



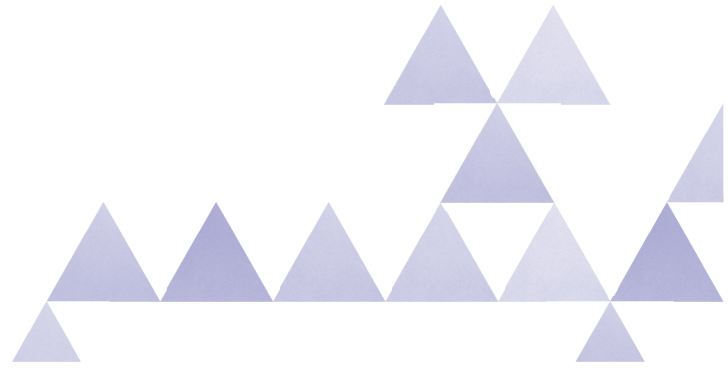
Investments • Pensions • Financial Planning

A landscape photograph showing a body of water in the foreground, a small boat, and a castle silhouette on a hill in the background under a dramatic, colorful sky at sunset or sunrise. The text is overlaid on a semi-transparent dark rectangle.

# Guide to: Estate and Inheritance Tax Planning

# Introduction

## What does this guide contain?



Estate planning is often a subject which nags in the back of your mind but struggles to get into the bit of grey matter allocated to stuff that needs to be sorted out right now. For this reason, many people do not have wills in place at all or have wills which they know are out of date and need amending.

The reasons for this common pattern can be wide and varied, but can include, amongst others:

- A general reluctance to spend any time focused on the subject of our own mortality.
- Entire uncertainty over what you want to do with your estate anyway.
- Family issues which may need to be resolved before decisions can be made.
- Concern that it's a can of worms with the lid best left on.
- Not really knowing where to start.
- A preference to do something else which is more fun.

However, while not dealing with the need to write or update a will can be understandable, it can also have some unwanted and very unsatisfactory consequences.

Typical implications are:

- The wealth and assets you have accumulated throughout your lifetime going somewhere you wouldn't have wanted them to.
- His Majesty's Revenue and Customs (HMRC) get to keep more of your wealth than may have been the case had you planned ahead .

This guide is not designed to tell you what you should do, since this is such a very personal subject and depends on a huge array of variables.

Instead, this guide is intended to arm you with the main information you need to make properly informed decisions on your journey to deciding what you should do and when you should do it.

Some jargon or phraseology outside the common vernacular is inevitable, but to help address this we have added a glossary of terms at the end. Please refer to this if there are any phrases you are not fully familiar with .



# Your Will

Some important notes on what a will is, and how it works.

## What is a will?

A will is basically a document which sets out someone's wishes in the event of their death. As well as the obvious issue of saying who gets what of the things you own, it can cover various other factors. Some examples are funeral preferences and childcare arrangements where there are dependent children.

## Preparing a will

There are no actual regulations stating that you must follow a specific format and use standard will structures. If you are minded to, you can write down what you want to happen if you die on the back of an envelope. Providing it is signed and witnessed, it may work fine. However, anything done without proper advice from someone with suitable qualifications carries far more risk of being successfully challenged.

If you want to be as confident as you can be that your wishes will be respected, go to a professional and pay for their expertise. This is traditionally a solicitor but, these days, there are plenty of will writing services that are not operated by a solicitors' practice. Some of these might be excellent, but they are often more expensive than using a solicitor and regulation of will writing companies is at a much lower standard than the regulations applying to solicitors.

Going to your solicitor seems the logical option, if you have one and get on well with them. Finding a solicitor through personal recommendation from someone you trust is sensible if you don't have a suitable solicitor already.

If you really want to use a will writing service instead, take care to understand any ongoing costs involved (there are usually none if using a solicitor) and be mindful of the importance of reading any small print in any engagement letters you sign.

# Your Will

## Some important notes on what a will is, and how it works

### Who deals with your will if you pass away?

When you write a will, you name one or more persons as executor. They are responsible for dealing with the administration of your will and doing their best to ensure the wishes set out in your will are respected.

The tasks they must manage will vary but, generally, they will need to:

- Notify various companies of the death and obtain the financial records required to deal with the administration of the estate.
- Complete the documentation needed to obtain a Grant of Probate, if needed.
- Complete any forms required regarding Inheritance Tax (IHT) matters.
- Deal with the distribution of the estate once any IHT has been settled and the Grant or other permission to distribute the assets have been received.

