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INHERITANCE TAX PLANNING

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Inheritance Tax (IHT) is payable on the value of your estate at death, together with gifts made in the preceding seven years, in excess of the Nil Rate Band (NRB)(currently £325,000). This value may include life policies, pension benefits and assets given away that you still enjoy the benefit of. If your net worth is less than the NRB no tax is payable. If it is more, the excess over the NRB is taxed at 40% and you may wish to try to reduce the tax impact by considering some of the ideas below. Firstly though you should have some idea of what you and your spouse/civil partner (if applicable) are worth.

There are some simple tax planning steps which you can utilise:

1. **Annual Exemption** – gifts (of over £250) totalling up to £3,000 each year. This is separate from the Small Gifts Exemption (see below) and the two cannot be combined to make a gift to a single person of £3,250. Unused allowance can be rolled forward for one year, but should be used as early as possible each tax year to avoid passing away without having been utilised.
2. **Small Gifts Exemption** – any number of gifts of up to £250 in a tax year to different people.
3. **Marriage Gifts** – up to £5,000 to a child; £2,500 to a grandchild; or £1,000 to anyone else.
4. **Regular Gifts Out of Income** ie. gifts which are from income rather than capital and which can include the regular giving away of excess income over expenditure.
5. **Gifts Between Spouses/Civil Partners** – always exempt if both live in the UK
6. **Family Maintenance** – for your spouse, ex-spouse and your children under 18 or in full time education.
7. **Life Policies** – the benefit of a policy can be written in Trust for a selected person, but advice should be taken before doing so from your legal and/or financial advisor.
8. **Child Trust Funds** – up to £1,200 per year from all sources can be paid into a Child Trust Fund aside from the gifts above, without any Inheritance Tax (or Income Tax for parents) issues.

9. Pension Benefits – can be nominated to intended beneficiaries.

In addition to the above steps, we can advise you on the suitability of your circumstances for the following:

A. Trusts – come in a variety of forms:

- (1) **Discretionary Trusts** - Trustees have absolute discretion in the application of trust funds and no beneficiary has an absolute right to trust money. A very flexible trust and can be used for tax planning.
- (2) **Interest in Possession Trusts** - a beneficiary receives income from the trust, or the right to occupy property, for life and after his/her death the trust fund is paid to other beneficiaries. It is effective for protecting assets in second relationships or from vulnerable beneficiaries and protecting assets against means assessments for care fees.
- (3) **Accumulation and Maintenance Trusts** are useful hybrid discretionary trusts but only work from grandparent to grandchild.
- (4) **Immediate Post Death Interest Trusts** are similar to Accumulation and Maintenance Trusts with certain beneficial tax planning rules.

B. Potentially Exempt Transfers are gifts which can become exempt from IHT if you survive further seven years. If you survive less than three years the gift is counted in full but if death occurs between three and seven years, the amount of tax the gift may attract reduces on a sliding scale. The beneficiary is responsible for paying any tax, so it is important to take advice before making potentially exempt transfers.

C. Transferable Nil Rate Bands - a transferable NRB arises when one party to a marriage or civil partnership has died and the amount of their estate that was chargeable to Inheritance Tax did not use up all their NRB. If the surviving spouse/civil partner dies after 9th October 2007 the unused part can be transferred to their estate. This can mean that on second death up to £650,000, in

the current tax year, is exempt from Inheritance Tax. It is very important to keep records of the first deceased's assets, as they are relevant to work out what is available on second death.

- D. **Variation of Estates** - if you have received an inheritance and you plan to give all or part of the amount away to someone else then for up to two years after the date of death we can vary the estate for you, even if the administration of the estate is already complete. As long as it doesn't make more tax payable in the original estate, you do not even need the agreement or involvement of the personal representatives. In some cases it may be beneficial to vary back to a surviving spouse/civil partner who then receives the transferable NRB and can make gifts which may fall out of their own estate after seven years.
- E. **Agricultural and Business Property Relief** – these reliefs are beyond the scope of this leaflet but can be extremely valuable. Please ask for further advice.
- F. **Active Service Exemption** – the estates of service personnel killed on active service or where death is attributable to an injury sustained on active service may be exempt from IHT.

In addition to the above there are also investment products available which can assist in the mitigation of IHT. Whilst we are not qualified to advise on these ourselves, we can put you in contact with one of our panel of Financial Advisors who will be pleased to advise you in connection with matters such as life assurance, and appropriate investment products.

For further advice about making a Will or reducing your potential tax liability contact David Satchell (david.satchell@amicuslaw.co.uk) for our Taunton, Yeovil and North Petherton Offices on 01278 664060 or Andrew Bensley (andrew.bensley@amicuslaw.co.uk) at our Minehead Office on 01643 701888.

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