

INHERITANCE TAX PLANNING

"INHERITANCE TAX IS A VOLUNTARY TAX." That may be an exaggeration, but there is plenty you can do to protect your estate against the plunders of the taxman.

Inheritance Tax is a combined gift tax and death duty. You can consider it as a death duty, for most gifts will not be taxable, however large the gift, unless made on death or within the 7 years before death. The passing of a life interest in a trust fund will also be treated as if it was a gift. Husbands and wives are treated independently. **If you do nothing 40% of your estate over £300,000 will go in tax.**

The best way to save Inheritance Tax is to spend your wealth, or give it away and survive 7 years! If you do not survive seven years the value of the gift is brought into account on death and additional tax may be payable, but at reduced rates if you have survived four or more years and the gift was of more than £300,000.

As an exception, the seven-year rule does not apply to a gift into a discretionary trust. Such a gift, if of more than £300,000, bears tax immediately, but at the reduced rate of 20%.

Much Inheritance Tax planning is based round various situations which are exempt from tax:

- A husband and wife may usually give each other as much as they like, both during their lifetimes and on the death of the first to die: marriage does work!

- Normal regular expenditure out of income is exempt.

- In any one tax year you may give up to £250 to as many people as you wish, or can afford!

- In addition, you may give away a total of £3,000 in any one tax year. In fact, it is true to say that you may give away as much as you like - or can afford - but if you do not survive 7 years all except the £3,000 exemption will be taken into account on death. This exemption can be carried forward for one year, so it may be possible for a husband and wife to give a total of £12,000 in one year.

- Gifts to U.K. charities and certain national bodies (and political parties!) are exempt.

- A gift of a business, agricultural land or woodlands,

either on death or during your lifetime, usually has the effect of exemption.

It is well held in English law that you are entitled to organise your affairs in such a way as to ensure that the taxman dips his hand into your pocket as little as possible.

Some of the more spurious schemes are likely to be challenged by H. M. Government, but the following proposals have met with approval:

1. So far as possible married couples should ensure that both have at least £300,000 before one has more than that sum. Your Wills should provide that the survivor inherits only if survival is ensured. By that simple step you may save £120,000 tax.

2. Most married couples cannot afford (or do not want) to give £300,000 to their children on the first death, even if that will save £120,000 tax. However, by the Will of the first spouse to die you may be able to give £300,000 free of tax to the trustees of a discretionary trust for the benefit of the surviving spouse and family in such way as the trustees think fit. The surviving spouse, who may be

one of the trustees, can then have the use of the trust fund. The family will get the fund on the death of that spouse, so saving £120,000 tax after all! We have a separate leaflet giving further advice on this scheme.

3. The very wealthy may want to give more than £300,000 to their children on the first death, but perhaps do not wish thereby to incur a liability to tax. We do have available a Will that gets round that liability, provided there is a surviving spouse who is likely to survive a further seven years and who is well provided for, whether by having part of the estate, a good pension, a separate fortune or whatever.

4. Special deductions of up to 100% of value may be given against the value of a business and agricultural property and woodlands. The owners of these, particularly if they are married, should carefully consider their Wills to make full use of these deductions.

5. Life Assurance does not of itself save tax but may be used to provide funds for the payment of Inheritance Tax. If you have life policies you should put them in trust so that the sum assured does not form part of your estate but goes directly to your beneficiaries tax-free. The payment of further premiums

will be exempt, being normal expenditure out of income.

6. Many self-employed will have a substantial fund locked up in their pension policy by the time they reach pensionable age. That fund can be built up within a trust for the benefit of your family so as to save 40% of that fund should you die before drawing your pension. Members of company pension schemes should carefully consider who to nominate.

7. If you receive an inheritance you may within two years of the death of your benefactor execute a Deed of Variation having the effect of putting that inheritance into a discretionary trust of which you can be both the leading trustee and the primary beneficiary. By so doing you may have the benefit of that inheritance but in such a way that it does not pass again on your death, so saving up to £120,000 tax for your beneficiaries.

8. A Deed of Variation may also be used to move property around between beneficiaries. This gives scope retrospectively to take the benefit of a nil rate band that has not been used or to avoid losing the benefit of business or agricultural reliefs. You can also use such a deed to pass on an inheritance direct to others, so

saving tax arising on your death.

9. Those, particularly single people, who wish to save tax but who do not want to reduce their wealth, should consider setting up a trust for the benefit of the family and then lending a substantial sum to that trust. If properly invested the trust fund should grow. Your beneficiaries will get the benefit of that growth which will not be liable to Inheritance Tax on your death. You will have the benefit

of being able to call for the repayment of your loan as and when required. A more advantageous scheme from the point of view of saving Inheritance Tax, but giving you a lesser degree of control, is to set up a family trust with all of the money you would have liked to have given away and choose Trustees who you can trust to lend the money back to you should the need arise.

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