An executor may also take on responsibility for some or all aspects of organising the funeral, through appointing a funeral director (or liaising with the funeral company if a funeral plan is already in place), although this will depend on who the executor is in terms of their relationship with the deceased.

Many will set up trusts and appoint the executors as trustees of these so they have an ongoing responsibility to look after specific assets on behalf of beneficiaries, such as minor children or those who have been left an interest in an asset but not actual ownership. However, in these situations, the trustees may be other people who are named in the will as being appointed to that role.

It is also important to remember that with average life expectancy constantly increasing, many people do not inherit from their parents until they themselves are well into their retirement, making reliance on an inheritance to pay for retirement even less viable. With increasing longevity, the probability of needing care also increases, and the cost can decimate someone's resources and their children's inheritance.

Your solicitor can provide more detailed information on the responsibilities of executors and trustees, which may be helpful when you are considering who to appoint. As a word of general advice, if a member of the family or a trusted friend is available, this may be preferable to appointing a solicitor, since it provides a lot more flexibility in terms of controlling the costs of administering an estate.

If a solicitor or other professional is appointed, there will be no simple way for your family to retain control over costs whereas, if a member of the family or a trusted friend is appointed, they can decide which services they wish to pay a solicitor or other professional to carry out and which they will deal with themselves. They can also agree fee levels in advance and shop around if they need to. Doing this can potentially save hundreds or even thousands of pounds.

As a word of warning, some firms, and notably banks, work with fees based on a percentage of the estate rather than based on time spent. Great care should be taken before agreeing to this, since the total cost could be hugely more than if calculated on a time spent basis.

# Your Will

## Some important notes on what a will is, and how it works

### **If my will needs changing, do I need to arrange a completely new one?**

It may be wise to prepare a new will if there are significant changes to your wishes since the one you have was written, but it is possible to amend an existing will by adding a 'codicil'.

Your solicitor will be able to advise if this would be suitable, or if a new will would be better.

### **What happens if I do not have a will?**

If someone dies without a valid will, their estate will be dealt with under the rules of intestacy. The application of these depends on the makeup of someone's family.

As an example, if the person who has died was married or in a Civil Partnership and there are surviving children, grandchildren or great-grandchildren, the surviving partner should receive:

- All the personal property and belongings of the person who has died.
- The first £250,000 of the estate.
- Half of the remaining estate.

If there are no surviving children, grandchildren or great-grandchildren, the surviving partner will inherit the entire estate. If a partner was not married or in a civil partnership (for instance, they were simply co-habiting), they are not able to inherit under the rules of intestacy.

The intestacy rules also define who can administer the estate, but this is, in essence, a member of the deceased's family.

The person taking on the task must obtain 'letters of administration', which are the equivalent of the Grant of Probate obtained by the executors where there is a valid will.

Full details of the intestacy rules are easily obtained through the internet so we do not set them out here as they would extend the length of this guide unnecessarily.

Suffice to say, it is highly unlikely that the intestacy rules will exactly match your personal preferences over how your assets are distributed if you pass away, so it is eminently sensible to avoid this problem by writing a will



# The administration process

## An overview of some of the points to consider during the administration process

It is beyond the logical remit of this document to look in any detail at all the issues which might be involved with the administration of an estate.

However, some points to take into account are:

### **Assets may not have to be sold before they are distributed**

For instance, if you own shares these can be transferred to a beneficiary and they can decide if they wish to keep them or sell them. In many cases this might be a better option than having everything sold, regardless of how attractive the timing is, and then distributing everything in cash.

### **Some invested capital can be accessed before a Grant of Probate is obtained or without the need for one, but some cannot be**

Since IHT must be paid before a Grant of Probate will be issued, it is sensible to be aware of the position with your invested money and ensure your executors are able to access funds to pay any IHT liability. This should not be a problem if your investments are in the UK, but offshore investments might not be available to settle an IHT liability ahead of obtaining a Grant of Probate .

### **Assets owned jointly will usually automatically become owned by the survivor, so are not part of the assets distributed by a will (although they are part of the estate for IHT calculation purposes)**

This means that, for instance, a joint bank account owned by two people will automatically convert to the sole ownership of the surviving person. However, if real estate or other assets are owned as 'tenants in common' rather than 'joint tenants' then each separately owns their part (which might not be 50%) so the survivor does not automatically become the owner when one of the parties dies.

