

# TaxAid

## A Guide to Taxation at Bereavement.

2024/25



## Foreword.

Sorting things out after someone dies can feel overwhelming. Managing even everyday tasks while you're grieving, can be very difficult – and there are so many other things to be dealt with too. But when it comes to tax and bereavement, we're here to help.

## About this booklet.

This booklet is a simple checklist to guide you through the common tax tasks that arise when someone dies, written for spouses and family members who are handling things themselves (instead of going through a solicitor for example).

We can't cover every detail in this booklet, but we will point you towards the right actions and towards organisations that can offer more help if you need it. You don't have to figure everything out at once. Take it one step at a time.

## About TaxAid.

We are a charity that supports people who need help to understand their tax and to untangle the tax problems that threaten their financial security.

Through our helpline, we listen, understand and provide a solution tailored to your circumstances. We help with issues like tax returns, appeals, tax debt and unexpected letters from HMRC. No matter how big or small the issues are, our approach is the same for everyone.

If you need our help, our contact details are on the back of this booklet or visit our website: [taxaid.org.uk](http://taxaid.org.uk)

## Who we support.

We are tax experts – and we are in your corner. We help people who are unable to access professional tax advice elsewhere.

We support people on low incomes or who have difficult personal circumstances or hardships that make it difficult to get the help they need. Please check our website for more details and to see if you might qualify for our help.

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# Taxation of the person who has died.

The first thing is not to panic about the tax matters after a death. While it should not be ignored, there are plenty of other aspects which should be tackled first and sooner, like informing banks and pension providers including the DWP for the state pension and pension credit, or other state benefits so that accounts and pensions can be stopped or transferred to the surviving partner. You, the personal representative, should then get started on the tax aspects so that you can obtain Grant of Probate, or Certificate of Confirmation in Scotland (when necessary), distribute the estate and deal with the tax implications for the surviving partner. If you want a timescale, we suggest within a couple of months after the death.

## Was the deceased a taxpayer?

If the answer is yes, then read this section. If not, then skip to the next chapter. If you are not sure, read the advice on the next page and then return to this point.

Before anything else, inform HMRC of the death if you have not already done so through **Tell Us Once** (TUO - see next paragraph), preferably in writing. There will be telephone numbers and addresses on any correspondence from HMRC or coding notices. If you cannot find any of these, then call the general HMRC Bereavement Helpline on 0300 200 3300 (+44 135 535 9022 if calling from overseas) and answer the automated questions which guide you to the bereavement team. Simply say "bereavement" when prompted.

**Tell Us Once** is a service that is offered in England, Scotland and Wales on behalf of the DWP. The service allows you to inform central and local government services of the death at one time, rather than having to contact each service individually, and it is completely free. If the scheme is available in your area, you will be told about it when you go to register the death. So when you go to your appointment with the Registrar, take with you all the government or local authority documents of the deceased – driving licence, passport, tax reference number, National Insurance number (NINO), NHS number, Blue Badge, etc. These can be cancelled or appropriate action initiated as the Registrar notifies whichever local or central government departments and agencies you wish to inform about the death. The choice is yours. This scheme does not apply to private or commercial organisations, so while the DVLA for example can be notified and the driving licence cancelled via TUO, you will have to notify the car insurance company separately.

**You may not be sure whether the deceased was a taxpayer or not. So here's what to look for.**

**Pay As You Earn (PAYE) taxpayers** will have end-of-year certificates, P60s, showing earnings or pensions paid and tax deducted. If you can find one of those, you will have most of what you need because it will show the National Insurance Number (NINO) as well as tax references which will enable HMRC to trace and co-ordinate the deceased's income sources. There may also be payslips from employers, but pension providers rarely send out payslips. Payslips and P60s may have been sent electronically, so you might need to ask the deceased's employer or pension provider for copies of them.

**Self Assessment taxpayers** should have copies of their tax returns, tax calculations or similar correspondence. Apart from the address of HMRC (see Appendix C), there will also importantly be a 10 digit number called UTR which is the Unique Taxpayer Reference. This will identify the taxpayer to HMRC.

