



The Nil Rate Band Trust

Since October 2007, couples have been allowed to transfer their allowance to their surviving spouse/civil partner. This means that as long as you don't use the allowance on first death, the tax-free portion of the estate's value doubles on the death of the second partner.

However, if you are not married, then you can't use your partner's allowance. This means that while you may benefit from inheriting his/her estate, your children (or other secondary beneficiaries) will be liable for a far bigger slice of Inheritance Tax when you die as your estate will be that much bigger.

Setting up a Nil Rate Band Trust can help couples who don't qualify for the full Inheritance Tax benefits open to people who are both married and domiciled in this country. This is done by ring fencing the value of the Nil Rate Band of the first to die from being taxed on second death.

It can be used to protect part or all of your estate, up to the value of your individual Inheritance Tax Allowance. This is also known as the Nil Rate Band or (NRB) and currently stands at £325,000 (2010/11); any excess is taxed at 40%.

This can also help married couples or civil partners where one is a UK citizen living in this country and the other is not. If the domiciled partner dies first, then the amount that can pass to the survivor is the NRB plus a foreign spouse allowance (currently set at £55,000.) Everything else is subject to tax at 40%, so the Nil Rate Band Trust can help here too.

What are the tax savings?

For non-married or mixed domicile couples, taking steps to allow the use of both Nil Rate Bands creates a potential saving in Inheritance Tax of £130,000 (2010/11).

Are there other benefits?

Even if the above two circumstances do not apply to you, by drafting Wills that incorporate the Nil Rate Band Trust, you and your partner can ring-fence your NRB on 1st death or even on 2nd death, if required. This protects the money, so that if the surviving partner then marries, the children from the original family will not lose out. Likewise it takes this money out of the equation when being assessed for long-term care.

You can also use the Trust to fund education or to give tax-free gifts, and funds can be passed to your grandchildren without damaging the position of your children with regard to Inheritance Tax.

Option to opt out

The trust gives powers to the trustees which enables them to decide not to create the trust on 1st or 2nd death, if it is deemed less beneficial to the estate or the surviving partner.

How does it affect me today?

Whilst you are both still alive no assets will be transferred. The trust is only set up on death. Until then you can continue to benefit fully from your estate.

Other things you may wish to consider

Depending on how your estate is structured, equalising the assets held by you and your partner may be necessary to maximize the use of the Nil Rate Band Trust so that both partners have sufficient assets in their own name.

A CASE HISTORY

Paul and Emma have no plans to marry. They have a joint property worth £395,000 with no mortgage and various investments giving a total estate value of £575,000. In their Wills, they have left everything to each other and then their 3 children. Their total assets are currently below their two Nil Rate Bands but their children will miss out when the second partner dies as the estate will be liable for Inheritance Tax of £100,000.

The Solution

They should re-draft their Wills to include a Nil Rate Band Trust which will protect their Nil Rate Band for Inheritance Tax. They should also change the way their property is owned so that they are tenants-in-common and ensure that equal portions of the estate are held in their own names.

It is essential that a professional Executor and Trustee is appointed in the Wills to give the appropriate advice on 1st and 2nd death. We recommend Kings Court Trust Corporation Plc for this role.

