

Gebbie & Wilson Newsletter

MAY 2008

INHERITANCE TAX

NEW RULES ON TRANSFERABLE NIL RATE BANDS

A transferable nil rate band arises when one party to a marriage or civil partnership dies and the amount of their estate that is chargeable to Inheritance Tax (IHT) does not use up all of the nil rate band they are entitled to. Where this happens, the unused part can now be transferred to the surviving spouse or civil partner when they die

Everyone is entitled to a nil rate band for IHT. Assets that pass from one spouse or civil partner to another are exempt from IHT. So if on death, someone leaves everything they own to their spouse or civil partner, it is exempt from IHT and they have not used any part of their nil rate band. That unused nil rate band can now be transferred to their surviving spouse or civil partner and used in working out the IHT liability on their estate when they die.

The nil rate band is currently **£312,000**.

You must have still been married to your husband/wife when he/she died to be able to transfer their unused proportion of their nil rate band at their death.

How does it work?

It works by looking at the proportion of the nil rate band which was unused when your spouse or civil partner died and uprating the nil rate band available when you die by that same proportion.

The amount to be transferred is worked out by taking the proportion of the nil rate band that was unused on the first death and applying that to the nil rate band available when you die. So, if your spouse or civil partner left assets worth £150,000 to your children with everything else to you and the nil rate band on the first death was £300,000, one-half of their nil rate band is unused and is available for transfer. If, when you die, the nil rate band had increased to £325,000, the amount available for transfer would be 50% of £325,000 or £162,500 giving your estate a nil rate band of £325,000 + £162,500 or £487,500 in total

Does the size of the estate matter?

It doesn't matter what the size of the first estate was, whatever proportion of the nil rate band is unused may be transferred to you. If your spouse or civil partner's estate was worth only £100,000 and they left everything to you, they will not have used any part of their nil rate band. So 100% of the nil rate band is available for transfer when you die. However, gifts and other assets that are chargeable on the first death (e.g. certain lifetime gifts, assets in trust or assets owned jointly with a son or daughter), all eat into the nil rate band in the normal way and so reduce the amount that may be available for transfer.

This is a brief overview of the main provisions of the transferable nil rate band. If you would like further information or how this would apply to a particular case please contact us.