

The Inheritance Tax & Estate Planning Series



**NIL RATE BAND
DISCRETIONARY TRUSTS**

A Nil Rate Band Trust Will was a useful tool to ensure maximum tax savings on death when assets were eventually transferring to children and when on the first death a husband and wife wanted to provide for each other.



Prior to October 2007, the position was as follows:

Mr White dies and leaves all his estate, worth £350,000, to his wife. This is exempt from Inheritance Tax as transfers between a husband and wife are exempt under a spouse exemption.

Mrs White then dies in May 2018 leaving an estate of £700,000, which passes to her children. Mrs White has an allowance of £325,000 which is subject to tax at a rate of 0% (known as the Nil Rate and (NRB)) and the balance is subject to Inheritance Tax at a rate of 40%, giving a liability of £150,000. Mr White did not use his own Nil Rate Band on his death as he passed everything to his spouse and so spouse exemption applied instead therefore his allowance is lost. If Mr and Mrs White had included a NRB trust in their Wills, when Mr White died (say in October 2006) £285,000 (the NRB in October 2006) would have been placed into the trust (Using his allowance), with Mrs White being able to benefit from this. On Mrs White's death, her estate would have been £700,000 less the £285,000 now held in trust, leaving £415,000. From this can be deducted her NRB of £325,000 (rate applicable in 18/19), leaving £90,000 and a reduced tax bill of £36,000.

Prior to October 2007 Nil Rate Band Trusts were clearly essential tools in mitigating Inheritance Tax although there were also many other reasons why a NRB Trust may have been useful in particular situations.

Post to October 2007

In October 2007 the Chancellor introduced the Transferable Nil Rate Band. In the first example above for Mr and Mrs White, the position is now that on Mrs White's death her executors can apply to transfer the unused portion of Mr White's NRB to her estate. As Mr White left everything to Mrs White, 100% of his NRB is available.

The tax position is as follows:

Mrs White's estate £700,000 Less Her Nil Rate Band £325,000
Mr White's Nil Rate Band (100% of the rate when Mrs White died) £325,000
Net estate £50,000
Tax @ 40% £20,000

From this calculation it would appear that the tax saving is greater without the trust than with it. This is true, whilst the nil rate band keeps increasing, but without a crystal ball no-one really knows whether it will continue to rise.

There may be other reasons for including a NRB Trust in your Will, including:

- Assets held in the trust are not treated as belonging to the beneficiaries and should therefore not be taken into account when determining means-tested benefits, such as contributions to nursing or residential care home fees.
- As a couple, it is a way of protecting at least part of the estate from being eaten up by these rising fees. The number of people living to a greater age and needing such care is also set to rise, so this may be important to more and more people.
- With the increase in the number of couples who divorce, we are seeing more and more people who are trying to ensure that their Will protects more than one family. A trust is a useful way of enabling one family or person (usually a spouse) to benefit during their lifetime whilst ensuring that on their death it is possible for children from a former marriage to be protected. Some people choose to trust their spouse to ensure that children from a former marriage would be provided for, but sometimes events may occur which means that this may not happen, such as bankruptcy or remarriage.
- There are also advantages to placing assets which qualify for 100% Business Property Relief or Agricultural Property Relief into a trust on the first death. It is clear that what is right for one client may not be right for another. For clear, friendly advice on all aspects of tax planning and trusts in your Will, please contact our highly experienced private client specialists today.
- A NRB trust may also be known as a Family Trust. It is not automatic that on the death of the surviving spouse the trust is brought to an end in favour of the children. On the second death it may be that the children are comfortably off and may wish to provide for their own children, thus mitigating Inheritance Tax. The trust would be a way of providing them with the security of knowing the funds are available to their children if they need them, but if the funds are not needed by the children they can be excluded from their estate for inheritance tax purposes. Of course, proper advice on the tax implications of keeping the trust should be taken at each appropriate milestone/key time.

*"Clear and straightforward service.
Maxine's fees were clearly stated and I
felt able to raise all relevant issues"*
P R, Corsham



- It is not always the case that the NRB trust is funded by cash; it may be funded by an asset. If the likely increase in value of that asset would exceed the current increases in the NRB then it may be advantageous to put that asset into a trust so the increase in value is outside the surviving spouse's estate for Inheritance Tax purposes. This may be the case with an interest in a property.

- There are also advantages to placing assets which qualify for 100% Business Property Relief or Agricultural Property Relief into a trust on the first death. It is clear that what is right for one client may not be right for another.

For clear, friendly advice on all aspects of tax planning and trusts in your Will, please contact our highly experienced private client specialists today.

OUR OFFICES

CALNE

The Strand, Calne
Wiltshire, SN11 0JU
Tel: 01249 812086

CHIPPENHAM HIGH STREET

Mill House, 1 New Road
Chippenham
Wiltshire, SN15 1EJ
Tel: 01249 444499

CHIPPENHAM, GREENWAYS

Unit 5,
Greenways Business Park
Bellinger Close, Chippenham
Wiltshire, SN15 1BN
Tel: 01249 475880

CORSHAM

23 Pickwick Road,
Corsham,
Wiltshire, SN13 9BH
Tel: 01249 712193

DEVIZES

Ramsbury House
30 Market Place, Devizes
Wiltshire, SN10 1JG
Tel: 01380 726913

MELKSHAM

5 Bath Road, Melksham
Wiltshire, SN12 6LN
Tel: 01225 703036

TROWBRIDGE

2 Fore Street, Trowbridge
Wiltshire, BA14 8HX
Tel: 01225 762683



HAVE YOU BEEN PUTTING OFF UPDATING YOUR WILL?

Get in touch today.



ARE YOU AWARE OF THE INTESTACY RULES?

Speak to your lawyer for more
information.