

## DO YOU HAVE NIL RATE BAND DISCRETIONARY TRUST WILLS?

In his recent pre-budget report, the Chancellor stated that the Nil Rate Band (NRB) threshold for married couples and civil partners is increasing to £650,000 which will bring an end to the need to have Discretionary Trusts in Wills in order to maximise the use of two Inheritance Tax (IHT) nil rate bands.

Under the new Rules, the tax-free element on the death of the surviving spouse will include that spouse's NRB (currently £325,000) **plus** a further NRB of the same value "inherited" from the first partner to die. This additional band will exclude the value of any legacies made in the Will of the first to die to non-exempt beneficiaries and of any lifetime gifts made in the 7 year period before his or her death.

For example:

In March 2001, Mr A dies  
At the time his NRB is £234,000  
In his Will he left legacies of £100,000 in total to his children, and the rest of his estate to his wife. No tax was payable. £100,000 amounted to 42.74% of his NRB.

In 2009, Mrs A dies  
Her estate is £800,000  
The nil rate band applicable to her estate is £325,000 (Mrs A) **plus** £138,905 (42.74% of £325,000) (Mr A) or a total of £463,905.

Tax will be paid on £336,095 (£800,000 - £463,905) at the rate of 40% i.e. £134,438.

Therefore, there is no longer any need to have Tax Saving Trusts in your Wills and you may wish to revert to a simpler version of Will for each of you, so as to remove the problems involving trustees and "control" which Nil Rate Band Trusts involve.

However, there can be other advantages of having Discretionary Trusts in your Wills, such as:

- Protection from future care costs
- Ensuring that the surviving spouse is accountable to others (the Trustees) in deciding how to spend the total marital wealth
- To keep money in Trust for future generations

If you would like further advice, please contact either Tim Hughes or Joanna Beck on 01306 880110.

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