



E-Update: April 2010

This month Robert Bradley takes at the tax cost of having no will.

Shocking statistics

It's estimated that up to two-thirds of the population haven't written a will. This estimate is arrived at from another more definite statistic: approximately 350,000 people die every year intestate, i.e not having a will. As a result, some of those estates will have paid more IHT than they needed to because of government rules that say who their estate should be given to.

The current "no will" rules

The so-called "rules of intestacy" give precise directions on how an estate should be divided. If you're married and have children when you die, the first £250,000 of your estate will go to your spouse, and half of what's left will be put into trust to be shared between the children. They'll be entitled to take any income that it produces. If you have no spouse or children, your estate will pass to other relations in a set order.

The current IHT rules

Everyone is allowed the first part of their estate tax-free. Actually, to be precise, it's taxable at 0% and is called the "nil rate band" (NRB). It's currently set at £325,000 and since October 2007 every married couple has been able to transfer their NRB to their spouse if it was not used on their estate. Inter-spousal gifts both during life and on death are exempt from IHT but without a will more of the estate is likely to be chargeable to IHT.

Action points

Make a will and aim to maximise the use of the spousal exemption and your NRB. If your spouse won't need all your estate, you can give some of your wealth away to others to use up your NRB. Even though it's transferable to your spouse, using it on your death will guarantee that it doesn't go to waste when they die.

As well as a spousal exemption, there's another that's often overlooked, but you'll be able to make use of it if you write a will. If you have children under the age of 18, or over if in full-time education, you can make an IHT-exempt gift to them for their maintenance. That could be for the provision of school fees for as long as they're needed, and for their general upkeep. This IHT exemption is unlimited in value.

In Summary

You should make a will if you haven't already done so. If you die without one, your estate will be divided up according to rules set down by the government. These might mean that tax exemptions e.g. gifts to your spouse and the maintenance of your children won't be used tax efficiently and your estate could pay more IHT as a result.

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