Other clues can be found in building society statements showing interest with tax deducted (section 975 certificates for years up to 2015/16; after that interest is paid in most cases without deduction of income tax but an annual interest statement might still be sent) and HMRC coding notices (a P2) showing allowances given against sources of income.

You are probably going to need these pieces of paper anyway, so keep them all together in a box or file. If you need to determine for yourself whether the deceased was a taxpayer or not, then go to Appendix A which will help you with the calculations.



The purpose of this exercise is to determine whether there is any potential repayment of tax due, or more rarely any tax still owed, to HMRC. We will illustrate an example below. Please note, throughout this booklet we are going to use approximate round figures to avoid muddying the explanation. The ones we use are roughly in line with the rates and allowances applying to the tax year 2024/25 for England.

Example: Brian dies aged 73, exactly halfway through the tax year on 5 October. His taxable income from state pension and works pension was £16,570 a year. His Personal Allowance was £12,570, so tax was due at 20% on the remainder, £4,000 i.e. £800. Under PAYE this is collected monthly from his works pension, so he pays £66.67 a month (£800 divided by 12). Thus, when he dies, he has paid £400 of tax. However, his income at the date of his death has only been £8,285 and he is entitled to his full Personal Allowance for the tax year in which he dies. His allowances at £12,570 exceed his received income of only £8,285, so he is not liable for any tax. Therefore, all the £400 he paid between April and October should be repaid to his estate.

If we increase his pension income to £24,570 this is what happens. His tax bill will be £24,570 - £12,570 equals £12,000 to be taxed at 20%. This is £2,400 for the year or £200 a month. At death therefore he will have earned £12,285 and the total Personal Allowance he is entitled to is £12,570. His estate is therefore due a refund of £1,200 which is the tax he has paid so far (6 x £200).

### The Self Assessment taxpayer.

Brian's example shows how Pay as You Earn (PAYE) can be dealt with. However, if the deceased was in Self Assessment (SA), or their tax affairs are complex, HMRC may issue an SA tax return to be completed for the tax year up to the date of death. You, the personal representative, will need to have the same tax details whichever way HMRC deals with the tax.

### What should you do?

If you notified HMRC of the death via TUO, HMRC will write to you to explain what, if anything, they need to know or what they need you to do. If their information is correct or you confirm any details they need, then they will automatically arrange any repayment of tax. **It is important that you do your own checks to make sure that all relevant information has been included. Do not just assume that HMRC know everything.** Should they fail to make contact within about a month of registering the death, then it would be advisable to telephone them to make sure that they have logged the death and are taking appropriate action.

## Other tax-related matters.

### Gift Aid donations.

If the deceased was a taxpayer, they may have made gift aid donations. Any related direct debits or standing orders will be automatically cancelled once you have reported the death to the banks and building societies. You will, however, need to keep records of the gift aid donations as they may be relevant to the tax situation.

### National Insurance Contributions (NICs).

If the deceased was over state pension age, then they will no longer be paying NICs. If he or she was under that age and employed, obviously the employer will stop contributions automatically. If the deceased had been self-employed, any Class 2 and Class 4 contributions (an additional tax on the profits of the self-employed above a certain ceiling) will be sorted out in the Self Assessment process.

### Tax credits.

It is important that you notify the Tax Credit Office (TCO) if the deceased was in receipt of any form of tax credits or was part of a joint claim with their surviving partner. HMRC will need to stop payments immediately to ensure no overpayments build up. If the surviving partner is still entitled to tax credits, they will need to make a new claim. Tax credits are being replaced by universal credit, and for most people it is no longer possible to make a new claim for tax credits. If you notified the DWP through TUO, they will take the appropriate action. Remember, pension credit is a non-taxable benefit paid by the DWP and is not relevant here.

### Student loans.

If the deceased was repaying a student loan, then you should make sure that HMRC know, because they are responsible for collecting the repayments. The debt can be cancelled by sending a death certificate to the Student Loans Company, as they are not currently informed through Tell Us Once. Write to them at: Student Loans Company Limited, 10 Clyde Place, Glasgow, G5 8DF, or call 0300 100 0611.

