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Inheritance Tax Planning

Inheritance tax (“IHT”) is a charge on the value of the assets gifted by someone either during their lifetime or on their death.

The main rate of IHT is 40%. This is charged on the value of the assets over the available nil rate band of that person. This applies both to the value of the assets in the estate on death and to gifts of assets in the seven years before death. Sometimes taper relief reduces the amount of tax payable on gifts made more than three years but less than seven years before death.

The nil rate band (NRB) for the current and next two years is:

2008/09 - £312,000

2009/10 - £325,000

2010/11 - £325,000

The availability of the NRB will depend on whether any other gifts have been made in the previous 7 years. It is called the NRB because technically this sum is taxed at 0%.

Lifetime gifts to certain types of trusts will suffer 20% IHT if the value of the gift exceeds the **available** nil rate band of the person making the gift.

There are a number of exemptions and reliefs that can be applied to gifts made both during lifetime and those made on death

Gifts between spouses and registered civil partners

Such gifts, whether made during their lifetimes or on the death of the first to die, are completely exempt. However if a gift is made from a UK-domiciled spouse to a non-UK-domiciled spouse, only the value up to £55,000 is exempt.

The estate of a widow, widower or surviving civil partner whose spouse or civil partner died before them can claim an extra (or part) NRB to the extent their late spouse or civil partner did not use their own NRB. This is usually called the “transferable nil rate band”.

Gifts to UK charities, political parties, and national museums and art galleries

These usually qualify for exemption. There are also special “conditional” exemptions for assets such as buildings, landscape and chattels which are of outstanding aesthetic or historical importance.

Exemptions relating to smaller lifetime gifts

There are various ways you can make gifts from your estate in your lifetime which are exempt from any Inheritance Tax at your death:

- (1) You can make any number of gifts of up to £250 (“small gifts”) to any number of persons throughout your lifetime without any Inheritance Tax consequences. If any gift exceeds £250 then this exemption is lost.
- (2) You have an annual exemption of £3000 which means you can make gifts totalling £3000 in any one tax year. If you do not use this exemption in one year, it can be carried forward to the next and therefore if you have not made any gifts in the previous tax year you can gift up to £6000.
- (3) You can make a gift to someone you know who is about to marry. If you are a relative of one of the parties, the gift can be up to £2500. In all other cases, the maximum tax free gift is £1000. This gift must be made “in contemplation of marriage” and you should keep some evidence in writing of the gift i.e. a copy of a letter giving the gift etc.
- (4) There is a further exemption from Inheritance Tax for gifts which are made out of the donor’s normal expenditure out of his income. This means that:
 - (i) if a gift of cash is made out of the normal expenditure of the donor and;
 - (ii) it is made from the donor’s regular income and;
 - (iii) it leaves the donor with sufficient income to maintain his usual standard of living,that gift will be exempt from Inheritance Tax.

Usually this exemption applies to a series of gifts and can include the payments toward assurance policies written in trust including a policy set up to fund a potential Inheritance Tax liability should the donor die within 7 years of making a large gift.

- (5) There is also an exemption for gifts which constitute normal maintenance of the donor’s family.
- (6) Although not strictly an exemption, a gift made more than seven years before death will fall out of account and will no longer be taxable itself (although it may affect the amount of tax payable on later gifts).

Any lifetime gifts which fall outside these exemptions (such exemptions will include gifts to spouses, civil partners and charities etc.) are “added back” into a person’s estate on death. Where a person has made lifetime gifts which are not exempt and they have not survived 7 years from the date of the gift, the NRB will be applied against these gifts before the rest of the estate.

IHT is therefore only likely to be payable on a lifetime gift if the value of that gift together with any earlier gifts made in the 7 years before death exceeded the NRB. If the lifetime gifts exceed the NRB, then the liability for Inheritance Tax will rest with the person receiving the gift rather than the Executors of the estate. If the value of

lifetime gifts does not exceed the nil rate band, there will be no Inheritance Tax to pay on them but the nil rate band of your death estate will be reduced accordingly.

Excepted Assets

The non-UK based assets of non-UK-domiciled individuals are free of IHT. UK-domiciled individuals will suffer IHT on their worldwide assets. Non-UK-domiciled individuals suffer IHT on most assets which are within the UK.

Reliefs for Business (BPR) and Agricultural (APR) Property

Relief is given at either 100% or 50% depending on the circumstances and the type of assets gifted, which means either a complete exemption from IHT or an exemption on half of the value of the assets concerned.

Relief is normally only given if the asset concerned has been owned for a minimum of two years. In the case of agricultural property, relief is available on land which is farmed by others. In this case the owner must have owned the land for seven years in order to claim IHT relief.

APR may apply to farmhouses as well as to farmland, but it is limited to the “agricultural value”. Therefore land with development value may not always qualify for APR on the whole of that value. However, depending on the circumstances sometimes that value will qualify for BPR.

BPR is available on the assets of a sole proprietor’s business, a share of a partnership business, or shares and securities in a company which is unquoted (this includes shares quoted on AIM). The business must be a trading business.

BPR will not however be available for businesses which mainly consist of holding or dealing in investments, including investment in land or buildings. This is an “all or nothing” restriction.

If a business is part trading and part investment it may be possible to get relief for the entire value of the business.

If you would like to discuss any aspect of this information sheet then please contact:

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Alternatively, please call in to any of our offices to arrange an appointment.

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