

Your Legal Questions

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Q. I've heard that the IHT rules changed recently for married couples - what are the changes?

A. There have been recent changes relating to inheritance tax with the introduction of the transferable nil rate band - let me explain what this means.

Inheritance tax is the tax payable after death where a person leaves assets in excess of the permitted sum known as the nil rate band. The nil rate band is currently £325,000 for deaths after 6 April 2009. There are certain exemptions where no tax is due - the most common two being gifts to spouses and charities. Previously if a husband left everything to his wife (or vice versa) there would be no inheritance tax payable on the first death due to the surviving spouse exemption. But when the wife subsequently died her estate would only have the benefit of one nil rate band. Generally therefore anything over the nil rate band allowance would be subject to tax at 40%

Under the new rules, where full use has not been made of the entire nil rate band on the first death, the estate of the survivor is entitled to the unused benefit. For example if husband leaves everything to wife upon her subsequent death her Executors will be entitled (as they always were) to one nil rate band but now they will also be entitled to claim a second nil rate band which would increase the tax free allowance to £650,000.

Where only a proportion of the nil rate band is used for example the Will included legacies to other individuals prior to the gift to the spouse then the unused proportion can be still be claimed on the death of the survivor.

This is a simplified explanation and I would strongly recommend that you seek professional advice to establish how this may affect you.

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