

## INHERITANCE TAX

This fact sheet aims to set out, in very broad terms, the main exemptions available to you if you are intending to make lifetime gifts. This is intended as a guide only, and we strongly recommend that you contact us for an opportunity to discuss your likely exposure to Inheritance Tax and how this may be mitigated.

**Basic Principles:** Inheritance tax was introduced on 18<sup>th</sup> March 1986, replacing Capital Transfer Tax. A husband and wife are separate chargeable persons for Inheritance Tax, each being able to take advantage of any available reliefs and exemptions. Inheritance Tax may be charged on certain lifetime gifts, on wealth at death and on certain transfers into and out of trusts. In the Inheritance Tax legislation gifts which serve to reduce the value of a person's estate are known as "transfers." As from 6 April 2009 the first £325,000 of your estate is not chargeable to Inheritance Tax. This is known as the "nil rate band", and it is generally increased each year by the Chancellor of the Exchequer in his Budget Statement, although no changes were made to this level in 2010. Chargeable lifetime gifts above the nil rate band attract Inheritance Tax at 20%, whilst a charge of 40% is made on the amount by which a deceased person's estate exceeds the nil rate band.

### Transfer of Spouse

**Nil rate Band:** Often when one spouse or civil partner dies, either all, or the vast majority of their estate will pass to the surviving spouse and therefore qualify for spousal exemption to inheritance tax (see below). This means that one nil rate band has either not been used at all or only partially used.

It is now possible to transfer any unused percentage of the nil rate band so that it can be used on the surviving spouse or civil partner's death, thus in the vast majority of cases giving a total of two nil rate bands (currently £650,000) before tax will be due.

**Exempt Transfers:** Many gifts are completely exempt from tax. Others are exempt only if they are made during a person's lifetime. The exempt lifetime gifts are as follow:-

#### *Small gifts to the same person*

Any outright lifetime gifts to any one person in any one tax year provided the total gifts to that person do not exceed £250

### *Gifts in Consideration of Marriage*

If you are the parent of the bride or groom	£5,000
If you are a grandparent	£2,500
If you are a party to the marriage	£2,500
Anyone else	£1,000

### *Annual transfers not exceeding £3,000*

The first £3,000 of lifetime transfers for any reason in any tax year is exempt. Any unused portion of the exemption can be carried forward for one year only for use in the following tax year, provided the exemption for that year has been used. So if for example you made a gift of £2,500 in tax year 2008/09, you could make an exempt gift of £3,500 in tax year 2009/10.

### *Normal expenditure out of income*

To obtain exemption the gift must be part of your normal expenditure, and must not, taking one year with another, reduce your available net income (after taking account of any other gifts you have made) below that required to maintain your usual standard of living. This exemption will often apply to life assurance policy premiums paid for the benefit of someone else.

### *Capital transfers for family maintenance*

You may sometimes need to make transfers of capital in order to provide for your family, for example, following divorce, when the usual exemption for transfers between husband and wife no longer applies, or to make reasonable provision for a dependent relative.

### *Waivers of remuneration and dividends*

A waiver or repayment of remuneration does not attract inheritance tax. Nor does a waiver of dividends made within twelve months before any right to the dividend arises.

The following exemptions are available whether the transfer is made in lifetime or on death:

### *Transfers between husband and wife*

These are exempt, except where a husband or wife domiciled in the UK makes a gift to a foreign domiciled spouse, when transfers are only exempt up to £55,000.

### *Gifts to Charities*

Gifts to charities, either outright or to be held on trust for charitable purposes and gifts to registered community amateur sports club are exempt.

In addition to the above, exemption is also available for gifts to political parties, gifts for national purposes, gifts of land to registered housing associations, late compensation for World War 2 claims, decorations awarded for valour, maintenance funds for heritage property and there is a conditional exemption for heritage property. If you would like more details in respect of any gifts under these categories, please contact us to discuss.

### Other Lifetime Transfers:

Most of the transfers you are likely to make in your lifetime are either probably wholly exempt from tax under the exemptions already mentioned, or are “potentially exempt” and will only be subject to tax if you die within seven years after making them. Even then, there will be no tax to pay on a potentially exempt transfer unless, when it is added to any other transfers made in the seven years before, it exceeds the nil rate band at death (currently £325,000). Potentially exempt transfers will, however be taken into account to decide how much, if any, of the nil rate band is available to set against the value of your estate at death. This is a complex area of tax law, and if you have any concerns or queries please contact us to discuss your own circumstances in detail.

### Chargeable Lifetime Transfers:

Some gifts do attract Inheritance Tax when they are made, but even then, their cumulative value must exceed the nil rate band before any tax is levied. The main category of transfers which are immediately chargeable in lifetime are transfers into a discretionary trust. If the value of the gift (when taken with chargeable transfers made within the preceding seven years) exceeds the nil rate band, tax will be payable at the lifetime rate of 20% on the gift. If you were to fail to survive the gift by seven years, then the tax may be recalculated at the death rate of 40%. Again this is a very complex area of tax law, and is best discussed in terms of your own particular circumstances. Please contact us for an appointment.