

CHANGES NEEDED TO WILL TRUSTS?

Married couples and civil partners enjoy an important advantage when it comes to inheritance tax. They can transfer between each other assets of unlimited value without triggering a charge to tax. However, this benefit overlaps a concession which everyone enjoys, that inheritance tax is charged at a nil rate on an initial band of value. This nil rate band changes each year but the rate for the tax year 2007/8 is £300,000.

Couples concerned to ensure that their estates enjoy both of these advantages have for many years arranged their Wills to incorporate a trust into which assets up to the value of the nil rate band would be transferred on their death.

However, concern about the way in which rising house prices have pushed an increasing number of estates over the nil rate band has prompted the Government to change the rules so that any part of the nil rate band not utilised by the estate of one partner can be carried forward to enhance the nil rate band of the surviving partner.

So does this mean that nil rate band Will trusts are no longer necessary? The answer is that it's not that simple (it never is!). Each situation must be considered individually. For example, it could be that one of the partners has previously been widowed and may therefore already have a double nil-rate band, which can be dropped into the Will Trust.

Another situation where the Will Trust could be valuable would be where there was a wish to avoid children inheriting assets outright. If assets passed instead to a trust this would protect them against claims by creditors or ex-spouses.

The length of time separating the first and second death could also affect the tax planning. Under the new law, both the nil rate bands will be based on the rate which applies at the time of the second

death, whereas the value of the nil rate band transferred into trust would be that applicable at the time of the first death. So a view would have to be taken as to whether the investment growth of the assets in the trust would be likely to outstrip the yearly escalation in the nil rate band.

A surviving partner might also be better served by having part of the deceased partner's estate directed to a Will trust if he or she was likely to be applying for means-tested Long Term Care benefits.

Finally, there could be an advantage in situations where the survivor re-marries, because even though more than 100% of the nil rate band might accrue from the previous and new marriage, the benefit which could be passed on would be capped at 100% of the then current nil rate band.

NEW RULES FOR PEPs AND ISAs

With effect from 6 April 2008 the rules governing PEPs and ISAs will be simplified:

- The distinction between maxi and mini ISAs will be removed.
- The annual ISA allowance will be increased to £7,200 for each individual.
- As an alternative to investing wholly in stockmarket funds or securities, it will be possible to invest up to £3,600 in cash with one provider and the balance in funds or securities with the same or a different provider.
- Existing cash ISAs will be able to be transferred into funds and securities ISAs.
- PEPs will automatically become funds and securities ISAs.
- TESSA-only ISAs will become cash ISAs.
- It will become possible to transfer Child Trust Funds to ISAs when they mature.
- ISAAs will be available indefinitely. Previously the intention was that they should be available only until 2009.

GOING ABROAD TO AVOID UK TAX?

The increasing number of UK citizens retiring or working abroad raises questions of liability to UK tax. The concepts which determine liability are residence and domicile, and the main principles are as follows:

- Income arising in the UK is subject to UK tax whether or not the recipient is resident in the UK.
- Income arising outside the UK is subject to UK tax if the recipient is resident in the UK.
- Gains on the disposal of assets anywhere in the world are subject to UK tax if the recipient is resident or ordinarily resident in the UK.

An individual will be classified as UK resident if he or she spends 183 or more days in the UK during a tax year or fewer than 183 days but more than 90 days a year on average over a four-year period.

Individuals who are domiciled in the UK are subject to inheritance tax on their worldwide assets, and it is much more difficult to change domicile than it is to become non-resident. Account will be taken of the individual's actions and intentions, including social and business arrangements. The retention of a UK home could well suggest that there is no intention to relinquish the ties that bind.

IF YOU CAN SEE A BANDWAGON..... AVOID IT!

History keeps on repeating itself! First it was tech shares, then corporate bonds, now property funds and buy-to-let. In each case the herd mentality took over and common sense went out of the window. Be fearful when others are greedy and be greedy when others are fearful. But exercise moderation in all things!

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