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PASSING ON THE FAMILY HOME: THE RESIDENCE NIL-RATE BAND



Following the introduction of the Residence Nil-Rate Band (RNRB), many more people may be able to pass on a 'family home' tax-free on death. Here we consider the rules in more detail.

INHERITANCE TAX: AN OVERVIEW

Inheritance tax (IHT) is currently charged at 40% on the proportion of an individual's 'estate' exceeding the IHT nil-rate band, which is set at £325,000 for 2018/19. Lifetime gifts above this level will also attract an immediate charge of 20%. Married couples and registered civil partners can pass any unused nil-rate band on death to one another.

An estate includes both the value of chargeable assets held at death plus the value of any chargeable lifetime gifts made within seven years of death (though there may be a discount on the 40% tax rate for certain lifetime gifts). The chargeable value of assets and gifts is the value after deducting any liabilities, reliefs and exemptions that apply.

THE RNRB

On 6 April 2017 an additional nil-rate band was introduced for each individual to enable a 'family home' to be passed wholly or partially tax-free on death to direct descendants such as children or grandchildren. A step-child, adopted child or fostered child is also regarded as a direct descendant.

The 'Residence Nil-Rate Band', or RNRB, is in addition to an individual's own nil-rate band. It was initially set at £100,000 in 2017/18 and has risen to £125,000 for 2018/19. It will continue to increase in increments to reach £175,000 in 2020/21. This means that up to £1 million of a married couple's estate could eventually be taken outside the scope of IHT if the full nil-rate bands (£325,000

+ £175,000 x 2)

are available to each spouse.

The following table sets out the position over the coming years.

Tax year	Nil-rate band	RNRB	Total for an individual	Total for married couples and civil partners
2017/18	£325,000	£100,000	£425,000	£850,000
2018/19	£325,000	£125,000	£450,000	£900,000
2019/20	£325,000	£150,000	£475,000	£950,000
2020/21	£325,000	£175,000	£500,000	£1,000,000

From 2021/22 onwards the RNRB will increase in line with the Consumer Price Index (CPI).

It is worth noting that the RNRB can only be used in respect of one residential property. The property does not have to be the main family home, although it must at some point have been a residence of the deceased, so buy-to-lets, for example, will not be eligible for the relief. Where the deceased has two homes, the individual's personal representatives can nominate which property to elect for the RNRB.

UNUSED ALLOWANCES

On the first death, it is often the case that the bulk of the deceased spouse's (or civil partner's) assets pass to the survivor. The percentage of the nil-rate band not used on the first death is then added to the nil-rate band for the second death. Similarly, any unused RNRB can be transferred between spouses and civil partners when the second person dies.

For example, if on the death of the first spouse 50% of either the main nil-rate band or the RNRB was unused, then the estate of the second spouse would have 150% (their own plus 50% from their spouse) at the rates existing at the second spouse's death. It is possible, where a remarriage occurs, to inherit unused portions of a RNRB from more than one previous spouse, but a person cannot claim more than their own plus 100% in total of the RNRB of other spouses.



CASE STUDY

David dies in May 2018. His share in the family home is valued at £90,000, which he leaves to his daughter. The rest of his estate passes to his spouse Elaine. Elaine dies in 2020/21 with an estate worth £750,000, including her share in the family home, worth £130,000. Her estate is inherited by her children. No lifetime gifts were made by either spouse.

On David's death £125,000 of the RNRB is available, of which £90,000 is used (75%), leaving 25% available to carry forward to Elaine. Subsequently, on Elaine's death the RNRB is now worth £175,000. Elaine's estate will be able to claim a RNRB of £218,750 (100% + 25% x £175,000), representing her own RNRB and 25% from David. As her share in the property is worth less than this, the claim is restricted to £130,000.

Where the first spouse's death occurs at any time, a default amount of £100,000 is deemed to be carried forward to a person who was their spouse or civil partner, then be uplifted for use by the second spouse or civil partner, as demonstrated above.

WHAT ABOUT THE RNRB?

The RNRB may not be available to individuals where the value of the estate due to inheritance tax has been legated, such as living wills.

Transfers in contemplation of death, including those to descendants, are not eligible for the RNRB.

RESTRICTIONS

There is a limit on the net value of the agricultural property which is at a withold, effectively no more than £2.25 million. The limit will be £2.25 million for calculation. This limit exceeds the limit of seven years of death.

'DOWNSIZING'

The RNRB is available when a person's home on or after 8 July 2015 when the value of the RNRB, are passed to the estate. This might apply in cases where, for example, a person sells their home to move into a residential care facility.

CLAIMING THE RNRB

To benefit from the RNRB, the deceased's representatives must submit a claim within two years from the end of the month in which the death occurs or, if later, three months from the date on which the personal representatives first act. Extended time limits may apply to others. It is possible to withdraw a claim within one month of whichever of the above time limits applies.

TIPS FOR MINIMISING AN IHT BILL

Taking steps to minimise the IHT burden should form an important part of your tax planning strategy. Consider some of the following steps.

IHT exempt transfers between spouses

Transfers of assets between spouses and civil partners are generally exempt from IHT, regardless of whether they are made during a person's lifetime or on their death. Other exempt transfers include:

- small gifts (not exceeding £250 per tax year, per person) to any number of individuals
- annual transfers not exceeding £3,000 (any unused amount may be carried forward to enhance the following year's exemption)
- certain gifts in consideration of marriage or civil partnership
- gifts made out of income

Transfers between spouses and civil partners can significantly reduce the IHT burden. If a gift is made to a spouse or civil partner, it will not be subject to IHT. If you are a spouse or civil partner, you will not be subject to IHT. A discount can be claimed on the IHT on the rules.

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Charitable giving

Generally, all gifts to charity are exempt from IHT. A reduced rate of 36% can apply to death estates, where 10% or more of the net estate is left to charity.

For more information and advice, please contact us.