

Have you Reviewed your Will Since The Finance Act 2008?

The Finance Act 2008 received Royal Assent on 21st July 2008 thereby making law the provisions for transferable nil rate bands for married couples and civil partners in relation to Inheritance Tax (IHT) on death.

Every individual has a nil rate band allowance which is applied to their estate on death. The nil rate band as from 6th April 2009 is £325,000. For IHT purposes, the first £325,000 is taxed at 0% and the remainder over and above £325,000 is taxed at 40%.

The Finance Act 2008 has introduced the concept of the transferable nil rate band for situations where the surviving spouse or civil partner dies after 9th October 2007. Now, where one spouse or civil partner dies without utilising all of their Nil Rate Band, a claim can be made on the death of the surviving spouse or civil partner to transfer any unused Nil Rate Band.

For example if the first spouse/civil partner to die leaves everything to their surviving spouse/civil partner, they will not have not used any of their Nil Rate Band and so the surviving spouse's/civil partner's Nil Rate Band will be uplifted by 100% on their death. At the current tax rates it would mean a Nil Rate Band of £650,000 would be applied to the survivor's estate.


It should be noted that it is the proportion of the unused tax exemption that is carried forward, not the actual amount of the unused tax free band. That means the uplift on the death of the survivor is calculated at the rates that apply at that time, which may be made higher, especially if there has been a change of Government.

If you have made a Will incorporating a Nil Rate Band Discretionary Trust or included legacies to non-exempt beneficiaries and you are concerned about the tax efficiency of such provisions then please do contact a member of our Private Client Team who will be happy to provide you with specific advice to your personal situation.

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