# Inheritance Tax

## What is inheritance Tax, who does it affect and how can you plan for it?

### Overview

Inheritance Tax was introduced by the Inheritance Tax Act 1984 to replace Capital Transfer Tax, which itself replaced death duties. Its purpose is to produce revenue for the Treasury from the estates of those who pass away or from lifetime gifts into discretionary trusts.

### Who does it affect?

Inheritance Tax is levied on the transfer of assets with the liability normally only arising on death. However, transfers of value (gifts, usually) can, of course, be made before death and these are called lifetime transfers. Depending on the nature of these lifetime transfers there can be either a potential charge or an immediate charge to Inheritance Tax. This is explained later.

The tax affects any individual who owns assets with a total value of over certain thresholds, which are explained below.

### What assets are taken into account?

For a UK domiciled person, which can include non-residents, assets taken into consideration in the value of an estate include:

- Life insurance which is not in trust.
- All real estate, cash, antiques, valuables, equities, bonds, etc... held anywhere in the world.
- A lifetime interest in the income from a trust may also be treated as part of the estate of the beneficiary, even though they have no entitlement to the capital.
- Gifts made in the 7 years before death, unless within exempt allowances.
- Assets gifted at any time which fall foul of the “gift with reservation” rules (see later).
- Pension funds and lump sum death benefits from a pension arrangement (after April 2027).

### Assets which might be excluded are:

- Funds held in a pension plan (until April 2027).
- Shares in private or unquoted companies (shares quoted on the AIM market were treated as unquoted but now have special IJHGT rules applied, as explained below).
- The value of a business or a partnership share.
- Agricultural property up to a value of £1 million.

However, some complex rules apply to these exclusions and some assets in these categories may be assessed as part of someone's taxable estate.



# Rules and Regulations



We set out below a summary of the main regulations applying to Inheritance Tax and their impact on individuals in the UK. These rules only apply to the estates of individuals who are deemed resident in the UK and there are complex rules surrounding that, which are not looked at here as this guide is intended for those deemed UK resident.

## **Gifts with reservation**

When a gift is made which reserves the right for the donor to enjoy some or all of the benefits of the asset, either immediately or in the future, this is termed a 'gift with reservation'. An asset treated in this way will be considered to form part of the estate of the donor, thus preventing the simple way of mitigating IHT without any real deprivation of assets which would otherwise be possible. You cannot simply put your house into your children's names and continue living there, although that might work if you are paying a commercial rent.

## **Nil rate band (NRB)**

Each individual enjoys the benefit of a nil rate band which is set each tax year but has remained at £325,000 for several years. This figure represents the first portion of an estate on which there is a charge to Inheritance Tax at a nil rate. In effect, this amount is exempt from Inheritance Tax.

## **Transferable NRB**

Any unused percentage of the NRB can be transferred from a deceased spouse or civil partner to the surviving spouse or civil partner so, in many cases, the second of a couple to pass away will currently have a total NRB of £650,000.

## **Main residence nil rate band**

This was introduced in 2017 to reflect the huge rise in estate values caused by relentless house price inflation.

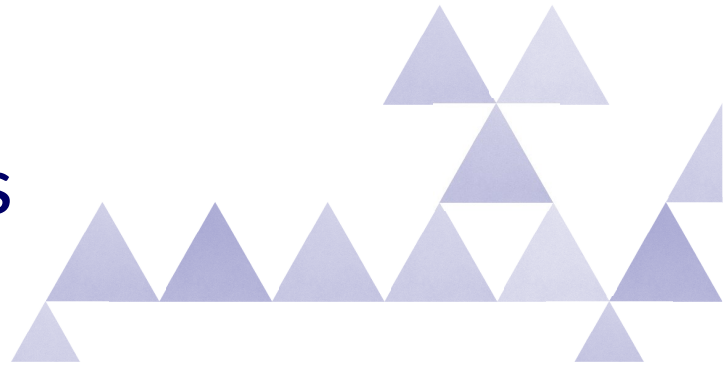
It adds £175,000 to someone's IHT free estate if leaving their main residence to direct descendants (child, grandchild or great grandchild).

As with the main NRB, when someone dies, it may be possible to transfer any unused proportion to a surviving spouse or civil partner. This means the RNRB for a surviving partner could be £350,000 and, if the main NRB has also be transferred, the survivor's total NRB could be £1,000,000.

The inherited RNRB applies if a spouse died prior to the introduction of the additional allowance in 2017.



# Rules and Regulations



However, there are some important additional issues with this, which do not apply with the main NRB:

- It cannot be used to reduce IHT when property is bequeathed to some types of trust (see note below).
- It is withdrawn at a rate of 50% over the excess if an estate is worth more than £2,000,000.



