

# Taking time to take stock pays off when planning for inheritance tax (IHT)

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As the end of the tax year approaches, it's a good time to make sure you're maximising your opportunities for [IHT](#) reliefs. This year, as well as taking advantage of exempt lifetime gifts and transfers, property owners should also look at how the new transferable residence nil rate band fits their profile.

## The Residential Property Nil Rate Band

Under the new rules, when a person leaves a residential property to direct descendants there will be an additional nil-rate band for IHT purposes – the transferable Residence Nil-Rate Band allowance ([RNRB](#)).

To qualify, the property must have been a residence of the taxpayer and be left to direct descendants, so that excludes brothers and sisters, nieces and nephews. It will include natural, adopted, step and foster children, grandchildren and remoter descendants. The spouse or civil partner of a living or dead direct descendant may also be the beneficiary, unless they have remarried.

The RNRB will be available from April 2017, in a phased introduction over the next four years, starting at £100,000 per person. This additional IHT nil-rate band for residential property will be on top of the £325,000 per person nil-rate band, which continues to apply to all assets in your estate, regardless of their nature and without restriction on who inherits the assets.

Like the existing nil-rate band, the RNRB will be transferable to a surviving spouse or civil partner, if unused on the death of the first to die, if the first to die owned the property or a share in it. A transferable RNRB will be available even where a spouse has died before April 2017 and in this case, the property does not have to have been held in joint names.

By 2020, the RNRB will be £175,000 per person, giving a potential total IHT nil-rate allowance of £500,000 for a single person or £1m for a couple who satisfy the criteria. These RNRB figures are maximum figures: if the value of your house, or your share in a house, is less, then that lesser value will be your RNRB.

The potential savings are significant – by 2020, the estate of a couple could see a saving of £140,000 in IHT where all the criteria are satisfied and the maximum RNRB allowance is utilised. So, in tax planning terms it's **high priority** and it is worth making sure your estate doesn't miss out on the allowance if you are a potential match on the criteria.

## What may not qualify for the allowance

The additional [residential property relief](#) will taper away once an estate is valued at £2m, and estates worth over £2.35m will not benefit, and neither will certain types of trusts. The treatment of trusts has been subject to review since the original announcement of RNRB, as it was not clear initially how they would be treated. Trusts are frequently used to protect assets, for example when children are young or otherwise not fully capable of handling their affairs, or to provide for a new spouse after re-marriage while still making sure assets pass to children of an earlier relationship.

It's now been clarified that the RNRB will be available where beneficiaries of a trust are direct descendants and the trusts provide an absolute right to benefit, or where a disabled person is the main beneficiary, but will not be available for so-called discretionary trusts. As the position is complex, anyone who has any form of trust in their will should make sure that it is still the best arrangement.

People will be allowed to sell a larger house and still retain the relief from IHT, as the government are keen to



encourage older owners to down-size to free up larger properties. Only one downsizing move may be considered, so if there are several downsizing moves between 8 July 2015 and the date of death the executors can choose which is to be used for RNRB. Downsizing can include disposing of part of a property, for example part of your garden.

However, to hold on to the relief after downsizing, the proceeds of the downsizing cannot be passed to a direct descendant during a person's lifetime, as the relief will not apply to reduce the tax payable on lifetime transfers that are chargeable on death within seven years of the gift. Again, this is rather complicated and requires specialist advice.

### Gifts and exemptions

More straightforward is the opportunity to mitigate IHT by making smaller gifts or out of surplus income.

[Everyone can make use of the £3,000 per annum annual exemption](#) which can be used to make gifts up to the total each year, and if the allowance is not used fully in any year, it can be carried forward one year.

On top of the annual exemption, the rules on small gifts allow individuals to gift up to £250 per recipient per year with no limit to the number of recipients. However, if you give more than £250 to any individual, you lose the exemption completely, even on the first £250. And you can't use your small gifts allowance together with any other exemption when giving to the same person.

Looking at these two allowances together, if you had three children, ten grandchildren and four godchildren, you could make gifts of £1,000 to each of your three children by using the annual exemption of £3,000 for all such gifts. Then you could give up to £250 per year to each of your grandchildren and godchildren using the small gift exemption. You cannot make an exempt small gift to your children as you have already used the annual exemption to make a gift to them. These allowances are automatic, but it's a good idea to log and track the gifts as it makes it easier for your executors and simplifies dealing with HMRC.

Another opportunity is relief on gifts made from surplus income, but the exemption for these gifts must be claimed by your executors after your death. Here, good record-keeping is vital, because to qualify as normal expenditure out of income it must:

- Be part of a regular pattern of giving.
- Taking one year with another, be made from income.
- After the gifts and other usual expenditure, you must be able to maintain your normal standard of living.

So, to make such payments, you need to record in writing that you intend to make the gifts regularly and then keep a record of income and outgoings so that your executors will be able to demonstrate that you had surplus income from which the payments were made. Examples of the sorts of payments range from regular monthly payments to a grandchild's savings account or payment of school fees through to regular gifts on special occasions.

Any other lifetime gifts you make, other than gifts into a trust, are known as [potentially exempt transfers](#) (PETs). A PET becomes an exempt gift if you survive the making of the gift by seven years. However, if you die within seven years of making the gift, the value must be brought into account when calculating IHT due from the estate. Tapering relief may be available on the tax attributable to PETS if you die more than three years after the gift, but only if the total value of the lifetime gifts made in the seven years before your death exceeds the nil rate band in force at your death.

**If you're concerned about IHT and hope to mitigate it through gifting, asset transfer or the new residential property allowances, it's important to check the position regularly. Getting it right, and reviewing any existing will, is key to making sure reliefs are maximised.**

Check list for the new IHT residential nil rate band:

- You have direct descendants and intend to leave your residential property to one or more of them on your death
- You have a total estate worth more than the current £325,000 IHT nil rate band per person threshold, but less than £2.35m overall
- You have downsized or sold your residential property, or intend to, where the sale took place after 8 July 2015 and you have retained the proceeds

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