**ISAs** may lose their tax-free status on death, so see the chapter Taxation of the Estate for what to do about them.

### Was the deceased a non-taxpayer?

There is obviously no question of claiming any tax back as in the above section, but action may be needed if:

- ① tax credits were involved either individually or jointly, then seek advice from Citizens Advice for information about tax credits;
- ② pension credit or other benefits were involved either individually or jointly, then you should be contacting the DWP (see Appendix C);
- ③ assets or income passes to a spouse or civil partner, go to chapter 2.

## Taxation of a surviving partner.

Where there is a surviving partner, tax is almost certainly going to be a major topic to tackle. There are several scenarios depending whether the two partners were both taxpayers, only one was or both were non-taxpayers. Their individual and joint sources of income and savings will affect the tax position.

Again, let us illustrate with some examples.

Example: Brian, 73, received a company pension of £12,000 a year, a state pension of £7,500 a year and a small personal pension of £1,200 (total £20,700). He was therefore a taxpayer. His wife Mary had never worked enough to acquire a state pension in her own right, so her income aged 71 is only the £3,500 she gets from his contributions and £200 a year from her savings interest. Mary has a total income of £3,700, so she is a non-taxpayer. When Brian dies, she inherits his state pension (£7,500) and half his company pension (£6,000). His personal pension ceases on his death. So Mary now has an annual income of £13,500 (plus her savings interest but that is tax-free at this level) and is liable for tax on £930 of that. She must therefore make sure that HMRC know about her increased income so that they can issue the correct codes to collect the tax due via the company pension. She should not assume that HMRC will make the correct assumptions about her new income and tax status, simply because she has told them that Brian has died.

Let us take this example a stage further. Because Brian died on 5 October, Mary is actually only going to acquire half that income in the year of death i.e. only £6,750. So she remains a non-taxpayer for that tax year, only becoming one in the following tax year. We will come back to this point after the next paragraph.

Suppose Brian was born before 6 April 1935 so that he was entitled to the Married Couple's Allowance (MCA). This allowance continues to the end of the tax year in which the death occurred and is transferable between spouses or civil partners, so Mary is entitled to any unused portion. Thus, ignoring the figures in the examples above, supposing Mary's income after Brian's death gave her a liability of, say, £200 for the rest of that year, but there remained £300 of unused MCA, then that would be applied to her tax and reduce it to nil (you cannot get a refund of the unused £100). The MCA would cease in the following tax year, and she would be reduced to just the Personal Allowance. So again, she might not become a taxpayer immediately, but rather with a time-lag until the next 6 April.

A slightly different process applies to the Transferable Marriage Allowance. The transfer will similarly continue until the end of the tax year before expiring, with the difference that if it is the recipient of the allowance who dies, their allowance will remain at the higher level while the transferor's allowance will return to the full amount before transfer. Conversely if it is the transferor of the allowance who dies, their allowance will remain at the lower level while the surviving recipient will remain at the higher level.

We were looking just at the pension income above, but what about savings? First there is a 0% tax band on savings interest for those whose income is below or no more than £5,000 above their Personal Allowance. As we saw above, Mary has only £930 more than her Personal Allowance of £12,570, so she has £4,070 of her savings interest taxable at 0%. Secondly all basic rate taxpayers now have a Personal Savings Allowance (PSA) of £1,000 tax-free on any savings interest (and higher rate taxpayers a PSA of £500). Banks and building societies no longer deduct tax at source and most people will pay no tax on savings interest. The saver therefore will not have to do anything unless their interest exceeds their tax-free limit, in which case they will have to notify HMRC. Sometimes the calculations can be complicated, but help can be obtained from Tax Help for Older People.



The Low Incomes Tax Reform group (LITRG)<sup>1</sup> website also gives examples of how all the nil rate bands work together.

One more example to show how two non-taxpayers can become one taxpayer on a lower income.

