Chadwick Lawrence

Yorkshire's Legal People

Inheritance Tax Planning

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Inheritance tax planning

It is important to consult the methods of reducing your potential inheritance tax liability as soon as possible and to review this with a professional periodically to consider any legal developments.

Under what circumstances is Inheritance tax payable?

Normally when someone passes away, inheritance tax is payable on all assets over £325,000 (the 'nil rate band') at the rate of 40%. An individual may also have an additional allowance of up to £175,000 currently, called the 'residence nil rate band', if their residence passes to direct descendants.

Any assets passing to a spouse, civil partner or charity are exempt from inheritance tax so, if the first spouse does not use up their whole nil rate band, on the second spouse's death the first spouse's unused nil rate band can be transferred. Similarly, the second spouse can transfer the first spouse's unused residence nil rate band meaning that a married couple may have up to one million pounds free of tax.

Due to the complexity of ensuring that the entire million is available on the second spouse's death, it is important to seek legal advice in tax planning. This advice must go hand in hand with ensuring that your Will is currently drafted to guarantee the maximum of all nil rate bands.

What can I do to reduce my inheritance tax bill?

Inheritance tax is calculated by adding the value of the deceased's assets at the date of death to the value of any gifts made within the 7 years prior to death and the value of gifts made where the donor has reserved a benefit in the item.

To reduce the value of an individual's estate, gifts up to £3,000 a year (called the 'annual exemption') are exempt from inheritance tax. If an individual's total gifts per annum exceeds £3,000, these are potentially exempt from inheritance tax.

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This means that if the individual survives 7 years from making that gift, it will not be included in the value of the deceased's estate on death (subject to the 'reservation of benefit provisions). If the individual passes away within 7 years, the value of the gift will be included as part of the deceased's estate.

Gifts to a spouse, civil partner or to charity are also exempt from inheritance tax and their value will not be included in the estate even if the person passes away within 7 years.

Other lifetime transfers that are exempt from inheritance tax are:-

- Gifts made from normal expenditure of income, provided that the donor is left with enough income to maintain their usual standard of living.

- Small gifts of up to £250 to any individual;
- Gifts on the occasion of a wedding and civil partnership. A parent can gift £5,000, each grandparent can gift £2,500 and any other person can gift £1,000 without any tax implications.

On death, certain reliefs such as business property relief or agricultural property relief may apply depending on the circumstances. Also, if an individual passes 10% or more of their estate to charity, the lower rate of tax at 36% applies on any chargeable sum rather than the 40% standard rate.

What about anti-avoidance measures?

An individual must be careful when gifting large sums of money as some provisions are in place to avoid intentional reduction of assets for the sole purpose of avoiding paying inheritance tax or care home fees. If sums are given away for the purpose of avoiding care home fees, this might be viewed as an intentional deprivation of assets and be accounted for in the calculation to determine who pays the nursing home fees.

Why should you contact our experienced team?

There are many considerations required in planning to reduce inheritance tax liability, with advantages and disadvantages in each method. It is therefore important to seek specialist advice as each individual requires tailored advice depending on their unique circumstances. Contact our experienced Wills team to discuss inheritance tax planning and to make a tax efficient Will.