



## Inheritance Tax Update

### A Major Change in October 2007

In October 2007 the government made a radical change to the Inheritance tax rules for married/civil couples.

The allowance remains the same (currently £312,000) on each death, but for married couples or civil partners the percentage of the allowance that is **unused** at the first death can be applied and added to the allowance of the surviving partner.

#### Examples:

1. A husband dies and gives his entire estate to his wife. Because gifts between spouses are totally exempt anyway, 100% of his allowance remains unused. When his wife dies she can uplift her allowance by 100%, thus doubling it. If she dies in a later tax year when the allowance is greater this will more than double her late husband's allowance.
2. If instead he gives £312,000 to the children, he has used 100% of his allowance, so there is nothing left to carry over. The wife will have only her own allowance upon her death.
3. If he gives £156,000 to the children, he has now used up 50% of his allowance. When his wife dies her allowance is increased by 50% only.

#### Lifetime gifts

Don't forget that any lifetime gift made by the first spouse within 7 years prior to his death, that gift may use up part of his allowance and will reduce the amount that can be carried over.

#### Is an existing "Nil Rate Band Discretionary Trust" Will still effective?

Many people, on good advice, will have made Wills prior to October 2007 including a tax-saving Discretionary Trust.

Those Wills are still effective. The new rules will not apply to them and the tax saving is pegged to the tax allowance applicable at the date of death of the first spouse. In some cases, in order to take maximum advantage of the new rules, you can pay out everything from the trust to the surviving partner. You will need legal help with this but it is essentially a simple process.

The Discretionary Trust Scheme can still be relevant for other purposes. It can keep capital out of the surviving spouse's ownership and this can help to save care fees in some cases. Also, if there is a vulnerable family member, or a need for flexible thinking when distributing amongst the family, a discretionary trust can be the ideal solution. With so many second families these days, this can sometimes solve otherwise difficult problems of how to look after a second partner but also protect children from your first marriage.

So, there may well be good reasons to retain the trust scheme, but any will made purely or primarily for tax saving purposes should be reconsidered.

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