

A CLIENT GUIDE: INHERITANCE TAX RESIDENCE NIL RATE BAND

WHAT IS THE RESIDENCE NIL RATE BAND?

Inheritance tax (IHT) is charged on your death at the rate of 40% based on the value of your assets. This 40% rate is only charged on any value exceeding the nil rate band. The nil rate band (£325,000 in the tax year 2016-17) is the amount which is chargeable to IHT at the rate of 0%. From 6 April 2017, an additional residence nil rate band (RNRB) applies so that less IHT may be paid when the family home is left to children, grandchildren and some other individuals.

The terms of your will can affect the ability to claim the RNRB. Therefore it is important to review your will now (or make one if you have not already done so) to make sure that your family can claim the RNRB when you or your spouse or civil partner die.

WILL MY ESTATE BENEFIT FROM THE RNRB?

The RNRB can be claimed on your estate if you die on or after 6 April 2017. Even if you die before then, your surviving spouse or civil partner may be able to carry forward RNRB to be used when they die.

Your estate will benefit from the RNRB, in addition to the main nil rate band, if you leave your interest in the family home to direct descendants such as children or grandchildren and some other individuals such as stepchildren or foster children as well as the spouses or civil partners of any of these ("qualifying beneficiaries"). The RNRB could help those who inherit your assets make an additional IHT saving by increasing the part of your estate that is taxed at 0% rather than 40%. Claiming the RNRB could enable an additional £100,000 to £350,000-worth of assets to pass to the next generation without a charge to IHT.

The RNRB can be claimed if all of the following apply to you:

- You die on or after 6 April 2017.
- You leave an estate valued at less than an upper limit, which is initially £2 million but is set to rise with inflation from 6 April 2021. The RNRB is tapered down for estates worth more than this.
- You leave your home to qualifying beneficiaries. Some trusts for these beneficiaries also qualify.

Even if you die before 6 April 2017, or you leave your home to your spouse or civil partner rather than children or grandchildren, the RNRB is not necessarily wasted as it can be carried forward (together with any unused main nil rate band) for the benefit of your surviving spouse or civil partner.

If your estate is worth more than £2 million you should still review your will and estate planning to see whether it is possible to arrange your affairs so that the RNRB can be claimed.

HOW MUCH IS THE RNRB WORTH?

The table below shows the RNRB levels that the government has announced (which can be added to the main nil rate band to increase the amount of assets in your estate that will be taxed at 0%). The combined nil rate bands could be worth as much as £1 million by 2021. These figures may change so it is important to check from time to time.

Tax year	RNRB	Main nil rate band	Combined nil rate bands for both spouses or civil partners
Before 2017-18	£100,000 (can be carried forward for surviving spouse or civil partner's use).	£325,000	£850,000
2017-18	£100,000	£325,000	£850,000
2018-19	£125,000	£325,000	£900,000
2019-20	£150,000	£325,000	£950,000
2020-21	£175,000	£325,000	£1,000,000

WHAT IF I SELL MY HOME?

The RNRB will still be available where you have sold your home and downsized to a less valuable property, or even if you no longer own a property, provided that you sold your home on or after 8 July 2015 and at least part of your estate is inherited by a qualifying beneficiary.

WHAT IF I MOVE OUT OF MY HOME?

The RNRB will apply if you own a property that is no longer your residence when you die (for example, because you have moved into a care home), provided that it was your residence at some time during your period of ownership.

WHAT IF I HAVE GIVEN MY HOME TO MY CHILDREN ALREADY?

Even if you have already given away your home to your children, if you still benefit from the property in some way without paying for it, for example, you continue to occupy it even though it has been given away or if you are co-occupying with your children after having transferred it to them, it may still be possible to claim the RNRB on your death. However, it is still advisable to review your will.

WHAT IF MY CHILDREN DO NOT WANT MY HOME AFTER I DIE?

It does not matter whether the qualifying beneficiaries who inherit your home want to keep it. The RNRB will still be available even if they sell your home immediately after your death.

WHAT IF I HAVE MORE THAN ONE HOME?

If you own more than one property that is (or has previously been) your residence when you die, your executors must choose which one will benefit from the RNRB.

WHAT SHOULD I DO NOW?

Review your will or make one

To ensure you maximise the tax-saving effect of the RNRB we strongly recommend that you review your will (or make a will if you don't have one). The conditions for claiming the RNRB are complicated and you should seek expert advice to ensure that your family can benefit from the enhanced nil rate band when you or your spouse or civil partner die.

If you would like your estate to benefit from the RNRB please contact the person you usually deal with at this firm or ask to speak to somebody who deals with wills and estate planning. It is particularly important to be aware that your existing will may need to be updated to make maximum use of this new tax-saving measure.

EXAMPLES OF COMMON SITUATIONS

Example 1:

Paul and Claudia want the survivor to have a life interest in their property

Paul and Claudia are married and jointly own their home. They have three adult children. Paul's will provide for Claudia to have a life interest in his half of the home after he dies and for his three children to inherit his half when Claudia dies. Claudia's will mirrors Paul's. If Paul dies before Claudia his estate will not benefit from the RNRB but Claudia's estate can carry forward his unused RNRB as well as using her own RNRB.

Example 2:

David and Caroline are not married

David is not married or in a civil partnership. He owns his home jointly with his partner Caroline who is a widow. Caroline has two adult children from her marriage. David cannot benefit from the RNRB because he does not have any children and has not adopted Caroline's children. Caroline could benefit from the RNRB if she leaves her interest in the family home to her children. If David and Caroline were married, David could use his RNRB because Caroline's children would be his stepchildren.

Example 3:

Douglas has sold his home

Douglas is a widower with two adult children. His wife died in 2014. He sold his home in August 2015 and now lives in a rented, warden-assisted flat. Even though he no longer owns a property, he can benefit from the RNRB if he leaves some of his estate to his children. He can also carry forward his wife's unused RNRB even though she died before 6 April 2017.

Example 4:

Margaret has given her home to her daughter

Margaret gifted her home to her daughter some time ago but continues to occupy the property without paying rent. The RNRB will be available if Margaret dies on or after 6 April 2017.

Example 5:

Eric and Enid have combined assets worth over £2 million

Eric and his wife Enid jointly own a property valued at £1 million. They have four adult children. Eric has investments worth £1 million. Enid also has investments worth £1 million. Eric's will provides for his entire estate to pass to Enid if he dies first. Enid's will mirrors Eric's. Eric will not be able to benefit from the RNRB when he dies because his estate will pass to his wife rather than his children. If Enid survives Eric and inherits his share of the property, and his investments, her estate is likely to be worth £3 million or more so that the RNRB cannot be claimed on her death. Eric and Enid should seek advice to see if their wills can be updated to avoid this "bunching" effect on the second death. For example, Eric and Enid could revise their wills so that part of the estate of the first to die is inherited by their children.



If you have any questions, please feel free to get in touch :-)

Ella Millett