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SOLICITORS

A GUIDE TO INHERITANCE TAX



We will help you with your planning

Inheritance Tax (IHT) is payable when someone dies and the value of their assets together with the value of certain assets held in trust and also the value of any gifts made within the 7 years of death totals more than the IHT threshold, the Nil Rate Band (NRB), which is currently £325,000. Various reliefs and exemptions can be claimed so that, even if the value is more than £325,000, IHT might not be payable. Subject to this IHT is payable at 40% on the excess over the NRB. Please refer to our leaflets entitled Inheritance Tax Exemptions, Agricultural Property Relief and Business Property Relief for details of

various exemptions and reliefs. Married couples and registered civil partners can increase the NRB when the second of them dies up to twice the NRB, i.e. £650,000. If the deceased has a life interest in a Trust under someone's Will, when he dies the value of the assets in that Trust will also be liable to tax. If certain conditions are fulfilled, an additional residential NRB may be available, which by 6th April 2020 will have increased to £175,000 per person. This means that by that time, a married couple may have a joint exemption of £1m.

The importance of making a Will

We cannot stress enough how important it is to make a Will. Not only does it ensure that your assets pass to the correct beneficiaries, but it is very often an important means of ensuring that your affairs are arranged in a tax efficient manner so as to reduce the potential liability to IHT. It is however possible after someone has died to change the terms of a Will by means of a Deed of Variation if the persons who are to be affected by the change agree. This can be done if the Will was not written in a tax efficient way or if the deceased had intended to change the Will but did not do so.

Gifts

Any gifts you make to individuals will be exempt from Inheritance Tax provided you live for 7 years from the date of the gift. Such gifts are known as potentially exempt transfers (PETs). If you die within 7 years of making the gift and the value of the gift together with your own assets is more than the NRB, then IHT will be payable on the gift. If you die more than 3 years after making the gift the rate of tax payable on the gift is reduced on a sliding scale from 20% - 80%.

CONTACT US

LEEK OFFICE T: 01538 399199 / HANLEY OFFICE T: 01782 200000

UTTOMETER OFFICE T: 01889 598888 / ECCLESHALL OFFICE T: 01785 339514 / www.bowcockpursail.co.uk



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Transferable nil rate band

On the death of a surviving spouse or civil partner it is possible to transfer any NRB, which had not been used up, when the first party to the marriage or civil partnership died. This can have the effect of increasing the IHT threshold on the death of the survivor to £650,000.

Reservation of benefit

Property which has been given away, although validly given, may still be treated for IHT purposes as being owned by the Donor unless:

- 1 Possession and enjoyment of the property is bona fide assumed by the Donee and
- 2 The property is enjoyed virtually to the entire exclusion of the Donor and of any benefit to him by contract or otherwise.

The reference to the property being enjoyed virtually to the entire exclusion of the Donor means that for practical purposes this is an "all or nothing" test. The exception is intended to cover trivial benefits which might arise where e.g. the Donor of a picture enjoys the chance to view it when making occasional visits to the Donee's house.

The reference to "by contract or otherwise" is meant to refer to arrangements that are not legal and binding which amount to an honourable understanding. A parent might give away his or her house to the children and continue to live in it. Unless a full market rent is paid or unless the children occupy the house as well, there will be a reservation of benefit.

Pre-owned assets tax

This is an income tax charge on a person who gives away an asset and then continues to derive a benefit from the asset. The charge is based on the market value rent where the asset is freehold or leasehold property and as a specified percentage of capital value for other types of assets e.g. antiques. There are certain exemptions such as where the benefit is worth less than £5,000.00 per annum.

Loss on sale relief

Shares

On a death any stocks and shares are valued as at the date of death. Sometimes the price of shares can vary dramatically after death and, if shares are sold within 1 year of death at an overall loss, it is possible to claim loss on sale relief provided certain conditions are complied with. This has the effect that the sale price is substituted for the value at death.

Sales of land

There is a similar relief where land is sold, but in this case there is a period of 4 years from death during which the sale can take place. Again the sale value will be substituted for the value at death.

Quick succession relief

If someone inherits property and dies within a short time, the same property would be subject to IHT twice within a relatively short period of time, but for this relief. It works by giving credit for a proportion of the IHT charged on the first occasion against the tax payable on the second death. The proportion varies from 100% in the first year to 20% in the 5th year.

Acceptance of property in lieu of IHT

The Revenue has power to accept certain types of property in satisfaction of IHT. This may include pictures, prints, books, manuscripts, works of art, scientific objects and other items regarded as being of national, scientific artistic and historic interest. Such arrangements have to be cleared with the Revenue and in practice only property which is regarded as of pre-eminent interest is accepted.

Get in touch

If you would like to find out more information about Inheritance Tax, please visit our website or contact one of our offices.

www.bowcockpursaill.co.uk

Leek t: 01538 399199

Hanley t: 01782 200000

Uttoxeter t: 01889 598888

Eccleshall t: 01785 339514

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