## Note regarding trusts

Leaving property to a trust may be for mitigation of IHT but could be for other reasons, for example to ensure that the property passes to named beneficiaries.

If arrangements are in place to bequeath a share of a property into trust on the death of the owner (or one of the owners), or property is already held in trust, it is essential to take legal advice to ensure that the trust will not have unintended consequences, especially in terms of the availability of the RNRB

# Tax rates

## A description of tax rates for different financial situations

General tax rates for inheritance are where available Nil Rate Bands are exceeded are:

<b>Transfer to certain trusts</b>	<b>20%</b>
<b>Transfer on death (including gifts in the previous 7 years)</b>	<b>40%*</b>

\*

- If 10% or more of a net estate is left to a registered charity, a reduced rate of 36% may apply.
- Assets held in qualifying shares traded on the Alternative Investment Market (AIM) are charged at 20% rather than 40%.
- Qualifying agricultural land above a value of £1 million is taxed at 20% rather than 40%.
- "Taper relief" can apply to gifts made less than 7 years but more than 3 years prior to death. (See later).

### Transfers between spouses or civil partners (exempt transfers)

There is no liability to Inheritance Tax for transfers between spouses or civil partners. In view of this fact, if the first to pass away in a married couple or civil partnership leaves their estate to their surviving partner, the deceased partner's nil rate band is not used so can be inherited by the surviving partner to use against their estate when they pass away.

### Chargeable lifetime transfers

Chargeable lifetime transfers occur when someone makes a gift into a discretionary trust, rather than outright. If the value transferred to the trust is above the available nil rate band it attracts an immediate charge to lifetime Inheritance Tax, currently at the rate of 20%.

There could be a further charge to tax if death occurred within 7 years of the transfer. Additionally, discretionary trusts may be liable to periodic (10 yearly) Inheritance Tax charges whilst funds remain in the trust and exit charges when capital is distributed to beneficiaries.

This is a complex area which requires specialist advice and involves a good deal of uncertainty over future tax liabilities since trustee tax rates are high and legislation has often changed, sometimes with retrospective impact.

### Potentially exempt transfers (PETs)

Lifetime transfers of value (gifts usually) from one person to another are treated as potentially exempt because they fall outside the Inheritance Tax net provided the donor survives 7 years from the date of the gift. Care has to be taken, however, where there have been previous chargeable lifetime transfers to discretionary trusts.

This is because chargeable transfers can still use up the available nil rate band where they were made up to 7 years before a potentially exempt transfer which itself was made within 7 years of the death of the donor. This connectivity between gifts can extend backwards by as much as 14 years before death.

### Taper relief

If someone passes away less than 7 years (but more than 3 years) after making a lifetime transfer or PET, the amount of IHT payable might be reduced by taper relief. However, since gifts made less than 7 years before death are used against the NRB, taper relief will only apply to IHT on that part of a gift made within the 7 year period that exceeds the NRB applicable at the time of death.

This treatment means that very few lifetime gifts qualify for taper relief, since they need to exceed £325,000 (or whatever the NRB is at the time of death).

# Tax rates

## A description of tax rates for different financial situations

### Other allowances

Tax legislation also allows individuals to make certain gifts each year that are exempt. These are currently:

- Transfers of £3,000 per donor per annum. The previous year's £3,000 allowance can also be used if available, making a potential initial gift of £6,000 available.
- Certain gifts on marriage. The maximum value of the gift depends on the relationship between the donor and the recipient. An individual can gift £5,000 to a child, £2,500 to a grandchild, and £1,000 to any other relative or friend.
- Unlimited gifts of up to £250 per recipient per annum. This allowance cannot be amalgamated with the annual allowance or the marriage allowances.
- Regular gifts from 'surplus' income provided the donor's standard of living is not reduced. This facility is often overlooked but can be very useful. If hoping to rely on this exemption, it is sensible to keep good records to show it really was surplus income and, for instance, capital has not been spent due to inadequate income remaining.
- Gifts to charities.
- Gifts to the main political parties .

### Other reliefs

#### Business Property Relief

Business Property Relief allows someone to pass on some of their business assets in their estate free from Inheritance Tax. This relief can apply to property and buildings, or assets such as unlisted shares or machinery. Depending on the type of asset, they'll qualify for relief of either 50% or 100%.

To qualify, an eligible asset must have been owned for at least 2 years.

