

Your Legal Questions

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Q I don't want my Children to have to pay tax on my death and I'm planning to give my house to them now – will this work?

A There are only limited circumstances where this will effectively reduce the inheritance tax payable on your death.

Inheritance tax is a tax on the value of your assets at death but will also include any property given away within last 7 years and also any property given away at any time but in respect of which you still enjoyed a benefit – however slight.

Consequently if you give your property to your children you would need to survive seven years and not enjoy any benefit from the property. This means that you would not be able to enjoy exclusive residence unless you paid an open market rent to your children.

The only other way that you could continue to occupy the property would be if you gifted a share of it to your children and if they also occupied it with you. However, both of these gifts would be potentially chargeable to capital gains tax but this is unlikely to be an issue for you if the house is your main residence.

There are other issues that you should consider very carefully. These are:

- Loss of freedom – if you give your house or a stake in it away you will no longer be able to sell it or raise money on it.
- Divorce/bankruptcy – if this should happen to your children who own the property their interest in it may be taken into account in the court proceedings.
- Death – if any of your children who own the property were to die before you then the property, or their share in it, would be an asset in their estate.
- Family dispute – Once gifted; can't be called back.

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