

Inheritance Tax Laws for England & Wales - 2011/12

Not everyone pays Inheritance Tax (IHT) on death. It only applies if the taxable value of your estate - including any assets held in trust and gifts made within seven years of death - is above the Inheritance Tax Threshold, also known as the Nil-Rate Band. Your estate includes the combined value of all the assets you own - such as your home, your possessions, cash and investments - from which any debts you still owe and funeral expenses are deducted. Also included are your share of any jointly owned assets and assets held in some types of trusts.

Currently the first £325,000 of an estate is not subject to IHT. The value of an estate above the Nil-Rate Band will be taxed at 40%, unless an exemption applies. So if an estate is valued at £450,000, the first £325,000 is free from IHT but the remaining £125,000 could be taxed at 40%.

If your estate passes to your husband, wife or civil partner and you are both domiciled (have your permanent homes) in the UK, there is no IHT to pay even if it is above the £325,000 Nil Rate Band. However, if you are domiciled in the UK when you die but your spouse or civil partner is not, you can only leave them £55,000 tax-free.

You can leave up to £325,000 tax-free to anyone in your will, not just your spouse or civil partner, so you could; for example, give some of your estate to another family member or friend or a family trust. IHT is then payable at 40% on any amount you leave above this, to any person other than your spouse or civil partner.

If you leave everything you own to your surviving spouse or civil partner, it's not only exempt from Inheritance Tax but it also means you won't have used any of your own Nil-Rate Band. It is therefore available to increase the Inheritance Tax Nil-Rate Band of your spouse or civil partner when they die. This means their estate can be worth up to £650,000 before they owe Inheritance Tax.

Inheritance Tax is not payable on any money or assets you leave to a registered UK charity – these transfers are exempt. If you leave 10 per cent or more of your estate to charity, then the government will take 10 per cent off your Inheritance Tax rate. This means from April 2012 there will be a reduced rate of Inheritance Tax of 36 per cent for estates leaving a legacy to charity.

Who inherits if you do not have a will?

If you die without making a will (known as dying intestate) your assets may be distributed according to the law rather than your wishes.

If you are single or not legally married, all assets pass to your next of kin, as follows: equal shares to your children (or their children if they died while the deceased was still alive); if there are no children, then your parents; no parents then brothers or sisters (who shared the same two parents as the deceased); no siblings then any surviving grandparents; no grandparents, then to aunts and uncles (or their children if they died whilst the deceased was still alive); finally to half aunts and uncles (or their children if they died whilst the deceased was still alive). If you have no living relatives, your estate will pass to the Crown. A common law husband or wife is not entitled to anything but they are able to make a legal claim upon your estate.

If you are married with no children or grandchildren your surviving spouse will receive the first £400,000 of your estate, free of tax (or the whole estate if it was less than £400,000), plus all your personal possessions and half of the rest of the estate. The other half goes to your next of kin (surviving parents first, then any brothers and sisters, who shared the same two parents as the deceased, or their children if they died while the deceased was still alive). If there is no next of kin, it passes to your spouse.

If you are married with children, your surviving spouse receives the first £250,000 of your estate, free of tax (or the whole estate if it was less than £250,000), plus all your personal possessions and a lifetime interest in half of the rest of the estate. The remaining estate is divided into equal shares for your children, who also receive the remaining capital when your surviving spouse dies.

Planning ahead for when you die allows you to set out clearly who should get what from your estate. Without a will it can take longer to sort out your affairs and this could mean extra distress for your relatives and dependants.

There are many rules relating to wills and Inheritance Tax and many exemptions to the rules. For further information visit the www.direct.gov.uk website and click on the money, tax and benefits section. For making a will go to managing money and then planning your personal finances and for Inheritance Tax go to taxes and then taxes and national insurance.

We strongly recommend that you seek professional advice to learn more about inheritance tax relief and when drafting your will.