

# inheritance news

## Welcome...

To the first edition of Wedlake Saint Inheritance News. This publication is aimed at providing information and advice to individuals who face the challenges of estate planning. Wedlake Saint has offices in Redbourn, Hertfordshire and in Central London. If you have any queries relating to the issues raised here or would like to comment on the content of this newsletter please contact Nicola Tomlins on 01582 790900 or Howard McBrien on 020 7324 1870

## Where there's a will... there's peace of mind

### Why I should make a will?

To provide how your estate is to be disposed of after your death.

To appoint guardians to look after any children under the age of 18 in the event that both parents have died.

To provide for specific funeral arrangements (such as burial, cremation or the use of your body for medical research)

To maximise tax reliefs and thereby reduce the Inheritance Tax payable.

### If I do not make a will, it all goes to "the other half" anyway doesn't it?

Unlikely; where no valid will exists (and there are strict criteria to test if it is valid) the intestacy rules apply. They are detailed but include the following:

Where there is a surviving spouse (a common law spouse is not recognised) and children, the spouse will get £125,000, the deceased's personal effects, and a life interest only in half the balance of the estate. The children will share equally in the other half.

Where there is a surviving spouse but no children but the parents or brothers and sisters survive the deceased, the spouse will receive £200,000, the personal effects and a half share in the balance of the estate; the other half will pass to the parents or, if they did not survive to the siblings of the deceased.

Where there is no surviving spouse and there are no children, the parents (or if they are already dead, the brothers and sisters) inherit the deceased's estate.

A will permits certainty and can create tax savings.

### Inheritance Tax

Many people think that their assets will not be of a sufficiently high value to be affected by Inheritance Tax ("IHT") on their death.

Inheritance Tax is payable at the rate of 40% on the value of the estate exceeding £255,000 (current rate) subject to any other exemptions and reliefs.

Any assets passing to a spouse will not attract IHT but on the death of the survivor the two estates will be "bunched" together and may therefore be liable to a substantial amount of tax.

By including certain clauses in the wills of a married couple a tax saving of £102,000 (on current rates) can be made by them.

### What can I do?

Make a will - you cannot afford not to!

A will can be altered or replaced as many times as you wish.

The costs of making a will are relatively low but the benefits to you and your family are substantial.

# Inheritance Tax Planning

**It may be an exaggeration to say that Inheritance Tax is a voluntary tax but there is plenty that you can do to protect your estate from the taxman.**

It is well understood in English Law that you are entitled to organise your affairs so as to ensure that when the taxman dips his shovel into your coal cellar as little as possible coal is removed.

Inheritance Tax is a combined gift tax and death duty. You can consider it as a death duty, for most gifts will not be taxable however large the gift unless made on death or within seven years before death. The termination of a life interest in a trust fund will be treated as if it was a gift. Husbands and wives are treated separately. If you do nothing 40% of your estate over £255,000 will go in tax.

The best way to save Inheritance Tax is to spend your wealth or give it away and survive seven years. If you do not survive seven years the value of the gift is brought into account on death and additional tax may be payable, but at reduced rates if you have survived four or more years and the gift was of more than £255,000.

The seven year rule does not apply to a gift into a discretionary trust. Such a gift, if more than £255,000, bears tax immediately but at the reduced rate of 20%.

There are various exemptions. The more common among them are:-

- A husband and wife may usually give each other as much as they like during their lifetimes and on the death of the first to die; this is one of the few fiscal advantages of marriage that are left.
- Normal expenditure out of income is exempt.
- In any one tax year you may give up to £250 to as many people as you wish or can afford.
- You may give away a total of £3,000 in any one tax year. In fact it is true to say that you may give away as much as you like or can afford but if you do not survive seven years all except the £3,000 exemption will be taken into account on your death. This exemption can be carried forward for one year so it may be possible for a husband and wife to give a total of £12,000 in one year.
- Gifts to UK charities and certain national bodies (and Political Parties) are exempt.

- A gift of a business, agricultural land or woodlands, either on death or during your lifetime, usually has the effect of being exempt.

It is better to avoid some unnecessarily complicated schemes which are in any event likely to be challenged by the Capital Taxes Office of the Inland Revenue. You should however:-

1. So far as possible if married ensure that each of you have at least £255,000 rather than one having more than that sum. Your Wills should usually provide that the survivor inherits only if survival is ensured. By that simple step you can save £102,000.
2. Many married couples cannot afford (or do not want) to give £255,000 to their children on the first death even if that Will saved £102,000 in tax. However under the Will of the first spouse to die you may be able to give £255,000 free of tax to the trustees of a discretionary trust for the benefit of the surviving spouse and family in such way as the trustees think fit. The surviving spouse, who may be one of the trustees, can then have the use of the trust fund. The family will get the fund on the death of that spouse, so a saving of £102,000 tax can be achieved. We have a separate leaflet giving further details on this scheme.
3. Special deductions of up to 100% of the value may be given against the value of business and agricultural property and woodlands. The owners of these, particularly if they are married should carefully consider their Wills to make full use of these deductions.
4. Life Assurance does not of itself save tax but there are many ways in which it can be used for the payment of Inheritance Tax via trusts. If you have life policies you should consider placing them in trust so that the sum assured does not form part of your estate but goes directly to your beneficiaries tax free. The payment of each premium will then be exempt as being normal expenditure out of income.
5. Many self-employed people will have a substantial fund locked up in their pension pol-

icy by the time they reach pensionable age. That fund can be built up within a trust for the benefit of your family so as to save 40% of the fund should you die before drawing your pension. Members of company pension schemes should carefully consider who they wish to nominate as beneficiaries.

6. A Deed of Variation may be used to move property around between beneficiaries. This gives scope retrospectively to take the benefit of a nil rate band that has not been used or to avoid losing the benefit of Business or Agricultural reliefs. You can also under such a Deed pass on an inheritance direct to others so saving tax arising on your death.
7. If you receive an inheritance you may within two years of the death of your benefactor execute a Deed of Variation having the effect of putting that inheritance into a discretionary trust of which you can be both the leading trustee and the primary beneficiary. By so doing you may have the benefit of that inheritance but in such a way that it does not pass again on your death so saving £102,000 tax for your beneficiaries.
8. Those, particularly single people, who wish to save tax but who do not want to reduce their wealth, should consider setting up a trust for the benefit of the family and then lending a substantial sum to that trust. If properly invested the trust should grow. Your beneficiaries will then get the benefit of that growth which will not be liable to Inheritance Tax on your death. You will have the benefit of being able to call for repayment of your loan as and when required. A more advantageous scheme from the point of view of saving Inheritance Tax, but giving you a lesser degree of control, is to set up a family trust with all of the money you would have liked to have given away and choose trustees who you can trust to lend money back to you should the need arise.

The above notes are made under the Law of England and Wales. They are not exhaustive and do not of course obviate the need for professional advice in appropriate circumstances.

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