

Inheritance tax: transferable nil rate bands factsheet

The inheritance tax (IHT) treatment of married couples and civil partners changed in 2007 as a result of the introduction of transferable nil rate bands (NRBs).

This factsheet outlines the key aspects of transferable NRBs, the impacts for IHT planning and considers some of the practical issues arising from the legislation.

What is a transferable nil rate band (NRB)?

On an individual's death, any unused part of their IHT NRB can be transferred to the estate of their surviving spouse or civil partner (on their death on or after 9 October 2007).

The amount that can be transferred is based on the proportion of NRB unused on the first death. This proportion is then applied to the value of the NRB when the survivor dies.

The maximum proportion of unused NRB that can be claimed is 100% (which would double the NRB available).

This allowance can be built up from the estates of more than one deceased spouse or civil partner.

Examples

This concept is best illustrated by some examples:

Example one

John dies and leaves all of his estate to his wife, Gayle. As he has used none of his NRB, 100% of his allowance can be transferred to Gayle.

On her death in June 2015, her executors can claim for two NRBs. The NRB is currently **£325,000**, therefore her estate would be entitled to a **total NRB of £650,000**.

Example two

Katharine died in November 2004. At the time, the NRB was £263,000. She left an estate of £230,000, of which £80,000 was bequeathed to her children from a former marriage that ended in divorce. The remaining £150,000 was left to her second husband, Christopher.

NRB in November 2004:	£263,000
Used for non-exempt bequests:	£80,000
Unused:	£183,000

It is worth noting that the total value of the estate is not a relevant factor for the purposes of this calculation. If Christopher died in December 2014:

Christopher's NRB:	£325,000
Katharine's unused NRB: (£183,000 x £325,000 / £263,000)	£226,141
Total available:	£551,141

Example three

Joyce's husband, Bill, died in January 1980. She subsequently remarried in 1984. Her second husband, Robert, died in October 1998.

Bill's estate was valued at £10,000. He left half to their son and the remaining half to Joyce.

NRB in January 1980:	£25,000
Used for non-exempt bequests:	£5,000
Unused:	£20,000

Robert left £100,000 to his godchild with the remainder to Joyce.

NRB in October 1998:	£223,000
Used for non-exempt bequests:	£100,000
Unused:	£123,000

Assuming Joyce died in February 2015, the total available NRB would be:

Joyce's NRB:	£325,000
Bill's unused NRB: (£20,000 x £325,000 / £25,000)	£260,000
Robert's unused NRB: (£123,000 x £325,000 / £223,000)	£179,261
Total available:	*£650,000

* Although the total of Joyce's and her deceased spouses' unused allowance is £764,261 the maximum available combined NRB is double the then individual NRB which is £650,000.

Arrangements for claiming the additional NRB

On the death of the surviving spouse or civil partner, their personal representatives are responsible for making a claim to transfer any unused NRB. This must be done within 24 months from the end of the month in which the survivor dies. Where there is limited information available from the first death(s), the personal representatives will be expected to obtain copy documents and make enquiries of those who inherited on the first death. Obviously, there could be many practical difficulties in achieving this, especially where a considerable period of time has elapsed.

For first deaths occurring now, the personal representatives of the deceased will need to work out how much of the NRB is transferable and advise the survivor accordingly. The personal representatives will need to provide the survivor with sufficient documentation so that, on the death of the surviving spouse or civil partner, their personal representatives can make a claim to transfer the unused NRB.

Impacts on will trust planning

Prior to 9th October 2007, many couples managed to utilise the NRB on first death through suitable IHT planning. In most cases, this involved establishing a discretionary will trust (DWT) on first death with the surviving spouse or civil partner amongst the potential beneficiaries.

The 2007 changes have undoubtedly reduced the need for this type of planning. For many couples simply leaving the entire estate to the survivor may now meet their needs. However, there will still be situations where it remains appropriate and desirable to use more sophisticated will planning arrangements.

A DWT could have a role to play:

- where an individual wants to ensure his or her wishes are carried out on first death rather than relying on the surviving spouse or civil partner to achieve them. This may be the case where there are children from a former relationship or if there is a possibility the survivor may remarry.
- where it is desired to avoid the full value of the combined estate including the family home, being assessed as assets of the survivor, for long term care purposes.
- to avoid assets passing directly to a survivor who may be poor at handling finances or financially irresponsible.
- where either of the couple (or both) already has an increased (or the maximum) additional NRB built up from previous marriages or civil partnerships without paying UK tax?
- where the family home is involved and there is an expectation that the growth in property prices will substantially exceed future increases in the NRB.

In addition, for people with substantial estates that exceed the combined NRB, the use of DWTs that hold investments may still make sense. With the survivor as a potential beneficiary, the trustees can advance them loans which, if not repaid, will reduce the size of the survivor's estate on death and hence the IHT payable. It should be noted, however, that HM Revenue and Customs takes a keen interest in such arrangements and they should only be entered into with great care and following professional advice.

Existing arrangements

As mentioned earlier, married couples and civil partners were often able to utilise one NRB on each death through the effective use of DWTs or deeds of variation. Couples who have already sought to reduce their potential IHT liability through tax efficient wills, in particular those incorporating DWTs, should ensure that they are reviewed and still remain the best way of achieving the desired outcomes.

Main residence nil rate band

In April 2017, an additional nil rate band for an individual's main residence was introduced.

This was up to £100,000 initially, but will increase to £175,000 as follows:

2017/18 - £100,000

2018/19 - £125,000

2019/20 - £150,000

2020/21 - £175,000

It will then increase in line with Consumer Prices Index (CPI) from 2021 to 2022 onwards. Any unused nil-rate band will be able to be transferred to a surviving spouse or civil partner.

The additional nil-rate band will also be available when a person downsizes or ceases to own a home on or after 8 July 2015 and assets of an equivalent value, up to the value of the additional nil-rate band, are passed on death to direct descendants.

There will be a tapered withdrawal of the additional nil-rate band for estates with a net value of more than £2 million. This will be at a withdrawal rate of £1 for every £2 over this threshold.

The existing nil-rate band will remain at £325,000 until the end of the 2020 to 2021 tax year.

Conclusion

Whilst the introduction of the transferable nil rate band is of benefit to some married couples and civil partners it is important not to overstate the benefits. Many couples had already undertaken estate planning to achieve equivalent results prior to its introduction, and others have continued to do so.

It is important to remember that the transferable NRB is of no benefit for single people, those who are divorced or for couples who simply live together..

As the success of any IHT mitigation arrangement is largely dependent on the tax rules, rates and allowances at the time of death, it is essential to keep plans under regular review.

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