

Inheritance tax and spouses and civil partners

Introduction

Special rules apply for inheritance tax purposes to married couples and civil partners. To ensure valuable tax reliefs are not lost, it is beneficial to consider the combined position, rather than dealing with each individual separately. Married couples and civil partners benefit from exemptions that are not available to unmarried couples.

Inter-spouse exemption

The main inheritance tax benefit of being married or in a civil partnership is the inter-spouse exemption. Transfers between married couples and civil partners are not subject to inheritance tax. This applies both to lifetime transfers and to those made on death.

The inter-spouse exemption makes it possible for the first spouse or civil partner to die to leave their entire estate to their partner without triggering an IHT liability, regardless of whether it exceeds the nil rate band.

Transferable nil rate band

The proportion of the nil rate band that is unused on the death of the first spouse or civil partner can be used by the surviving partner on his or her death. This makes tax planning easier and there is no panic about each spouse using their own nil rate band. If the entire estate is left to the spouse on the first death, on the death of the surviving spouse or civil partner, there will be two nil rate bands to play with.

If the first spouse or civil partner to die has used some of their nil rate band, for example, to leave part of their estate to their children, the surviving spouse or civil partner can utilise the remaining portion. It should be noticed it is the unused percentage that is transferred, rather than the absolute amount unused at the time of the first death – this provides an automatic uplift for increases in the nil rate band.

The nil rate band is currently £325,000.

Residence nil rate band

The residence nil rate band (RNRB) is an additional nil rate band which is available where a main residence is left to a direct descendant. It is set at £150,000 for 2019/20, and will increase to £175,000 for 2020/21. The RNRB is reduced by £1 for every £2 by which the value of the estate exceeds £2 million.

As with the nil rate band, the unused proportion of the RNRB can be transferred to the surviving spouse.

Example

George and Maud have been married for over 50 years. Maud died in 2017 leaving £32,500 to each of her two children. The remainder of her estate, including her share of the family home, was left to her husband George.



George dies in July 2019. At the time of his death, his estate was worth £780,000 and included the family home, valued at £550,000, which was left equally to the couple's children, Paul and Joanna.

At the time of her death Maud had used up £65,000 of her nil rate band. The nil rate band at the time of her death was £325,000. The transfer to George was covered by the inter-spouse exemption and was free from inheritance tax. Maud has used up £65,000 of her nil rate band (20%), leaving 80% unused. She has not used her RNRB band as she left her share of her main residence to George.

On George's death, the executors can claim the unused portion of Maud's nil rate band and RBRB. The nil rate bands available to George are as follows:

Nil rate bands	£
George's nil rate band	325,000
George's RNRB	150,000
Unused portion of Maud's nil rate band (80% of £325,000)	260,000
Unused proportion of Maud's RNRB (100% of £150,000)	150,000
Total	£885,000

As George's estate on death is less than the available nil rate bands, no inheritance tax is payable.

Information to readers

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Recommendation

It is important that you review your IHT position in terms of your estate and potential reliefs available to you and your spouse to avoid surprises to your beneficiaries. This includes keeping your Wills updated to reflect your changing circumstances and legislation.

If you do have any questions or would like assistance in assessing your IHT position, please contact:

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