

Taxing Questions

What you need to know about Inheritance Tax



Inheritance Tax (IHT) is a form of death duty and has been around in one form or another since the 18th Century. The current form was introduced in 1986.

IHT is 0% on the first £325,000 after which it is 40%. The first £325,000 is referred to as the "Nil-Rate Allowance".

To work out whether you are liable for IHT, you must calculate the value of all your assets (explained in the panel opposite). You then need to add the value of gifts made by you in the last seven years over £3,000 in any tax year, and any earlier gifts which you continued to benefit from. If you are the beneficiary of a trust, the value of the trust assets may also need to be added – you may need to seek legal advice on this.

There are some reliefs and exemptions:

Surviving Spouse Exemption

Anything spouses or Registered Civil Partners give to each other by Will, or during their lifetime, is exempt from IHT, provided that both are UK-domiciled.

Agricultural Property Relief and Business Property Relief

Agricultural Property Relief may allow agricultural property, including buildings and houses in certain circumstances, to be given away either during lifetime or by Will, free of IHT, or with 50% relief if let prior to 1 September 1995.

Business Property Relief may allow a business or a share in a partnership or company to be given away either during lifetime or by Will, free of IHT. Assets used in a business may be given away with 50% relief in certain circumstances.

The qualifying conditions for Agricultural Property Relief and Business Property Relief are complex, and for lifetime gifts the effect of other taxes such as Capital Gains Tax must be considered. If you think you have assets which might benefit from these reliefs it is essential that you take specialist legal advice.

Calculation

Assets are anything that has a value, such as:

- money in bank, building society or savings accounts
- houses and land, including farmland
- businesses, or business assets, owned by the deceased (or a business partnership of which they were a member)
- investments such as stocks and shares, including family shares
- personal belongings, including jewellery, antiques and other collectibles
- furniture, fixtures and fittings in a house
- motor vehicles
- pensions that include a lump sum payment on death (if payable to the estate)
- assets in certain types of trust from which the deceased benefited
- payouts from life insurance policies
- foreign assets held abroad including bank accounts, property or shares

Cohabitees

If a cohabitee inherits all of their partner's estate (whether by Will or by automatic transfer of jointly-held assets), IHT will be payable on everything over £325,000. When the second cohabitee dies, IHT is charged on their combined estate. Cohabitees may be able to save IHT by including a Nil-Rate Trust in their Wills.

Nil-Rate Trust

Instead of leaving the bulk of their estate to their partner on their death, cohabitees could leave assets to the value of the Nil-Rate Allowance in a discretionary trust, for the benefit of their partner and/or their children. This will reduce their partner's estate as it will not include the assets in the trust. If you are a cohabitee, it is important to take specialist legal advice.

Transferable Nil-Rate Allowance

Unlike cohabitees, spouses and Registered Civil Partners can use both of their Nil-Rate Allowances without needing a Nil-Rate Trust.

Any unused Allowance from the first death can be used when the survivor of the couple dies. The Transferable Nil-Rate Allowance is not automatically transferred, but has to be claimed by the executors within two years of the second death.

If you are an executor, we recommend that you seek legal advice to ensure that the correct information is gathered and presented to ensure a successful claim.

At Steeles Law we understand that thinking about such issues is not always at the forefront of your mind, so we have introduced a service whereby we can create a pack for surviving widows, widowers or Registered Civil Partners, containing all the information your executors will need to claim your deceased spouse or partner's allowance.

Deeds of Variation

If you receive an inheritance from a deceased person, this will increase your estate and therefore your IHT liability. You can redirect this inheritance (e.g. to another person, or into a discretionary trust) by a Deed of Variation made within two years of the death. The inheritance is treated for IHT purposes as never forming part of your estate, so there is no requirement for you to survive for seven years as with most lifetime gifts. Deeds of Variation can also be made by the executors of a deceased beneficiary. The two year time limit means it is essential that you seek specialist legal advice soon after the death.

The information provided in this sheet only touches the surface of Inheritance Tax; there are many intricate rules, exemptions and caveats. If you have any questions about Inheritance Tax, please feel free to contact us. We will be happy to help you.

Charity and Other Exemptions

Gifts to the following are exempt from IHT:

- to registered charities and major political parties
- to individuals, up to a total of £250, per beneficiary per tax year.
- to individuals, made more than seven years before death provided you do not continue to benefit from the gift in any way.
- to your husband, wife or civil partner, as long as they are UK-domiciled
- to a "qualifying" charity established in the EU
- to some national institutions such as museums, universities and the National Trust
- to any UK political party that has at least two members elected to the House of Commons or has one elected member but the party received at least 150,000 votes

The first £3,000 of any other gifts in any tax year is exempt from IHT.

Regular gifts from excess income are exempt from IHT provided that they do not reduce your usual standard of living or use capital.

Gifts that you make to your unmarried partner, or a partner that you're not in a registered civil partnership with, are not exempt.

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