

Good Deed of the Day

The Benefit of Hindsight in Inheritance Tax Planning

Inheritance Tax Threshold

When a person dies Inheritance Tax can be payable if the person's estate is in excess of the Nil Rate Band (NRB). The Nil Rate Band is currently £325,000. All property passing between spouses or registered civil partners (in these notes we use the term **registered legal partners** to refer to both) is free of Inheritance Tax. On the death of the second registered legal partner they can inherit the NRB of the first deceased partner (provided that they have not used it in whole or part) and therefore conceivably leave a tax-free estate of up to £650,000. Inheritance Tax of 40% has to be paid on anything above this figure.

Gifts to Charities are exempt from Inheritance Tax and deducted before the value of the estate is assessed.

On the death of the first registered legal partner they may leave some of their property to their children with the result that they will use up part of their NRB. It is not the value that they give which is relevant however but the percentage of the NRB.

Example:

Your registered legal partner has just died leaving £162,500 to his children. He has therefore used up half of his NRB. On your death, you will be entitled to 1.5 times NRB at whatever rate the NRB is at that time.

Post-death Deed of Variation

A person's will can be changed for up to two years after their death even if property has been distributed. All of the beneficiaries who are affected by any alteration must agree to this. There is a set legal procedure to be followed.

If a parent has died and left money to you, which you plan to give to your children then it may be sensible to vary their will so that it provides for the money to go direct from grandparent to grandchild. By doing this you are using up your parent's NRB and not your own.

Equally, if an estate is going to be subject to Inheritance Tax the will could be altered so that the taxable part ended up being left to charity.

Charitable donations and Deeds of Variation

A Deed of Variation can be a particularly effective way of avoiding Inheritance Tax and making an extremely valuable donation to charity in the name of your loved one.

Example:

Parent dies leaving an estate of £425,000 (after expenses) to be split between two adult children.

$£425,000 - £325,000$ (Nil rate band) = £100,000

40% inheritance tax on £100,000 = £40,000

$£425,000 - £40,000 = £385,000$ divided by 2 = £192,000 each

If both children agree, in order to reduce their own estates for the future, they want to give £60,000 to charity between them. A Deed of Variation can be drawn up altering the original Will to enable the charity to benefit by £100,000 and reduce the Inheritance Tax liability to zero.

$£40,000$ Inheritance Tax repaid + £60,000 from 2 children = £100,000 to the charity

$£425,000 - £100,000 = £325,000$ divided by 2 = £162,000 each

Professional Advice

Because tax rules are complicated it is crucial to get expert advice. Deeds of Variation are technical, tax-saving measures and often involve the input of an experienced lawyer and accountant. The cost of preparing them should, however, be weighed against the possible tax savings which can be made.

Any information we give is for general guidance only and does not represent actual legal or financial advice. We strongly recommend all our patients, families and supporters to seek professional assistance from a qualified practitioner.

You should bear in mind that the tax laws are continually changing. What may be valid today may not be so tomorrow. It is important therefore to always keep any financial arrangements that you may make under regular review.