**Inheritance Tax Planning**

Following the Government’s Autumn 2022 announcement that the Inheritance Tax (IHT) nil rate band is to be frozen at £325,000 until 2028, more people are becoming concerned that IHT will affect them. One effect of increasing house prices has been that people are paying IHT who have previously never thought that this would affect them.

Inheritance tax is payable at 40% on death on relevant assets. Everyone can pass assets up the value of the nil rate band free of IHT, and assets above this value will be liable to IHT at 40%. Assets passing to your spouse or civil partner are free of IHT, as are assets passing to charity. Spouses and civil partners can transfer their unused nil rate band to the other spouse or partner, so between them they can pass assets up to £650,000 (on current rates) free of IHT. These rules are different if you and your spouse or civil partner are domiciled in different countries, so if one of you was born outside the UK, you should check the IHT position.

IHT is payable at a lower rate on your estate (36%) if you are leaving more than 10% of your estate to charity.

It is also important to note that in April 2017 the Government also introduced a Residential Nil Rate Band (RNRB) which is an extra amount that can be passed on death without any inheritance tax payable. As an overview, should you pass and your estate exceeds your nil rate band, you can apply for the RNRB. The RNRB is the lower of the property value of £175,000, meaning should your property exceed £175,000, you can claim the RNRB allowance against your inheritance tax liability. Ad is the case with the standard nil rate band, the RNRB is transferable with spouses and civil partners.

If you give assets away during your lifetime, the value of your estate on your death (and thus the IHT payable) will be reduced. You will usually need to survive for 7 years from making the gift. You cannot, however, give something away and retain a benefit in it, otherwise the IHT saving will be lost. So, for example, if you transfer your holiday cottage into the names of your children, but continue to use it, and collect the rent, this gift will be ineffective for IHT purposes. You would need to allow your children to keep all the rents, and indeed pay them a market rent when you use the property.

There are, however, a number of gifts which are completely free of IHT, with no requirement that you survive for 7 years:

* You can give away £3,000 in total in every tax year, and if you have not used this exemption in the previous tax year, this can be carried forward for one year only.
* If your income exceeds your expenditure, you can make regular gifts of your excess income as long as this does not affect your normal standard of living.
* You can make gifts to your children and grandchildren on the occasion of their marriage or civil partnership - £5,000 to a child and £2,500 to a grandchild. Anyone else can give £1,000.
* You can make any number of small gifts of up £250 but all gifts must be to different people. Also you can’t use this exemption coupled with another exemption, so you couldn’t give £3,250 to your grandson and claim both the annual exemption and the small gifts exemption.
* If you have received an inheritance which you do not want, you can redirect this to someone else, with no IHT consequences even if you do not survive for 7 years. The gift is treated as coming from the estate of the person who has died, and not from you. Such a “variation” must be made within two years of the death of the person who has left you the legacy.

Do bear in mind that lifetime gifts may give rise to a Capital Gains Tax liability, so if you give your holiday home to your children, and this has risen in value since you acquired it, you may have to pay Capital Gains Tax on the increase.

You should also ensure that your Will is up to date by reviewing this regularly. Changes to tax legislation may mean that your Will is not as tax-efficient as it could be. For example many people have a provision in their Wills providing for their estate to pass to their children at the age of 21 or 25. There is a proposal in the Finance Bill 2013 that such a trust may be liable to additional IHT if there is power for the trustees to advance capital to a child before he or she reaches that age. If your Will contains such a provision for your children, you would need to consider whether you wish the trustees to have the flexibility to pay money to or for the benefit of the children whilst they are under age, even if this produces an IHT charge.

These proposed changes may not become law, but this illustrates the need to keep your Will under review.

If you would like further advice about inheritance tax planning and Wills, please contact Knights Professional Services

*Knights Professional Services provides the Free Legal Helpline for ICAEW Members (terms and conditions apply). If you would like more information about the helpline or other services Knights can provide ICAEW members please visit* [*http://www.icaew.com/en/membership/offers-discounts-and-services/business-offers-discounts-services/business-support/knights-professional-services*](http://www.icaew.com/en/membership/offers-discounts-and-services/business-offers-discounts-services/business-support/knights-professional-services)

*This information is provided by Knights Professional Services and a general guide only and does not constitute advice on any specific matter. We recommend that you seek substantial professional legal advice before taking action. No Liability can be accepted by ICAEW or Knights Professional Services for any action taken or not taken as a result of this information.*

*Copyright © Knights Professional Services, All rights reserved.*