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# A GUIDE TO INHERITANCE TAX



## We will help you with your planning

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

Please refer to our leaflets on Inheritance Tax Exemptions, Agricultural and Business Property Relief for details of various exemptions and reliefs. Married couples and registered civil partners can increase the Nil Rate Band in the event of a death, up to twice the Nil Rate Band, i.e., £650,000. If the deceased has a life interest in a Trust under someone's Will, should they die, the value of the assets held in that Trust will also be liable to tax.

## The importance of making a Will

As specialists in inheritance tax, we cannot stress enough the importance of making a Will. Not only does it ensure that your assets are passed on to the correct beneficiaries, but that your affairs are arranged in a tax efficient manner to reduce the potential liability to Inheritance Tax.

However, in the event of a sudden or unexpected death, it is possible to change the terms of their Will by means of a Deed of Variation. This means that the person(s) who are to be affected agree with the proposed changes. 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 was unable to in life.

## Gifts

Any gifts made to individuals will be exempt from Inheritance Tax provided the gifter lives for seven years from the date handing over receipt of the gift. These gifts are known as potentially exempt transfers (PETs). If you die within seven years of making the gift and its value together with your own assets is more than the NRB, then Inheritance Tax will be payable on the gift.

If you die more than three years after, the rate of tax payable on the gift is reduced on a sliding scale from 20% - 80%.

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## Transferable nil rate band

On the death of a surviving spouse or partner, their personal representatives are responsible for making a claim to transfer any unused Nil Rate Band. This can have the effect of increasing the Inheritance Tax threshold on the death of the survivor to £650,000.

## Reservation of benefit

Even when given legally, property which has been gifted may also have Inheritance Tax applied to it, unless:

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

A 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, for example, the Donor of a picture enjoys the chance to view it when making occasional visits to the Donee's home.

The reference to "by contract or otherwise" means arrangements that are not legally binding which amount to an honourable understanding. For example, a parent might give their children their house and continue to reside there. Unless a full market rent is paid or 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 continues to derive a benefit from that asset. The charge is based on the market value of rent where the asset is freehold or leasehold property and as a specified percentage of capital value for other types of assets, for example, antiques. There are certain exemptions such as where the benefit is worth less than £5,000 per annum.

## Loss on sale relief

### Shares

In the event of a death, any stocks and shares are valued at the date of death. Occasionally, the price of shares can vary dramatically after death and, if the shares are sold within one year of death at an overall loss, it is possible to claim loss on sale relief provided you comply with certain conditions. 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 four 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

Should a person inherit property and die within a short period of time, the same property would be subject to Inheritance Tax twice but with succession 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.

### Acceptance of property in lieu of IHT

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

## Contact us

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