

An overview:

- **Wills**
- **Inheritance Tax Planning**
- **Lasting Powers of Attorney**



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WILLS

MARRIED – WITH CHILDREN

Husband / Wife Receives:

- Personal Chattels (defined by Administration of Estates Act 1925)
- £250,000

The remainder of the estate is then split:

- Half to children
- Half held in trust
 - To pay income to husband/wife for life
 - On his/her death this half goes to the children



MARRIED – NO CHILDREN

Husband / Wife Receives:

- Personal Chattels
- £450,000
- Half of remaining assets

The other half of the remaining assets:

To parents:

- If none, then to brothers and /or sisters
- If none, then to nephews and / or nieces
- If none, then back to the husband / wife



CHILDREN – NO HUSBAND OR WIFE

Everything goes to the children



NO HUSBAND / WIFE OR CHILDREN

Everything goes to:

- **Father and / or mother**
- **Brothers and / or sisters (or their children)**
- **Half-brothers and / or half sisters**
- **Grandparents**
- **Uncles and /or aunts**
- **Half-uncles and / or half aunts**
- **The Crown**



BENEFITS OF A WILL

- **You choose the people you wish to benefit e.g. Friends, more distant relatives, Charities, special gifts**
- **You choose who you want to entrust with the administration of your estate (known as your executor)**
- **Guardians for children under 18**
- **Inheritance Tax Planning – minimises the amount of tax payable : £325,000 FREE of Inheritance Tax - Balance taxed at 40%**
- **Set up trusts for young children or grandchildren, expressing the age at which you wish the children to inherit**
- **Express any wishes you may have for your funeral**
- **Avoid uncertainty**



WHEN TO REVIEW YOUR WILL

- **Marriage and re-marriage revokes a will**
- **Divorce invalidates gifts to former husband or wife**
- **Circumstances of a beneficiary changes e.g. possible bankruptcy**
- **Birth of a child or grandchild**
- **Beneficiary or executor dies**
- **Inherited money – win the lottery!!!**
- **Changes to Inheritance Tax**



WHAT WILL IT COST

- **A simple Will:**

Single Will £100

Joint Wills £175

- **More complicated Will:**

We'll agree a fee before doing any work



INHERITANCE TAX PLANNING

LIFETIME GIFTS EXEMPT

- **Between spouses**
- **To charities**
- **Under £3000 per annum in total**
- **Not exceeding £250 per individual per annum**
- **To a child on marriage £5000**
- **To a grandchild on marriage £2500**
- **Made out of income not reducing standard of living**
- **Qualifying business and agricultural property (either 100% or 50%)**



LIFETIME GIFTS

Potentially Exempt Transfers (PET)

- Any gifts to individuals not covered by exemptions or reliefs are potentially exempt from Inheritance Tax
- Seven year rule
- Tapering relief after three years
- Large lifetime gifts – the sooner the better



OTHER CONSIDERATIONS

- **Cash or assets?**
- **Gift of assets – the CGT trap**
- **Death within seven years – insurance?**
- **Do not “reserve’ benefit**
- **Do not give away more than you can afford and always allow something for a rainy day**



INHERITANCE TAX ON DEATH

- **A voluntary tax**
- **Paid on value of assets held at death plus gifts within seven years, plus certain other property in which you have had an interest**
- **£325,000 tax free ('the nil rate band')**
- **Excess taxed at 40%**



GIFTS ON DEATH EXEMPTIONS AND RELIEFS

EXEMPTIONS

- **Gifts to surviving spouse**
- **Gifts to charities**

RELIEFS

- **Gifts of qualifying business property**
- **Tax relief at 100% or 50%**



TRANSFERABLE NIL RATE BAND

Transfer unused nil rate band allowances between spouses / civil partners

- **Applies where the death of the survivor occurs on or after the 9th October 2007**
- **Amount available for transfer is based on the proportion of nil rate band unused when the first spouse / civil partner dies**
- **Keep records on first death**



GIFTS ON DEATH – example 1

Husband's estate: £500,000

Wife's estate: £150,000

Husband dies first on 30th August 2008 – “all to my wife”

- On husband's death spouse exemption applies
- Tax payable – NIL

Wife dies 30th July 2010 – “all to my daughter”

Her own assets	£150,000
Inherited from husband	<u>£500,000</u>
	<u>£650,000</u>
Deduct the nil rate band	£325,000
Deduct the nil rate band (<i>transferable from husband's estate</i>)	<u>£325,000</u>
Total nil rate band available	<u>£650,000</u>
Taxable estate	£ nil



GIFTS ON DEATH – example 2

Husband's estate: £500,000

Wife's estate: £150,000

Husband dies first on 30th August 2008 – “£162,500 to my daughter, all the rest to my wife”

Daughter (£162,500) - uses 50% of the nil rate

£ Tax nil

Wife (£337,500) – spouse exemption -

£ Tax nil

Wife dies 30th July 2010 – “all to my daughter”

Her own assets

£150,000

Inherited from husband

£337,500

£487,500

Deduct wife's nil rate band

£325,000

Deduct 50% of husband's remaining nil rate band

£162,500

Total nil rate band available

£487,500

Taxable estate

£ nil



GIFTS ON DEATH – getting it right with hindsight

- **Wills or the Rules of Intestacy can be varied if:**
 - **Within 2 years of death**
 - **Beneficiaries agree**
 - **No underage or unborn beneficiaries**
- **Retrospective of IHT and CGT but not income tax**



SUMMARY OF ADVICE

- **Make a will**
- **Review your Will regularly – every three to five years (or sooner if necessary)**
- **Make use of annual allowance**
- **Make larger gifts (PETS) sooner rather than later**
- **Give appreciating assets rather than cash – but remember CGT**
- **Write in to Trust any suitable life or other policies so that they do not form part of your estate for IHT**



LASTING POWERS OF ATTORNEY

LASTING POWERS OF ATTORNEY

What would happen if you suffered:

- **A stroke or head injuries?**
- **Dementia? Or**
- **Had an accident?**

Options:

- **Do nothing**
- **Lasting Powers of Attorney**
 - **Property and Financial Affairs**
 - **Health and Welfare**
- **Application to Court for appointment of a “Deputy” (expensive, time consuming and stressful)**



LASTING POWERS OF ATTORNEY

PROPERTY AND FINANCIAL AFFAIRS

- Deals with financial affairs e.g. making investments, paying bills, dealing with banks and premises
- Effective whether or not you lose capacity

HEALTH AND WELFARE

- Decisions regarding medical treatment, care, where you live, diet, dress and daily routine
- Specifically state whether your attorney can give or refuse life-sustaining treatment on your behalf
- Effective only if you lose capacity



LASTING POWERS OF ATTORNEY (“LPA”)

- **Appoint more than one Attorney:**
 - Jointly**
 - Jointly and severally**
- **Appoint replacement Attorney**
- **LPA must be registered with the Office of the Public Guardian to come into force**
- **Restrict Attorney’s Powers – binding**
- **Give Attorneys guidance – not binding**



LASTING POWERS OF ATTORNEY

SAFEGUARDS

- **Certificate provider**
- **Notify up to five people prior to registration**
- **All signatures witnessed**
- **Attorneys must follow code of practice of Mental Capacity Act 2005**
- **If attorneys don't act in your best interests the Office of the Public Guardian can step in**



That's it!!!

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