Example: Brian, aged 85, has an income of £14,070 made up of £6,000 state pension and £8,070 occupational pension. Mary, 77, has a state pension of £4,000 based on her own contributions and an occupational pension of £5,000. She obviously is below her Personal Allowance of £12,570, so pays no tax. Brian is above his allowance but the tax liability of £300 is wiped out by the MCA which knocks some £1,108 off the bill. So they are both non-taxpayers.

On his death, Mary inherits Brian's state pension which is bigger than hers and half his occupational pension (total £10,035). She still has her own pensions, so her taxable income on 6 April the year following Brian's death is £19,035, well above her allowances and the MCA has been removed. Six months earlier their household income was £23,070 a year and they paid not a penny in tax. Now on an income much less than that, Mary is going to pay around £1,300 a year in tax. As mentioned above at various places, she will need to check that the tax office know about her new status.

One last example to show the possible complications.

Example: Brian dies aged 66. His sole income is his state pension of £12,870 a year. It passes to Mary, aged 63. This is some £300 above her Personal Allowance, so she becomes a taxpayer with a tax liability of £60. Because she has no other income which is taxable at source, she must pay the tax due through Simple Assessment. In the past this would have meant that Mary, who had never earned enough to pay tax or national insurance contributions in her life, would have had to complete an annual tax return. The new Simple Assessment process is easier, and Mary will be sent a tax calculation which will explain how she can pay her tax. However, she will need to check that the figures on the calculation are correct.

In short it is important for the survivor to examine carefully their changed financial circumstances and therefore probably their tax position. Some incomes such as state pensions may only transfer to a spouse while others may be transfer to other beneficiaries after a declaration of wishes to the pension provider. More on that in the chapter Taxation of the Estate.

## Checklist.

### Has your income changed?

If increased, do you become a taxpayer?

If decreased, do you necessarily become a non-taxpayer?

Either way, notify the tax office.

### Have you acquired the deceased's investments?

If yes, have you re-registered them in your name?

Keep the dividend vouchers – you will need them for most tax forms.

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<sup>1</sup> The LITRG is an initiative of the Chartered Institute of Taxation (an educational charity) to give a voice to unrepresented taxpayers and tax credit claimants.

## Do your new circumstances mean that you must complete Self Assessment tax returns?

You should check with HMRC or contact us.

## Taxation of the estate.

At death, the deceased no longer owns anything and the assets will await probate and distribution according to the terms of the will or, in cases of intestacy (i.e. where there is no will), according to fixed laws of entitlement. Note however that this does not apply in cases where the couple are joint tenants rather than tenants in common. Joint tenants both own the whole property equally rather than distinct shares in the property, so probate is bypassed.

While in the estate, income received and gains realised continue to be taxable, and the executors are responsible for the payment of any taxes due. Where all assets pass to the surviving partner under the terms of the deceased's will, the estate will remain responsible for the payment of tax until probate has been granted.

The executors or personal representative will be responsible for liaising with HMRC to make sure the correct amount of tax is paid by the estate, although in most cases this is likely to be only the income from the assembled savings and dividends (where income is less than £500 there is no reporting requirement). Only where the value of the estate is approaching the Inheritance Tax (IHT) threshold (£325,000 in 2024/25) will there be a need to complete the full IHT forms and arrange to settle the tax bill (see below).

ISAs are always individual accounts, never joint. That means their value will form part of the deceased's estate for IHT purposes. It used to be the case that the tax-exempt status of ISAs from Income Tax and Capital Gains Tax ended on the date of death, but rules from April 2018 mean that these usual ISA tax exemptions can continue during a period of estate administration of up to 3 years.

Since 2015, a surviving spouse or civil partner is immediately entitled to an "Additional Permitted Subscription" (APS) amount for ISA, which is equivalent to the value of the deceased's ISAs. Unless the deceased's will directs that the ISA monies are to be inherited by someone else, an APS effectively enables the ISAs to be passed on to a surviving spouse or civil partner and for the tax exemptions to continue. It is, however, worth noting that only a surviving spouse or civil partner gets the APS and they are free to use it for different available monies if appropriate or preferred. There are time limits and administrative processes connected to an APS, but all ISA providers should be able to offer detailed information on request.

