

Willing it away?

Certainty? In this world nothing is certain but death and taxes wrote Benjamin Franklin in the 18th Century.

In these difficult economic times, a family's wealth is being attacked on several fronts: share and property portfolios have dropped substantially in value, interest rates are at an unprecedented low, providing little return on investments, and financial institutions have substantially cut back on the flow of funds. The need to preserve a family's wealth is, therefore, more pressing than ever before.

Unless you carefully plan your affairs, 40% of your estate (over and above the nil rate band which is currently £325,000.00) will be subject to inheritance tax. By use of lifetime gifts and efficient estate planning, the burden of inheritance tax can be greatly reduced.

Making a Will

Latest figures show that a staggering 65% of the population have not made a will. A spouse or civil partner does not automatically inherit your estate. This position can have disastrous tax consequences for your family. The intestacy provisions are notoriously tax inefficient, leaving your surviving spouse/partner and children with a severe financial burden. By using our tailor made will writing service this burden can be substantially reduced. You specify who is to inherit your estate and the distribution is not left to Statute.

Life Time Giving

There are many opportunities during the course of a person's lifetime to transfer the family's wealth to the next generation and so substantially reduce the inheritance tax burden. One little known and very much under utilised method is the "Gift out of Income Exemption". This is an efficient and inexpensive method of transferring wealth. Provided you have excess income, there is no limit to the amount that can be transferred in this fashion. Furthermore, the gifts are not treated as capital and are not subject to the normal "seven year rule" that applies to capital gifts.

Alternatively, in some circumstances, a simple gift may be appropriate and should be considered. However the person making the gift (the Donor) must survive for seven complete calendar years after making the gift before it is fully tax efficient.

A variation of this is to make the gift by way of a Discounted Gift Trust. By placing the gift into this type of trust, an immediate inheritance tax saving is achieved by ring fencing an amount of the gift, agreed with the HMRC, from the burden of inheritance tax, even if the donor does not survive seven years. Due to the workings of this type of scheme, the younger a person is when they make a gift, the greater the discount (and tax saving) that can be achieved. There are no limits on the number of trusts that can be set up in this way.

The Elderly Relative

As a nation we are living longer and an elderly relative may not have made use of the lifetime exemptions and reliefs. The estate will, therefore, be facing a large inheritance tax liability. Furthermore, such a person may not be in the best of health but wish to transfer some of their assets to their children or relatives. Such a transfer will be subject to the usual seven year rule and potentially be subject to the 40% charge. Also due to the Donors age, they could not secure an inheritance tax policy to cover the potential inheritance tax liability.

We have a solution to this dilemma and have established a connection with a well established financial institution based in Luxembourg. By making use of contract law (rather than relying on statutory provisions applicable to gifts), money can be invested by the Donor with this institution thereby achieving a substantial inheritance tax saving, even if the Donor is in ill health and does not, unfortunately, survive for the period of seven years.

One of the advantages of using a Luxembourg based financial institution in the current economic market is that all financial institutions in Luxembourg are guaranteed by an independent custodian bank and, ultimately, by the Principality itself. This potentially provides a much greater degree of financial security than is afforded to many other countries, both in Europe and worldwide.

The Pilot Trust

This is a type of trust set up during a person's lifetime for a nominal sum (say £10.00). The assets under the terms of the trust can be added to at any time during that persons lifetime or, more commonly, under the terms of a will. There is no limit to the number of pilot trusts that a person can set up however no more than one trust should be established on any one day.

The advantage of this type of trust is that the assets are still available to you to use during your lifetime. By proper planning in your will and by using a nil rate band discretionary trust, it is possible to achieve two or more nil rate bands depending upon the number of trusts that have been set up. Although inheritance tax may be payable initially, in the long term a substantial inheritance tax saving can be achieved when a persons total tax position is considered.

The trust also has another dimension in that by placing the assets into trust, they are not deemed to belong to your surviving spouse or civil partner and are therefore excluded from the calculations by a local authority for Nursing Home Fees.

Capital Gains Tax (CGT)

Even with the reduction in CGT over recent years, this tax can still place a heavy burden on the tax payer. By use of Enterprise Investment Schemes it is possible to defer or reduce the burden of CGT.

By careful planning, it is also possible to mitigate the impact of CGT in the event that a person sells their second home.

Business Property Relief

If you own your business or have shares in a family trading company, it may be possible to pass the business to your children (or other relatives) free of inheritance tax. The extent of the relief will depend upon the nature of the assets and the business. This avenue should be considered in any life time or will planning initiative.

Summary

The above is an indication of some of the areas our Private Client Department covers.

If you have any queries on any of the above or wish to make an appointment to discuss your future options, please do not hesitate to contact **Colin Glass**, Head of the Private Client Department on **020 7242 3191** or email **c.glass@teacherstern.com**.

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