#### Agricultural Relief

If someone owns agricultural property and it is part of a working farm, they can pass on some of this property free of Inheritance Tax in their will or before they die.

Someone can also claim relief for farm buildings if the size of the buildings is proportionate to the size of the farming activity. Relief is not available for farm equipment, but this may qualify for Business Property Relief as a business asset. Depending on the type of property, it will normally qualify for relief of 100% up to a total value of £1 million. However, agricultural property rented out before 1st September 1995 and any qualifying agricultural property above £1 million only qualifies for relief of 50%.

# Tax rates

## A description of tax rates for different financial situations

### Woodland Relief

Someone inheriting woodland can ask that the value of the timber - but not the land - be excluded from the estate for Inheritance Tax calculation. 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 may not be available, and someone should claim Agricultural Relief instead. Business Property 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.
- Objects which have national scientific, historic or artistic interest.

### In summary

Inheritance Tax regulations currently offer a range of allowances and reliefs which can be used either on their own or in conjunction with each other to reduce a potential liability to Inheritance Tax.

However, the rules and regulations are subject to change in the future without notice. Acting now on the important matter of protecting your estate for your beneficiaries might well mean that less tax is paid, but care needs to be taken to ensure assets remaining available are adequate for your possible future needs. The potential implications of long-term care funding may need to be factored in when assessing the viability of any action you could take.

Many people who have an estate which could give rise to an Inheritance Tax liability are not in a position where they can safely give away assets to reduce the estate, because they need to retain access to the capital. Taking advantage of the partial relief available on AIM stocks is an option, but these are high risk shares so, despite the potential 20% buffer from saved Inheritance Tax, are only suited to those happy to see values go up and down by potentially large amounts.



# Glossary of terms

A list of descriptions for commonly used terms when discussing IHT

Nil rate band (NRB)	The first slice of a person's estate which is subject to Inheritance Tax at 0%.
Transferable NRB	The percentage of the NRB which was not used by a deceased spouse or civil partner.
Estate for Inheritance Tax	All property, assets, cash, investments, pension funds (from April 2027) and personal chattels a person owns solely or jointly with others, plus gifts made within the last 7 years unless exempt.
Exempt transfers	Gifts made within allowance annual exemptions or marriage exemptions or gifts made to exempt persons.
Potentially exempt transfers	Gifts of any amount made from one person to another. The donor must survive for 7 years for the gift to fall out of account for Inheritance Tax purposes.
Chargeable lifetime transfers	Gifts of any amount made to a discretionary trust. The donor must survive for 7 years for the gift to fall out of the account for Inheritance Tax purposes.
Exempt persons	Spouse, civil partner, charities, political parties,
Gift with reservation	A gift made where the donor can still benefit in some way. The asset will still form part of the donor's taxable estate.
Taper relief	A reduction in the Inheritance Tax payable for a lifetime gift where someone passes away less than 7 years but more than 3 years after the transfer. Only available if the transfer exceeds the available NRB.
Settlor	A person who creates a trust fund by transferring cash, property or other personal assets to trustees.
Trustee	A person who becomes the legal owner of the settlor's assets and who is charged with the responsibility of managing those assets on behalf of the trust's beneficiaries.
Beneficiary	A person who is or may become beneficially entitled to receive trust assets and/or trust income now or in the future.
Grant of Probate or Letters of Administration	Legal documents required to permit the executors of a will to distribute assets to beneficiaries.
Discretionary trust	A trust where the trustees have some, discretion of who receives benefits or when they receive them.
Interest in possession beneficiary	A trust where a named beneficiary has the right to receive trust income during their life, after which the assets transfer to other beneficiaries.
Deed of variation	This can be used by the beneficiaries of a will to amend the terms and can be a useful option in some circumstances. The option expires 2 years following someone's death.

# Important notes

Any opinions expressed on the merits or disadvantages of any options are intended as a general comment only and not as specific advice to the reader.

This document is intended as a supplement to full independent advice and not as a replacement for it and should be read in conjunction with any personalised recommendations provided by Atkins Bland Ltd and with any product brochures supplied.

The value of investments will fall as well as rise, as can any income produced or generated. An investor may, therefore, get back less than invested.

Inflation can reduce the real value of capital and the income it generates.

Past investment performance is not a reliable guide to the future.

Any reference to taxation, regulation or legislation is based on our current understanding and details should be checked before any reliance is placed upon its accuracy.

The impact of taxation and tax planning depends on individual circumstances and may be subject to change, which can be retrospective.

Errors and omission excepted.

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