



## Is this the End of Nil Rate Band Will Planning?

Further to the unveiling of the Autumn budget by Alistair Darling and the overhaul with regard to the rules on Inheritance Tax (IHT), WillPlan are urging people to still ensure that they undertake careful planning on their estates to ensure that they are not stung when they pass away.

The change in the rules seems to have lulled people into a false sense of security that there has been a massive difference in the allowance, when in actual fact, not a lot has changed from the previous amount.

The Government report entitled Fairness and Opportunity for All sums it up “many people leave all their assets to their spouse or civil partners, and do not make use of their individual tax free allowance of £300,000. The Government will therefore make the IHT system fairer by ensuring **that if a person’s tax free allowance is not used on their death** it can be transferred to their spouse or civil partner and £600,000 passing on the death of the survivor”. As Mr Darling stated, it is about couples being able to “share” their allowance; there has been no increase in the overall allowance.

Peter Hoare Director of WillPlan Ltd said : “Since the budget was unveiled we have had people calling us concerned that the Wills they have made in the past which took care of the tax-free allowance on first death by the use of a discretionary trust are no longer valid and should they rewrite them removing these trusts? This is the worst thing that people can do at this moment in time and we wish to reiterate that there still needs to be careful planning with regard to your estate to ensure that Inheritance Tax is minimised.

Any Wills that contain a nil-rate band trust will still be effective. The use of Will trusts rather than passing the whole estate on death to the survivor will be particularly important to couples who are in second or third marriages and wish to ensure that their respective estates pass as they wish to benefit their own children or family.

Regarding **deed of variation**, my first thoughts were no need now, **BUT**, what if, when second death occurs, the government has changed and there is no opportunity to double up on the allowances?

In that case the higher level of IHT will be paid and the opportunity to use the deed of variation will likely have elapsed.

Existing clients (particularly elderly ones) should do some **long term care fee planning**. **Those with NRB wills should now draft Wills with Property Trusts** and where appropriate, leave the residue in a life interest trust for the surviving spouse with trustees powers to lend capital to the life tenant.

### Inland Revenue Guide Lines.

Basically states existing Nil Rate Band Trusts do not need to be removed from existing Wills.

[www.hmrc.gov.uk/pbr2007/it-nil-rate-band.pdf](http://www.hmrc.gov.uk/pbr2007/it-nil-rate-band.pdf)

## **Lasting Powers Of Attorney.**

These are now in place and please note the new prices. There is an additional cost to have them registered of £150 per document.

## **Five Good Reasons to use Nil Rate Band Trusts.**

### **One.**

For high net worth individuals (700k plus) where there is either a lot of cash or other properties other than the main residence, a gift of an amount (up to the NRB amount) can be made on first death and then the residue of the first to die's estate can be put into a Revocable Life Interest Trust. Assuming the spousal exemption still applies and has not been abolished; the residue of the first person to die's estate becomes a PET and is tax free after 7 years. Although some IHT may be payable on second death it could be mitigated.

### **Two.**

For Clients with Estates that contain a property and valued under £600,000 then Wills are essential along with a trust to protect this asset from local authority fees. This planning is usually completed along with a Power of Attorney to ensure the family remain in control.

### **Three.**

If a married couple are concerned that on their death the survivor may remarry and leave everything to a new partner and therefore deny their children the inheritance then a Nrb can be used to protect this position.

### **Four.**

If the Nrb is used along with an i.o.u. then unit linked this is likely to increase faster than the future increases in the Nil Rate Band and therefore offers opportunities to save inheritance tax.

### **Five.**

If discretionary beneficiaries become divorced a court cannot put a charge over the assets that do not belong to the beneficiaries. So if you leave a Nrb trust and your son gets divorced he will not lose half his inheritance.

### **Six. (I know I said five but this one is essential for business owners)**

Nil rate band trusts can be used to accept business property that may attract Business property relief. It is no good just leaving it to an exempt beneficiary eg the spouse as the calculation is put off and may be lost. If Bpr is not allowed then a Deed of variation can be used to redirect to the spouse under the spousal exemption.