



## McCleary & Company Ltd.

Chartered Accountants & Registered Auditors

# Safeguarding your estate

This guide is intended to help you with your estate planning in 2013/14.



Personal Planning UPDATE



More than £3 billion in inheritance tax (IHT) was paid in 2012/13, according to figures from the Office for National Statistics (ONS). The £3,147 billion received by HM Revenue & Customs is the largest in five years and is eight per cent higher than the amount collected in 2011/12.

It is believed a recovery in property prices and HM Revenue & Customs' drive to administer and collect the tax more effectively - as well as the freezing of the IHT threshold at £325,000 - has resulted in an annual collection that comes close to the record £3.8 billion in 2007/08.

### Current IHT rates

	2013/14 - 2014/15
Nil rate band to	£325,000
Rate of tax on balance	40%
Chargeable lifetime transfers	20%
Reduced rate	36%

That you should leave something behind for loved ones is a gratifying thought, whatever the size of your estate. If your assets exceed

£325,000 (including any gifts you have made in your last seven years), your legacy could be diminished by a 40 per cent tax charge, or 36 per cent if you leave 10 per cent or more of your estate to charities. Estate planning has at its core an intention for you to leave a larger share of your estate to your family. The incidence of estate taxes necessitates careful planning. Due care, attention and execution of your plans is essential.

### Start with the following questions

#### Who?

Who do you want to benefit from your wealth? What do you need to provide for your partner or spouse? Should your children share equally in your estate? Do you wish to include grandchildren? Would you like to give to charity?

#### What?

Should your business pass only to those children who have become involved in the business? Should you compensate the others with assets of comparable value? Consider the implications and complications of multiple ownership.

#### When?

Consider the age and maturity of your beneficiaries. Should assets be placed into a trust restricting access to income and/or capital? Or should gifts wait until your death?

### Transferring the nil-rate band

The amount of the nil-rate band potentially available for transfer will be based on the proportion of the nil-rate band unused when the first spouse or civil partner died. If on the first death the chargeable estate is £150,000 and the nil-rate band was £300,000 then 50 per cent of the original is unused. If the nil-rate band when the surviving spouse dies is £325,000, then that would be increased by 50 per cent to £487,500. Currently the maximum nil-rate band that may be available to a surviving spouse (or civil partner), amounts to £650,000. This combined rate applies until 5 April 2015, unless amended by any interim announcement. Common practice is to combine the allowances together in expectation that the transferable proportion will be better utilised on the second death.

If you plan to remarry and your late spouse transferred his or her nil-rate band to you, the tax situation can be complicated.

## The main exemptions and reliefs

The exemptions, apart from the nil-rate band, have remained unchanged for many years. Thus, gifts between spouses or civil partners, during their lifetimes or on death, are completely exempt with the important exception of a gift in the seven years before death, and a legacy from a UK-domiciled spouse to a spouse domiciled outside the UK, in which case the allowance is **£55,000**.

The annual exemption on gifts given during the life of the donor totalling **£3,000** allows a small element of increase in the effective exemption each year, in the absence of an inflation increase on the nil-rate band limit. The allowance can be carried forward by one year, allowing gifts of up to **£6,000** to be exempt every other year.

- The unused proportion of the nil-rate band is transferable from the deceased
- Gifts, whether made during lifetime or on death to UK charities, political parties, national museums and art galleries all qualify for exemption, and there are further conditional exemptions for buildings and assets of any outstanding historical or aesthetic value
- Gifts made seven years before the donor's death are generally free from IHT. But the position can be complicated by (1) gifts with reservation of benefit, and (2) pre-owned assets. Both of these may remove the seven year exemption if you have continued to benefit in some way from the gift.

Care should be taken here. If you are concerned that previous gifts may not be tax exempt, or that ownership of the gift could be challenged by non-beneficiaries, you should seek our advice.

UK legislation offers significant reliefs for agricultural property and business assets, which can both potentially be gifted tax-free if they have been owned for at least seven years.

Agricultural property qualifies even if it is farmed by others.

Business property relief applies to the assets of a sole proprietor's business, the share of a partnership business, or equity in a company which is unquoted (including AIM listed companies). The important distinction is that it cannot be primarily an investment business. However, if you are unsure as to whether your business assets qualify, please discuss this with us.

## Other exemptions for lifetime gifts

- Gifts of up to but not exceeding **£250** per annum to any number of persons
- Gifts made out of income that form part of normal expenditure and do not reduce the standard of living of the donor
- Gifts in consideration of marriage/civil partnership of up to **£5,000** by a parent, **£2,500** by a grandparent and **£1,000** by any other person.

## The key elements to estate planning:

### Your Will

Writing a Will can be an involved process even without tax considerations. How will your estate be distributed? Who are the executors? Who will look after your children if they are still minors? These are just a selection of the safeguarding questions you must consider. If the Will is to include trusts, substantial property or pension funds it would undoubtedly benefit from professional advice.

### Normal expenditure out of income

This exemption is an important one and can be used to prevent an estate from growing further, for example by giving regular cash amounts to grown up children to finance school fees.

## Trusts

Trusts allow for more flexible estate planning. As well as possibly offering tax savings, they offer greater control over who will benefit from your estate, allowing you to protect vulnerable beneficiaries such as children. However, they can be difficult to alter so sound long-term planning is essential.

### Life assurance

Life assurance policies can form a useful part of estate planning as the benefits can be written in trust and not fall into the taxable estate. An investment bond can be an excellent vehicle for bequeathing almost tax-free. Insurance policies can also be used to cover any IHT your beneficiaries might have to pay.

## Some estate planning questions

- Are you sure your estate plan reflects your current wishes?
- If you die suddenly, will your executors be able to easily locate all your records?
- Do you have medium and long-term financial objectives?
- Do you know the current value of your estate?
- Are you comfortable with your executor(s) and trustees?
- Are you sure you have the right type and amount of life assurance?
- Have you considered how IHT will affect your business?
- Do you know what will happen to your business if you die?
- Have you considered the use of trusts in estate planning?
- Do you know the intentions of relatives with substantial assets?



*Get in touch to see how we can help you safeguard your estate.*