

INHERITANCE TAX AND THE TRANSFERABLE NIL RATE BAND

Inheritance Tax

When a person dies they have what is known as an “Inheritance Tax Nil-Rate Band (**NRB**)”. This is the amount over which Inheritance Tax has to be paid.

Currently the NRB is £325,000. If your estate is over that amount Inheritance Tax is payable at a rate of 40% of anything over the NRB. The first £325,000.00 is free from Inheritance Tax.

Your estate comprises your house and contents, any car or other vehicle which you may own, your bank accounts, shareholdings and any other assets you hold in your sole name.

For Inheritance Tax purposes a half share of any assets you hold in joint names with somebody else will also be taken into account.

Example:

If your house is worth £250,000 and you own it in your sole name, you have £60,000 in the bank and £20,000 worth of shares, your car is worth £10,000 and you have contents in your house worth £5,000, your total estate will be £342,500.00

Assuming that your estate is not entitled to any exemptions or reliefs, you will get the first £325,000.00 free from Inheritance Tax.

Inheritance Tax is charged on the remaining £20,000 at a rate of 40%. The total tax due on your estate will be £8,000.

Exemptions and Reliefs

There are a number of exemptions and reliefs that can apply to an estate. These are the most common:

Spouse or Civil Partner Exemption

There is no Inheritance Tax to pay on any assets left to your Spouse or Civil Partner. A Civil Partner is somebody who has had a Civil Partnership Ceremony as opposed to a wedding.

If you left your whole estate to your spouse there is no tax to pay. If you leave less than the NRB to other beneficiaries, i.e. your tax free amount and then the remainder of your estate to your spouse there is no tax to pay.

Charities Exemption

There is no Inheritance Tax to pay on any gifts made to charity. Any such gifts would reduce the value of your estate chargeable to Inheritance Tax (the Chargeable Estate). For example, if your estate is worth £350,000.00 and you leave a gift to a charity of £50,000.00, this would reduce your chargeable estate to £300,000, bringing it under the NRB and as a result there will be no Inheritance Tax to pay.

Business Relief

It is possible to claim Business Relief on an estate where one or more of the assets are businesses or business property. There are a number of conditions which apply which need to be satisfied before 100% business relief can be claimed. If an estate is entitled to business relief the value of the Chargeable Estate is reduced by the value of the business.

Agricultural Property Relief

This is available for estates which may include any agricultural property, there are a number of conditions which must be satisfied including who occupies and owns the property, whether the property is actually used for agricultural purposes and whether it is subject to an agreed sale or not. If the conditions are met it is possible to claim up to 100% relief on Agricultural Property.

Example: an Estate is worth £500,000.00. The deceased had agricultural property worth £200,000.00 which satisfied all the relevant conditions. The chargeable estate is reduced to £300,000 which falls under the NRB and there is therefore no Inheritance Tax to pay.

Transferable Nil Rate Band

Since the rules relating to Inheritance Tax changed in October 2007 it is now possible for spouses and civil partners to transfer their nil-rate band allowances so that any part of the nil-rate band (NRB) that was not used when the first spouse or civil partner died can be transferred to the individual's surviving spouse or civil partner for use on their death.

The transferable allowance will be available to all survivors of a marriage or civil partnership who die on or after 9th October 2007. There is no time limit as to when the first spouse died, although prior to 21st March 1972 there was no spouse exemption and it is therefore likely that any tax-free amount would have been used up entirely by any legacy to the surviving spouse.

Where a claim to transfer unused NRB band is made, the NRB that is available when the surviving spouse or civil partner dies will be increased by the proportion of the NRB unused on the first death. For example, if on the first death there are legacies totalling £150,000 made to anyone other than spouse, civil partner or charity, the balance of the estate is paid to the spouse, civil partner or a charity and the NRB is £300,000, 50% of the NRB would be unused. If the NRB when the survivor dies is £325,000, then that would increase by 50% to £487,500.

Examples:

1. Spouse dies leaving everything to surviving spouse:

This means there was no Inheritance Tax to pay on the first estate and since a gift to a spouse is exempt from Inheritance Tax none of the deceased spouse's NRB was used. Therefore 100% of the NRB can be transferred to the surviving spouse. This is calculated in proportion to the NRB at the date of death of the surviving spouse. So for a surviving spouse who is entitled to take 100% of the deceased spouse's NRB, who dies in the 2009/10 tax year the amount available before Inheritance Tax is charged is £650,000.

2. Spouse dies leaving gifts to children and remainder of estate to surviving spouse:

If the deceased spouse died in June 2002 when the NRB was £250,000 and left £50,000.00 to the children and the remainder of the estate to the surviving spouse, this uses 20% of the NRB at that time.

This means that 80% of the NRB was unused. If the surviving spouse then dies in the 2009/10 tax year the estate can claim the full £325,000 being the current NRB for the surviving spouse plus 80% of the unused NRB of the deceased spouse which is calculated according to the current NRB and would therefore be an additional £260,000 bringing the total amount free from tax for the estate of the surviving spouse to £585,000.

Contact

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