### Inheritance Tax (IHT).

Let's take IHT first because this is likely to be the main tax issue that needs to be dealt with when handling the estate. If the value of the estate is likely to be £325,000 plus, then you should contact the tax office (see the helpline number below) to discuss. You may well have to complete form IHT400 which like so many HMRC forms merely tots up the assets and debts to calculate whether any tax is due. You can download this form with checklists and guidance from the HMRC website (see Appendix C for contact details) or ask for it from the Probate & Inheritance helpline on 0300 123 1072 (or +44 300 123 1072 if overseas). This helpline also handles queries about trusts and deceased persons' estates. It is reasonably straightforward to complete the form if the estate is routine such as a house (most estate agents will do a free valuation for probate), savings and investments, perhaps even a holiday cottage, but if there are matters like trusts, foreign assets, non-exempt gifts over the last seven years, business or agricultural assets to deal with, you would be advised to take professional advice as they can be rather complicated for the layman to unravel. See a solicitor or tax adviser, preferably one who is also a member of

the Society of Trust & Estate Practitioners (STEP). The form will also guide you if you need to spread payment of IHT over a period of years.

### No Inheritance Tax.

The vast majority of estates, however, are below the IHT threshold, especially now that the unused proportion of the nil rate band (NRB), that is, the first £325,000 which is taxed at 0%, of the first spouse or civil partner to die is transferable to the surviving spouse or civil partner for use on their death. Furthermore, there is now a Main Residence NRB of the value of the main residence up to a maximum of £175,000 for 2024/25, providing that the property passes to a direct descendant, children or grandchildren, biological, adopted or step. It is also transferable between spouses and civil partners. Form IHT205 for online use or IHT206 for postal deal with these simple cases. See Appendix B for a fuller example of how this works.

So you will mainly be concerned with checking that tax is paid on any assets in the estate generating taxable income. Most of this will probably just be savings and dividend income which will now be untaxed at source anyway, but there might be other untaxed sources like National Savings & Investments (NS & I) bonds or rental income. If the total of these is more than any allowances (see chapter 2 above), the executor will be responsible for making sure that any tax due is paid out of the estate. See under Probate in Appendix C for contact details.

### Taxation for the beneficiaries.

There seems to be a widespread belief that gifts and legacies are taxable on the recipients; this is very rarely the case. Just occasionally the recipients of gifts made during the deceased's lifetime might have to pay some tax on them if the death was within seven years of the gift, but this would assume that the donor had already made gifts of more than the nil rate band. Where there are legacies from the estate, any tax due will have been settled by the estate before distribution. Tax only arises when the recipients invest the legacy and receive a return. So if you are left £10,000 that is tax-free, buy shares with it or put it into a savings account, then you create taxable income and perhaps ultimately a capital gain from the shares.

Capital Gains Tax (CGT) is another Frequently Asked Question. Your aunt leaves you her house; no tax was due on that because her estate was below the IHT threshold. Nor is it taxable when you receive it, only potentially when you sell it or dispose of it. If you move into it, then it usually becomes your principal private residence (PPR). You have 9 months in which to sell your previous house to keep the exemption from CGT which a PPR attracts when you own and live in it. If you simply sell it straight away, there may be CGT due because you have an exempt band (£3,000 for 2024/25) on your total annual gains. The "cost" for CGT purposes is its value when your aunt died. If you sell it 6 months later the gain may not exceed your exempt amount (the gain is the net gain after deducting expenses such as estate agents' and solicitors' fees). If you keep it for a few years and let it out it will generate both income tax on the rental (you will need to tell HMRC when you start letting it out) and possibly CGT on selling it. When a UK residential property is sold and this results in a CGT liability, the disposal must be reported to HMRC (and the tax paid) within 60 days.

An important point for non-taxpaying beneficiaries; we said that the estate pays tax on its income while awaiting distribution. When you, the non-taxpayer, receive your share, you may be able to reclaim the tax paid or overpaid on your share of the income.

