

Transferable Nil Rate Band - Facts and Opportunity

You may be aware of the impact of Alistair Darling's change to the treatment of the Nil Rate Band between married couples and civil partners. We have all seen the headlines talking about the 'joint allowance' of £624,000 available from 6 April 2008.

Now that the dust has settled a little and we start to look at the practicalities of the situation it is clear that all is not as simple or straightforward as the headlines suggest. Indeed, anyone charged with the responsibility of being an executor and in a position to submit a claim may find themselves in a difficult position.



Firstly, let's get one thing clear. The benefit of any unused nil rate band from a deceased spouse / civil partner is **not automatic** – it must be claimed. This value of the claim may be as high as £124,800 (based on 40% Inheritance Tax of the £312,000 nil rate band for 2008 –2009) of course – and more in years to come!

Therein lies the first concern. The Revenue is being asked to forego a **substantial sum of tax**. That makes the correct completion of the documentation (Form 216) extremely important. It is fair to say that we can expect the Revenue to look at each claim quite closely given the sums involved. It will be to their considerable benefit of course to disallow a claim.

Okay, you may say, "it's just a claim form" – and you would be correct. But have a look at it; consider the position of the executor who has to sign the document to say that the answers to the questions are all correct.

Consider the questions that the executor has to answer – accurately. Take question 4 for example. What lifetime gifts did the deceased make in the 7 years prior to death?

Now it is possible that the former spouse may have died 10 years ago – the executor needs to be able to go back 17 years to be answer the question – how does he or she do that? After all, the person who may have been best placed to help (i.e. the surviving spouse/civil partner) has just died.

The English Will Company is here to help by providing a valuable service to our clients known as the "Darling Protection Programme".

What better can an executor hope for than all of the documents required, plus a statement signed by the surviving spouse confirming the information needed to complete the claim? The executor can then sign the claim with a high degree of confidence that, if the Revenue (HMRC) does decide to query or challenge the claim, they have some evidence to support them.

The **"Darling Protection Programme"** is a new service we offer to pre-prepare future executors; we provide a pack including statements from the widow / widower regarding assets and gifts made in the seven years and possibly fourteen years prior to death, along with a copy of the death certificate, a copy of the original Will, Grant of Probate, and above all a safe secure environment for those documents to be held until such time as they are required by the executors acting for the now deceased surviving spouse.

To summarise therefore, for individuals who have been widowed, now is the time to contact the English Will Company to discuss the opportunity to be certain that their heirs will benefit from Mr Darlings dalliance.