

Tax Planning The Advantages

Tax Planning involves the management of your affairs during and after your lifetime, in a manner that attracts a lesser amount of tax than otherwise. Such tax savings could potentially run into hundreds of thousands of pounds depending upon the size and the nature of the estate or assets involved. Such taxes include primarily Inheritance Tax but also Capital Gains Tax, Income Tax, Stamp Duty Land Tax and also Pre-Owned Asset Tax (which is an income tax charge albeit that it is levied in relation to capital assets).

So far as Inheritance Tax is concerned, lifetime tax planning involves measures that reduce the size of your estate for Inheritance Tax purposes during your lifetime and/or on death.

This may be achieved by giving away assets although care needs to be exercised that you do not continue to use the asset that you have given away as this could result in a "Reservation of Benefit". For tax purposes, this could have the same effect as if you had never given away the asset. Although there are some gifts that are exempt from Inheritance Tax (see below), any gifts you make to individuals will be exempt from Inheritance Tax as long as you live for seven years after making the gift. These are known as "Potentially Exempt

Transfers" (PETs). If you die within seven years and the total value of gifts you made is less than the Inheritance Tax threshold, then the value of the gifts is added to your estate and any tax due is paid out of the estate. However, if you die within seven years of making a gift and the gift is valued at more than the Inheritance Tax threshold, Inheritance Tax will need to be paid on its value, either by the person receiving the gift or by the representatives of the estate. If you die between three and seven years after making a gift, and the total value of gifts that you made is over the threshold, any Inheritance Tax due on the gift is reduced on a sliding scale. This is known as "Taper Relief".

Gifts Exempt from Inheritance Tax

Exempt beneficiaries or 'donees'

You can make gifts to certain people and organisations without having to pay any Inheritance Tax. These gifts are exempt whether you make them during your life or as part of your Will. These are gifts to your husband, wife or civil partner, as long as they have a permanent home in the UK, a 'qualifying' charity established in the EU or another specified country, some



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national institutions such as museums, universities and the National Trust and certain UK political parties.

Gifts that you give to your unmarried partner, or a partner that you're not in a registered civil partnership with, are not exempt.

Annual exemption

You can give away gifts worth up to £3,000.00 in each tax year and these gifts will be exempt from Inheritance Tax when you die. You can carry forward any unused part of the £3,000.00 exemption to the following year, but if you don't use it in that year, the carried-over exemption expires. The annual exemption is in addition to the other gift exemptions.

Exempt gifts

Some gifts made during your lifetime are exempt from Inheritance Tax because of the type of gift or the reason for making it. So, subject to certain conditions, wedding or civil partnership ceremony gifts are exempt from Inheritance Tax, subject to certain limits. Parents can each give cash or gifts worth £5,000.00, grandparents and great grandparents can each give cash or gifts worth £2,500.00 and anyone else can give cash or gifts worth £1,000.00.

Small gifts

You can make small gifts up to the value of £250.00 to as many people as you like in any one tax year. However, you can't

give a larger sum and claim exemption for the first £250.00 and you can't use your small gifts allowance together with any other exemption when giving to the same person.

Regular gifts that are part of your normal expenditure

Any regular gifts you make out of your after-tax income, not including your capital, are exempt from Inheritance Tax. These gifts will only qualify if you have enough income left after making them to maintain your normal lifestyle. These include monthly or other regular payments to someone, regular gifts for Christmas and birthdays, or wedding/civil partnership anniversaries and regular premiums on a life insurance policy – for you or someone else. You can also make exempt maintenance payments to your husband, wife or civil partner, your ex-spouse or former civil partner, relatives who are dependent on you because of old age or infirmity and your children, including adopted children and step-children, who are under 18 or in full-time education.

Assets which attract Inheritance Tax Relief

If you think your estate might be worth more than the Inheritance Tax threshold (£325,000.00 for the 2010-11 tax year) when you die, there are some reliefs you can use to reduce your Inheritance Tax bill.

Business Relief

Business Relief allows you to pass on some of the business assets in your estate free of Inheritance Tax. You can pass these assets on while you are still alive or as part of your Will. You can claim relief on property and buildings, or assets such as unlisted shares or machinery. Depending on the type of asset, they will qualify for relief of either 50 or 100 per cent.

Agricultural Relief

If you own agricultural property and it's part of a working farm, you can pass on some of your property free of Inheritance Tax in your Will or before you die. You can claim relief for farm property such as farmland. You can also claim relief for farm buildings if the size of the building is proportionate to the size of the farming activity. Relief is not available for farm equipment but it may qualify for Business Relief as a business asset. Depending on the type of property, it will normally qualify for relief of 100 per cent.

Woodland Relief

When you die, the beneficiaries of your woodland can ask that the value of the timber – but not the land – be excluded from your estate. However, when the timber is sold, the beneficiaries may have to pay Inheritance Tax on the value of the sale unless it also qualifies for relief. If the woodland qualifies for Agricultural Relief, Woodland Relief

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may not be available. Business Relief may be available on woodland that qualifies as a business asset.

Relief for National Heritage assets

Some assets may qualify for relief from Inheritance Tax under certain very strict and exceptional conditions. Examples of assets that may qualify include buildings of outstanding historic or architectural interest and objects which have national scientific, historic or artistic interest. These conditions include an agreement to maintain and preserve the assets. They must also be made available to the general public to view.

Trusts

In certain circumstances Trusts may be used as a tax planning measure. A “spousal by-pass trust” is another example of a trust in relation to a pension fund.

Financial Products

There are financial products and insurance policies available on the market intended to assist in mitigating Inheritance Tax, or fund the payment of Inheritance Tax on death. For advice in this connection you should seek the advices of an appropriate independent financial adviser.

Capital Gains Tax Planning

If you have sold assets during your lifetime, such as a second property or

investments, you will need to consider the Capital Gains Tax implications of the sale to see if there are ways to structure your estate so as to remove the Capital Gains Tax liability altogether (where possible) or at least to delay or reduce that liability.

Stamp Duty Land Tax Planning

This is a tax on certain property transactions and advice may be taken to consider ways of avoiding or reducing this tax liability.

Pre-Owned Asset Tax

Pre-owned asset tax was introduced in 2004 to plug a perceived gap in the gift with reservation of benefit rules, which in turn came into existence to limit the tax planning which could successfully be undertaken using the inheritance tax rules. The pre-owned asset tax is an income tax charge which is levied on the perceived benefit of using (free of charge) assets which either you used to own or that have been purchased from cash that you have given away or, in some circumstances, from the sale proceeds of another asset that you gave away. The rules, although introduced in 2004, are retrospective and apply to a number of transactions that took place as far back as 1986. Advice may be taken to avoid falling into the pre-owned asset tax trap when undertaking new, lifetime, tax planning.

Wills

If an estate is worth more than the Inheritance Tax threshold (£325,000.00 for the 2010 – 2011 tax year) some of the above exemptions may be used to make gifts to others and not have to pay tax on them on death. The Will may also be drafted in a way that is tax efficient - for instance to take advantage of the Nil Rate Band.

Post Death Variation

In certain circumstances assets passing either under a Will or on intestacy can be redirected in a manner that results either in tax savings or for other personal reasons.

The above is only a brief outline of only some aspects of tax planning in general terms and is not intended to be exhaustive or a full statement of the law or legal advice to be relied upon for any specific factual situation. For any such specific factual situation proper legal advice should always be sought from an appropriately qualified and competent legal adviser who is an expert and experienced in this area of the law.