The LITRG website (see Appendix C) has some useful guidance for personal representatives handling the estate themselves.



# APPENDIX A.

## Income for tax purposes.

You need to be clear what income is of interest to HMRC and what is not. This is not necessarily the same as what would interest the benefits people or your local council. For example, if you win £100,000 on the lottery, then HMRC will pay no attention to that lump sum, and if you do not pay your full Council Tax bill, then it will be your local council and not HMRC that will want to review your payments, and it could also affect some of your benefits. So here is a list of the most common taxable income sources:

- ④ Earned income from employment or self-employment
- ④ Pensions, including state pension, foreign pensions and annuities (except war pensions)
- ④ Interest from savings accounts
- ④ Dividends from investments
- ④ Income from lettings
- ④ Taxable state benefits which include:
  - Jobseeker's allowance
  - Contribution based employment and support allowance
  - Carer's allowance
  - Bereavement allowance
  - Widowed parent's allowance
  - Income support (only if you are involved in a trade dispute)
  - Incapacity Benefit (unless short term lower rate or long term in payment since before 13 April 1995)

And here is a list of some non-taxable income sources:

- ④ Pension credit
- ④ Lottery or Premium Bonds wins (or any other gambling wins)
- ④ Winter fuel payments
- ④ Personal Independence Payments
- ④ Attendance Allowance
- ④ Means tested Employment Support Allowance
- ④ War pensions
- ④ Industrial Disability
- ④ ISAs
- ④ Some National Savings & Investment products
- ④ Bereavement support payment
- ④ Tax credits (although dealt with by HMRC they do not count as income for tax purposes)
- ④ Universal credit See <https://www.litrg.org.uk/tax-guides/tax-credits-and-benefits/state-benefits>

Remember, neither of these lists is exhaustive; if in doubt, contact HMRC or Tax Help for further information and help.

Capital in itself does not attract tax. It is only interest or income generated by that capital which is taxable. So if you put that £100,000 win on the lottery under the mattress, it is still no concern to HMRC, other than it would be an asset for Inheritance Tax purposes. However, as soon as you put those winnings into a savings account and start to earn interest, then that interest may be taxable.

### So, what makes someone a taxpayer?

Finding out if you are a taxpayer or not will depend on whether your taxable income is more than the personal tax-free allowances which you are entitled to. To check, add together all the sources of income you receive from the first list on the previous page and see if they are more or less than your Personal Allowance. If less, then you are a non-taxpayer; if more, then you will have some tax to pay.

The first step, therefore, is to know what your personal allowances are. For 2024/25 the Personal Allowance for anyone with an income under £100,000 a year is £12,570. This may be increased by additions such as Married Couple's Allowance or Blind Person's Allowance (see below), or perhaps decreased by transferring the Marriage Allowance to a spouse (again, see below), underpayments of tax from a previous year or taxable benefits such as medical insurance or use of a company car. Those with incomes over £100,000 a year start to lose their Personal Allowance at the rate of £1 for every £2 of income above this threshold.

There are two major allowances and one minor mentioned above which can affect your tax bill:

**Blind Person's Allowance** which is worth £3,070 in 2024/25, so someone who is registered blind (or in Scotland/ Northern Ireland is sufficiently without sight so as to prevent them doing work for which eyesight would normally be required, were they of working age) would have tax-free allowances against income of  $£12,570 + £3,070 = £15,640$ .

**Married Couple's Allowance.** This allowance is only available to married couples or civil partners where one of the two (does not matter which) was born before 6 April 1935. It is not an allowance against income, but is rather a tax reducer. In 2024/25 it is worth £11,080 but only given at 10%, i.e. it knocks up to £1,108 off the tax bill.

**Marriage Allowance** is available to spouses/civil partners born after 5 April 1935 (you cannot claim this as well as Married Couple's Allowance, only one or the other). This allows a transfer of 10% of the Personal Allowance between a non-taxpaying partner to a basic rate-paying partner. So in 2024/25 that is £1,260, given as a tax reduction so the tax saving is 20% of £1,260, i.e. £252. If claimed for the first time in 2024/25, it can also be claimed back to 2020/21. There can be complications with this, so you may well wish to check with HMRC or Tax Help to ensure compliance with the rules.

