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# Do you benefit from the 2017 inheritance tax changes?

*"…we will take the family home out of tax for all but the richest by increasing the effective [Inheritance Tax] threshold for married couples and civil partners to £1 million…"*

**Conservative Party Manifesto 2015**

You cannot assume that you will automatically benefit from this additional tax-free allowance of up to £1 million per married couple or civil partners.

We recommend that you review your will to see how you could benefit.

# The basics about Inheritance Tax

The new 'Residence Nil Rate Band' will be phased in from April 2017. The Government's aim is to put more family homes beyond the reach of inheritance tax.

## Until April 2017...

Everybody has a tax allowance called the 'nil rate band' of £325,000 (tax year 2016/17). This figure is expected to be fixed until 2020.

Married couples and civil partners can pass any unused allowance on to each other, so they potentially have a combined nil rate band of £650,000.

Inheritance Tax is usually charged at 40% on assets above the nil rate band.

## From April 2017…

The nil rate band described above will remain.

In addition, from April 2017, your estate could be entitled to the new Residence Nil Rate Band.

The amount of this tax allowance will increase in increments from £100,000 per person in 2017 to £175,000 by 2020. This means that married couples or civil partners may be entitled to a tax allowance on their combined estate of up to £1 million by 2020.

Your estate will only be entitled to the new Residence Nil Rate Band in full if:

1. You die on or after 6 April 2017 *and*
2. You own a home, or a share of a property, which is or has been your residence* *and*
3. Your home is inherited by direct descendants such as your children or grandchildren *and*
4. The value of your estate is not more than £2 million.

*Your estate will still be entitled to the new Residence Nil Rate Band if you have downsized or sold your home after 7 July 2015.

# Example

George and Margaret were married with two grown up children. George passed away in 2015 leaving his entire estate (including his share in the family home) to Margaret.

The family home is worth £700,000. With savings, investments and personal belongings worth £300,000, the combined value of George and Margaret's estates is £1million. Margaret's will leaves everything equally between their two children.

**If Margaret passes away after April 2020, her £1 million estate could potentially benefit from a £1 million inheritance tax free allowance**
(incorporating the new Residence Nil Rate Band)

## If George and Margaret's estates DO qualify under the new tax rules:

Margaret's executors will be able to claim the new Residence Nil Rate Band plus the 'normal' Nil Rate Band for George and Margaret. This means that the entire estate of £1million can pass tax free to the children.

**Inheritance tax to pay:**
**£0**

## If George and Margaret's estates DO NOT qualify under the new tax rules:

Only £650,000 of the estate would be tax free (by using George and Margaret's combined nil rate band).

Because Margaret does not qualify for the new Residence Nil Rate Band, there would be 40% inheritance tax to pay on the remaining £350,000 from her £1 million estate.

**Inheritance tax to pay:**
**£140,000**

## Next steps for Margaret

It would appear on these simple facts that Margaret will automatically qualify for the additional tax allowance. However, estate planning is rarely this simple, so we recommend that people check their wills to ensure that they will qualify for the full allowance.

# Potential problem areas with existing wills

We recommend that you review your will if you think this extra tax allowance may be a benefit to you and, particularly, if the following circumstances apply:

## Age limit on legacies to grandchildren

Many wills carry a condition that grandchildren must reach a certain age before they inherit (for example aged 21). The Residence Nil Rate Band will NOT be available under a will with such a condition, so such wills may require reviewing. Gifts to children are treated slightly differently.

## The rules state that property must be left to "direct descendants". What does that mean?

Direct descendants include children, grandchildren, adopted children, step-children and foster children (and others such as spouses of children etc). Whilst the term is fairly wide, it doesn't include siblings, nephews, nieces or other relatives. If your will provides for non-direct descendants, or if assets are left on trust, it should be reviewed to ensure the allowance will apply.

## Does this new tax allowance apply to single people?

Yes. If you are single or divorced, you may still have the benefit of the Residence Nil Rate Band.

## Do all properties qualify for this relief?

No. The Residence Nil Rate Band can apply to one home only. Investment property that you haven't lived in won't qualify. If you own multiple homes or investment property, you should review your will.

## What about co-habiting couples?

Co-habiting couples cannot pass the nil rate band between each other. You have to be married or in a civil partnership to be able to do this. Each one of the co-habiting couple will potentially have their own Residence Nil Rate Band and should each review their own wills.

## Downsizing

If you sold a large house recently and downsized to a smaller, less valuable bungalow how will the new inheritance tax rules work? The Government does not want to deter downsizing so if the sale took place after 7 July 2015 then the Residence Nil Rate Band may still apply for your former property.

## What about someone who has sold their house and has gone into residential care?

They could qualify, but only if the person who has gone into care sold or transferred their property after 7 July 2015. This is a complex area of the new legislation and we recommend that advice is taken.

## Estates worth £2million or more

The Residence Nil Rate Band is gradually withdrawn for estates valued at £2million or more.

If your joint estate is worth more than £2million you should ensure that your will is up to date as changes could still be made to maximise the availability of this relief.

## How is the Estate valued?

Even if an asset qualifies for other Inheritance Tax relief (such as business relief or agricultural relief) the value of that asset will still feature when calculating if an estate is worth £2million or more. The tax planning measures that you have taken so far may not help you to secure the Residence Nil Rate Band.

## In Summary

The devil is in the detail. Do not automatically presume that your estate will qualify.

We recommend that all clients review their wills in light of these new rules. If in doubt, please get in touch.

# When should I review my will?

We recommend that clients review their wills every 5 years and after any major life-changes. For example:

## Major life-changes

- Separation or divorce
- Marriage (cancels an existing will)
- Having a child
- 'Blended' families e.g. step-children and step-grandchildren
- Moving house
- If your executor dies before you or loses capacity
- Starting a business

## Care Fees

Estate planning to mitigate the risk of significant expenditure on care fees.

## A growing nest egg

If the value of your estate (or combined estate with your spouse or civil partner) reaches key inheritance tax thresholds of:

- £325,000
- £650,000
- £1,000,000
- £2,000,000 +

## Disabled or vulnerable children

If you are leaving a significant legacy to a disabled or vulnerable child, friend or relative, simple precautions are recommended for your will and wider estate planning to:

- Preserve means-tested benefits
- Protect assets from people who may take advantage of that person's vulnerability

For further information please speak to your usual contact or one of our partners:


19 Cookridge Street,
Leeds LS2 3AG
*t:* **0113 244 6100**

Fountain Precinct, Balm Green,
Sheffield S1 2JA
*t:* **0114 267 5588**

**www.wrigleys.co.uk**