Should assets be placed into a trust restricting access to income and/or capital? Or should gifts wait until your death?

## **TRANSFERRING THE NIL-RATE BAND**

The amount of the nil-rate band potentially available for transfer will be based on the proportion of the nil-rate band unused when the first spouse or civil partner died. If on the first death the chargeable estate is £150,000 and the nil-rate band is £300,000 then 50 per cent of the original is unused. If the nil-rate band when the surviving spouse dies is £325,000, then that would be increased by 50 per cent to £487,500. Currently the maximum nil-rate band that may be available to a surviving spouse (or civil partner), amounts to **£650,000**. This combined rate applies until 5 April 2015, unless amended by any interim announcement. Common practice is to combine the allowances together in expectation that the transferable proportion will be better utilised on the second death.

If you plan to remarry and your late spouse transferred his or her nil-rate band to you, the tax situation can be complicated. Without careful planning, your beneficiaries could lose large tax allowances. For objective advice, please ask us for advice.

Whenever there is a significant change in legislation planning should be reviewed. Contact us to find out more.

## **AN OVERVIEW OF THE BASICS**

### The main exemptions and reliefs:

The exemptions, apart from the nil-rate band have remained unchanged for many years. Thus, gifts between spouses or civil partners, during their lifetimes or on death, are completely exempt with the important exception of a gift from a UK-domiciled spouse to a spouse domiciled outside the UK, in which case the allowance is **£55,000**.

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- The annual exemption on gifts given during the life of the donor totalling **£3,000** allows a small element of increase in the effective exemption each year, in the absence of an inflation increase on the nil-rate band limit. The allowance can be carried forward by one year, allowing gifts of up to **£6,000** to be exempt every other year.
- The unused proportion of the nil-rate band is transferable from the deceased. See 'Transferring the nil-rate band' above.
- Gifts, whether made during lifetime or on death to UK charities, political parties, national museums and art galleries all qualify for exemption, and there are further conditional exemptions for buildings and assets of any outstanding historical or aesthetic value.
- Gifts made seven years before the donor's death are generally free from inheritance tax. But the position can be complicated by (1) gifts with reservation of benefit, and (2) pre-owned assets. Both of these may remove the seven year exemption if you have continued to benefit in some way from the gift.

Care should be taken here – if you are concerned that previous gifts may not be tax exempt, or that ownership of the gift could be challenged by non-beneficiaries, you should seek our advice.

The UK offers significant reliefs for agricultural property and business assets which can both potentially be gifted tax-free if they have been owned for at least seven years. Agricultural property qualifies even if it is farmed by others.

Business property relief applies to the assets of a sole proprietor's business, the share of a partnership business, or equity in a company which is unquoted (including AIM listed companies). The important distinction is that it cannot be primarily an investment business, however if you are unsure as to whether your business assets qualify please discuss this with us.

#### Other main exemptions for lifetime gifts

- Gifts of up to but not exceeding **£250** per annum to any number of persons
- Gifts made out of income that form part of normal expenditure and do not reduce the standard of living of the donor
- Gifts in consideration of marriage/civil partnership of up to **£5,000** by a parent, **£2,500** by a grandparent and **£1,000** by any other person.

#### The key elements to estate planning are:

##### **Your Will**

Writing a Will can be an involved process even without tax considerations. How will your estate be distributed? Who are the executors? Who will look after your children

if they are still minors? These are just a selection of the safeguarding issues that require decisions. If the Will is to include trusts, substantial property, or pension funds it would undoubtedly benefit from professional advice.

#### **Normal expenditure out of income**

This exemption is an important one and can be used to deplete a large estate, for example by giving regular cash amounts to grown up children to finance school fees or similar. You will need specific advice on how to ensure that you meet the necessary conditions.

#### **Trusts**

Trusts allow for more flexible estate planning. As well as offering tax savings, they offer greater control over who will benefit from your estate, allowing you to protect vulnerable beneficiaries such as children, but they can be difficult to alter so sound long-term planning is essential. We are happy to advise regarding the benefits and implications of forming a trust.

#### **Life assurance**

Life assurance policies can form a useful part of estate planning as the benefits can be written in trust and not fall into the taxable estate. An investment bond can be an excellent vehicle for bequeathing almost tax-free. Insurance policies can also be used to cover any inheritance tax your beneficiaries might have to pay.

#### **SOME ESTATE PLANNING QUESTIONS**

- Are you sure your estate plan reflects your current wishes?
- If you die suddenly, will your executors be able to easily locate all your records?
- Do you have medium-term and long-term financial objectives?
- Do you know the current value of your estate?
- Are you comfortable with your executor(s) and trustees?
- Are you sure you have the right type and amount of life assurance?
- Have you considered how inheritance tax will affect your business?
- Do you know what will happen to your business if you die?
- Have you considered the use of trusts in estate planning?
- Do you know the intentions of relatives with substantial assets?

**Ask us how we can help you safeguard your estate.**