These allowances can be claimed retrospectively, so if you have just realised you are eligible, as the executor or personal representative you can claim them, going back 4 years.

Remember that establishing whether you are a taxpayer or not means you must calculate all of your taxable income which includes pensions, savings, investments, any work, etc. Importantly, add them up gross, i.e. before any tax is deducted at source. Since you are probably doing this for the person who has died, look back at chapter 1 for the sort of information which you will need.

## APPENDIX B.

### Example of how transfer of nil rate bands for Inheritance Tax works.

Inheritance Tax (IHT) is a tax that applies not to you but to your estate. The value of all the assets you own on the day after death is calculated, non-exempt gifts made in the previous seven years are included, and then debts such as mortgages are deducted to arrive at the value of your estate.

The first £325,000 is treated as taxable at 0% - the nil rate band (NRB) - and the rest is taxed at 40%. It is important to note that lifetime gifts, in excess of the various exemptions, made in the previous seven years are applied against the nil rate band first. The main exemption is an annual one of £3,000 which can be carried forward one year only; but there are some others relating to small gifts, regular gifts made out of income (not capital) that do not reduce your normal standard of living, and gifts to certain relatives on marriage. Gifts to charities, gifts for the national heritage and to certain political parties are also exempt.

If you gave away £200,000 three years before your death, that would absorb most of the current nil rate band, leaving only £125,000 to set against the value of assets you owned at death.

Where the value of gifts in the seven years up to the date of death exceeds the nil rate band, the rate of Inheritance Tax payable is tapered so that less tax is paid on any gifts made more than three years before death. After seven years gifts are excluded from the estate for IHT purposes:

Years between gift and death	Tax paid
Less than 3	40%
3 to 4	32%
4 to 5	24%
5 to 6	16%
6 to 7	8%
7 or more	0%

For most people their house is likely to be the main part of their estate and these days can push even low-income pensioners into the IHT bracket. Do not, however, worry too much about Inheritance Tax. In recent years only some 4% of estates have attracted the tax. Furthermore, there is now a Main Residence Nil Rate band (RNRB) of £175,000. This is available to both spouses or civil partners, provided that the house (or proceeds of sale on death) go to a direct descendant. Siblings, nephews, cousins, etc. are excluded from this benefit. It also applies to the value of the property at "downsizing", so you don't need to feel you must stay in the larger property for fear of losing the RNRB. Like the basic NRB, any unused portion is transferable between married couples and civil partners.

The rich can afford to pay advisers to help them mitigate or avoid this tax but for most people there are few ways of escaping it. The most frequently asked question is: 'Can I give my house to the children and continue to live in it?' The answer is 'Yes – but only if you pay a commercial rent'. Remember you may well pay more in rent than you save in Inheritance Tax, and, of course, your children will pay tax on the rental income.

A popular method to reduce IHT liabilities used to be spouses and civil partners becoming 'tenants in common' of their property. This means that each one owns half the property. On death, therefore, only half the house will be considered for IHT and it can be left in a will to whomever the owner chooses and in most cases the value will be beneath the threshold. A major drawback, however, is that the surviving spouse or partner only owns half the house



and the inheritor of the other half could force a sale. Professional advice from a solicitor or member of the Society of Trust and Estate Practitioners (STEP) is strongly recommended (see Appendix C for contact details).

There is now little benefit to this type of arrangement as a surviving spouse can now claim the unused part of the deceased partner's nil rate band and add it to their threshold at the rate in force at the time of second death. See the example below.

## Example.

### Claiming the unused part of the nil rate band

Mr A died in 2020/21 and left everything to Mrs A. She therefore acquired 100% of his nil rate band (currently £325,000). Thus on her death, her estate will have a nil rate band of twice the current rate. If she were to die this year 2024/25, her nil rate band would be 2 x £325,000, total £650,000.

