

Amicus Law

S O L I C I T O R S

## INHERITANCE TAX PLANNING

Bridgwater  
01278 664060

Wellington  
01823 755800

Minehead  
01643 701888

Yeovil  
01935 426047

Martock  
01935 822572

Exeter  
01392 964930

[amicuslaw.co.uk](http://amicuslaw.co.uk)



Inheritance Tax (IHT) is payable at 40% on the net value of your estate at the time of your death in excess of the Nil Rate Band (NRB), which is currently £325,000. The value includes gifts made in the preceding seven years and can also include life policies, pension benefits and assets given away that you still enjoy the benefit of. An additional NRB relating to residential property only and which is left to direct descendants will also become available from April 2017, initially at £100,000. If your net worth is less than the available NRB then no tax is payable. If it is more than the NRB and tax would be payable you may wish to try to reduce the tax impact by considering some of the ideas below. Firstly though you should have some idea of what you and your spouse/civil partner (if applicable) are worth and what you can afford to be without.

There are some simple tax planning steps which you can utilise:

1. **Annual Exemption** – gifts of up to £3,000 each year, but separate from the Small Gifts Exemption. The two cannot be combined to make a gift to a single person of £3,250. Unused allowance can be rolled forward for one year, but should be used as early as possible each tax year to avoid passing away without having been utilised.
2. **Small Gifts Exemption** – any number of gifts of up to £250 in a tax year to different people.
3. **Marriage Gifts** – up to £5,000 to a child; £2,500 to a grandchild; or £1,000 to anyone else.
4. **Regular Gifts Out of Income** ie. gifts which are from income rather than capital and which can include the regular giving away of excess income over expenditure.
5. **Gifts Between Spouses/Civil Partners** – always exempt if both live in the UK
6. **Life Policies** – the benefit of a policy can be written in Trust for a selected person, but advice should be taken before doing so from your legal and/or financial advisor.
7. **Child Trust Funds** – up to £1,200 per year from all sources can be paid into a Child Trust Fund aside from the gifts above, without any Inheritance Tax (or Income Tax for parents) issues.
8. **Pension Benefits** – can be nominated to intended beneficiaries.

9. **Family Maintenance** – for your spouse, ex-spouse and your children under 18 or in full time education.

In addition to the above steps, we can advise you on the suitability of your circumstances for the following:

A. **Trusts** – come in a variety of forms:

- (1) **Discretionary Trusts** - Trustees have absolute discretion in the application of trust funds and no beneficiary has an absolute right to trust money. A very flexible trust and can be used for tax planning.
- (2) **Interest in Possession Trusts** - a beneficiary receives income from the trust, or the right to occupy property, for life and after his/her death the trust fund is paid to other beneficiaries. It is effective for protecting assets in second relationships or from vulnerable beneficiaries and protecting assets against means assessments for care fees.
- (3) **Accumulation and Maintenance Trusts** are useful hybrid discretionary trusts but only work from grandparent to grandchild.
- (4) **Immediate Post Death Interest Trusts** are similar to Accumulation and Maintenance Trusts with certain beneficial tax planning rules.

B. **Potentially Exempt Transfers** are gifts which can become exempt from IHT if you survive further seven years. If you survive less than three years the gift is counted in full but if death occurs between three and seven years, the amount of tax the gift may attract reduces on a sliding scale. The beneficiary is responsible for paying any tax, so it is important to take advice before making potentially exempt transfers.

C. **Transferable Nil Rate Bands** - a transferable NRB arises when one party to a marriage or civil partnership has died and the amount of their estate that was chargeable to Inheritance Tax did not use up all their NRB. If the surviving spouse/civil partner dies after 9<sup>th</sup> October 2007 the unused part can be transferred to their estate. This can mean that on second death up to £650,000, is exempt from Inheritance Tax. It is very

important to keep records of the first deceased's assets, as they are relevant to work out what is available on second death.

- D. Variation of Estates** - if you receive an inheritance and you plan to give all or part of the amount away to someone else then for up to two years after the date of death we can vary the estate for you, even if the administration of the estate is already complete. As long as it doesn't make more tax payable in the original estate, you do not even need the agreement or involvement of the personal representatives. In some cases it may be beneficial to vary back to a surviving spouse/civil partner who then receives the transferable NRB and can make gifts which may fall out of their own estate after seven years.
- E. Agricultural and Business Property Relief** – these reliefs are beyond the scope of this leaflet but can be extremely valuable. Please ask for further advice.
- F. Active Service Exemption** – the estates of service personnel killed on active service or where death is attributable to an injury sustained on active service may be exempt from IHT.
- G. Gifts to Charities** – gifts to charities are normally tax free and if you gift at least 10% of your estate to charities it can reduce the tax rate on the rest of your estate by 10%.

In addition to the above there are also investment products available which can assist in the mitigation of IHT. Whilst we are not qualified to advise on these ourselves, we can put you in contact with one of our panel of Financial Advisors who will be pleased to advise you in connection with matters such as life assurance, and appropriate investment products.

For more information or to make an appointment contact Hilary Quantick at [hilary.quantick@amicuslaw.co.uk](mailto:hilary.quantick@amicuslaw.co.uk) for our Bridgwater and Minehead offices, Alex Parris at [alex.parris@amicuslaw.co.uk](mailto:alex.parris@amicuslaw.co.uk) for our Wellington office, or Stephen Forsey at [stephen.forsey@amicuslaw.co.uk](mailto:stephen.forsey@amicuslaw.co.uk) for our Exeter, Martock and Yeovil offices.

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