



Woolley Bevis Diplock LLP

- Probate and Estate Administration -

Legal Brief

Inheritance Tax planning - The recent changes in inheritance tax (IHT) treatment made by the government have brought a great deal of confusion. The following Q&A should explain how the latest inheritance tax changes may affect you.

I always thought I could leave whatever I like to my spouse without paying inheritance tax?

Yes, you can still leave all your assets to your spouse, whatever they are worth, without him/her incurring inheritance tax – the change relates to the tax free amount you and your spouse can ultimately leave to your beneficiaries.

So what do the main changes to the inheritance tax mean?

In the past married couples and those in civil partnerships could transfer an unlimited amount to each other when one died, without paying inheritance tax. But when the surviving partner died, their estate had to pay 40% tax on their estate above the IHT threshold, currently £300,000. If the first person to die had left everything to the other, they would not have used their nil-rate band. Many clients therefore set up Wills including Special Discretionary Trusts to 'use' the nil rate band of the first to die, while still protecting the surviving spouse. The changes mean that couples can transfer their £300,000 allowance to each other, with the result that when the second person dies, the two allowances are added together and tax is only paid on amounts above the combined allowance (presently £600,000). In a nutshell the changes relate to the amount of tax free money couples can leave to their beneficiaries.

Who can benefit from this new 'couple's allowance'?

This change is for married couples and those in civil partnerships but not single people or those who cohabit, even if they are blood relations. However, if you are cohabiting, you both have an individual allowance of £300,000 and so you will collectively be able to pass on £600,000 tax free to children or other nominated beneficiaries, but you cannot leave assets of more than £300,000 to each other or anyone else without paying inheritance tax. It's something to consider if you have a large estate or valuable property.

I was widowed before these changes took place, so can my heirs benefit?

Yes, your heirs can benefit because the government has backdated the tax benefits so however long ago you were widowed, your executors can still use the 'couple's allowance'. But one word of warning, you need to check that your spouse did not leave significant gifts elsewhere, for example to your children or grandchildren, as these gifts will be deducted from the nil-rate band at the time of their death and only the unused percentage can be added to the nil-rate band of the second to die.

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