Still using the nil rate band of £325,000. If Mr A had left £165,000 to his children, i.e. half his nil rate band, his widow would only be able to add his remaining half of the nil rate band in force at the time of her death. So on her death, her estate would only have 1.5 x £325,000 (£487,500) before Inheritance Tax would be due.

### Note

It is the unused *percentage* of the nil rate band at the time of the first death, which is carried forward and that percentage is applied to the rates in force at the time of second death.

## APPENDIX C.

### Useful contact details.

HMRC His Majesty's Revenue & Customs (excluding tax credits – see TCO below)

Web: [www.gov.uk/government/organisations/hm-revenue-customs](http://www.gov.uk/government/organisations/hm-revenue-customs)

Phone: 0300 200 3300

For SA & PAYE the postal address is: Self Assessment & PAYE, HMRC, BX9 1AS

Department for Work & Pensions (DWP)

has now moved to [www.gov.uk](http://www.gov.uk) or ask local Job Centre Plus

Low Incomes Tax Reform Group (LITRG)

[www.litrg.org.uk](http://www.litrg.org.uk)

Chartered Institute of Taxation (CIOT)

Web: [www.tax.org.uk](http://www.tax.org.uk)

Phone: 0207 340 0550

Postal address: 30 Monck Street, London SW1P 2AP

Association of Taxation Technicians (ATT)

Web: [www.att.org.uk](http://www.att.org.uk)

Phone: 0207 340 0551

Postal address: 30 Monck Street, London SW1P 2AP

Law Society of England & Wales

Web: [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

Phone: 0207 320 5650

Postal address: The Law Society's Hall, 113 Chancery Lane, London WC2A 1PL

Law Society of Scotland

Web: [www.lawscot.org.uk](http://www.lawscot.org.uk)

Phone: 0131 226 7411

Postal address: Atria One, 144 Morrison Street, Edinburgh EH3 8EX

Law Society of Northern Ireland

Web: [www.lawsoc-ni.org](http://www.lawsoc-ni.org)

Phone: 028 9023 1614 96

Postal Address: Victoria Street, Belfast BT1 3GN

Society of Trust & Estate Practitioners (STEP)

Web: [www.step.org](http://www.step.org)

Phone: 0203 752 3700

Postal address: Artillery House (South), 11 – 19 Artillery Row,  
London SW1P 1RT

Society of Later Life Advisers (SOLLA)

Whose members specialise in independent financial advice for older people.

Web: [www.societyoflaterlifeadvisers.co.uk](http://www.societyoflaterlifeadvisers.co.uk)

Phone: 0333 2020 454

Postal address: PO Box 590, Sittingbourne, Kent ME10 9EW

### Tax Credit Office (TCO, part of HMRC)

Web: <https://www.gov.uk/guidance/help-and-support-with-tax-credits>

Phone: 0345 300 3900

(Textphone 0345 300 3909)

Postal address: HMRC, Tax Credit Office, BX9 1ER

(to notify changes of circumstances)

### Age UK

[www.ageuk.org.uk](http://www.ageuk.org.uk) or your local AgeUK. See your local telephone directory.

### Citizens Advice

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk) will guide you to find a local CAB in England, Wales & Scotland.

For N Ireland go to [www.adviceni.net](http://www.adviceni.net). See local telephone directories under local businesses & services for your nearest bureau.

### Probate

[www.gov.uk](http://www.gov.uk) and search Probate.

HMRC helpline for Probate and Inheritance Tax

0300 123 1072





TaxAid is a charity registered in England & Wales (No. 1062852).

 0345 120 3779 (Monday to Friday 9am to 5pm)

 30 Monck Street, London, SW1P 2AP

 [admin@taxaid.org.uk](mailto:admin@taxaid.org.uk)

 [www.taxaid.org.uk](http://www.taxaid.org.uk)



Disclaimer: Whilst every effort has been made to ensure that the material in this document is accurate and up to date at the time of publication, we remind readers that you should check that information is accurate and up to date before making decisions affecting your financial situations.

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