

Inheritance Tax on Death

Common scenarios

Generally Inheritance Tax (IHT) is payable when assets are given from one person to another. This most commonly occurs on death (and this notes concentrates on this) but can occur during your lifetime. The rules governing the calculation of and liability to IHT are complex and the following is intended to be a broad and simplistic explanation of common scenarios.

On Death

Once a summary of assets and liabilities as at the date of death and lifetime gifts (see below) has been prepared it is possible to assess:

- whether a formal IHT return (IHT 400) has to be submitted to the Inland Revenue
- whether an informal Return of Information (IHT 205) has to be submitted to the Probate Registry
- whether professional valuations are required
- whether any IHT is payable.

Very broadly, the most common situations are as follows:

- The estate is less than the current IHT threshold. In this case only an IHT 205 is required and no IHT would be payable.
- The estate is more than the current IHT threshold but less than £1 million pounds and passes to a spouse or a charity. In this case an IHT 205 is required and no IHT would be payable.
- The estate is more than £1 million and passes to a spouse. In this case a formal IHT 400 is required even though no IHT would be payable. It may be possible to estimate the values of some of the assets in this case.

- The estate is more than the current IHT threshold and passes to other beneficiaries. In this case a formal IHT 400 is required including professional valuations and IHT will be payable.

IHT is charged at 40% of the amount over and above the current IHT threshold (see Transferable Nil Rate Bands below). The IHT may be payable at different times and some may be payable by instalments. This depends on the nature of the assets. Other reliefs such as agricultural and business property relief may also apply to reduce the liability to IHT.

Transferable Nil Rate Bands

If you die after 9th October 2007 and your spouse has died before you then it is possible for your estate to benefit from any unused element of their nil rate band (the IHT threshold). In order to make a claim the following documents will be required so it is advisable to keep them safe:

- Original Death Certificate
- Original Marriage Certificate
- Copy Will of the deceased spouse (if any)
- Copy Grant of Probate (if any)
- Copy Deed of Variation (if any entered into)
- Copy Estate Accounts if any prepared or otherwise any information about the assets and liabilities of the first estate.

Lifetime Gifts

If you give away assets worth more than £3,000 and you die within 7 years of the date of that gift then the value of the gift will be added to the value of your assets at the date of your death in order to calculate IHT. (An exception to this may

apply if you make regular gifts out of surplus income.) This value will not be reduced unless it exceeds the IHT threshold. If the value of the gift alone exceeds the IHT threshold then the recipient of the gift may be liable to pay some of the IHT payable on death.

A note about Joint Assets

Assets that are held jointly usually pass by survivorship rather than under your Will. For example, a bank account held in the joint names of a mother and daughter will pass automatically to the daughter on the mother's death notwithstanding that under her Will the mother left her entire estate to her son. That said, the value of the mother's share will be included in her estate for the purposes of the assessments above and calculation of IHT. This principle does not necessarily apply to property which can be made to form part of your estate and be passed in accordance with your Will.

Whilst it is commonly assumed that unless otherwise stated, joint assets as between a husband and wife are held 50/50, that is not the case for other joint owners particularly in respect of cash, where the Inland Revenue will look to establish exactly what element was owned by a deceased person and may ultimately include the entire amount as part of their estate for the calculation of inheritance tax.

Charles Wyld Partner

+44 (0) 117 902 2773

charles.wyld
@burges-salmon.com



Martin Mitchell Consultant

+44 (0) 117 902 2792

martin.mitchell
@burges-salmon.com



Tom Hewitt Partner

+44 (0) 117 902 2717

tom.hewitt
@burges-salmon.com



Rachel Pinn Senior Associate

+44 (0) 117 902 2742

rachel.pinn
@burges-salmon.com



Russell Rollings Solicitor

+44 (0) 117 939 2276

russell.rollings
@burges-salmon.com

