TEN TOP TIPS FOR INHERITANCE TAX PLANNING

None of this planning is in any way controversial and is prudent estate planning taking advantage of statutory exemptions, allowances and reliefs.

1) Wills

Perhaps you already have a will; perhaps you do not. Our advice to clients is to make sure that they have a will in place and ensure that they keep their wills continually under review.

This is to ensure the will reflects your current wishes, takes into account your family's particular circumstances (which naturally will change over time) and continues to be tax efficient.

There have been several important changes to the inheritance tax rules in recent years:

The Residence nil-rate band

The introduction of the new residence nil-rate band (RNRB) from 6 April 2017 offers the opportunity for individuals to pass £100,000 (rising to £175,000 from 6 April 2020) to children and descendants free of tax provided certain conditions are met.

This represents a tax saving of £80,000 (rising to £140,000 from 6 April 2020) per married couple and so it is important to ensure that the relief is captured where circumstances allow.

The Transferable Nil Rate Band

The introduction of the transferrable nil rate band enables the nil rate band (currently £325,000) to be transferred to a surviving spouse.

Previously, nil rate bands were not transferrable and so it was important to "use it or lose it".

This often involved incorporating a legacy of the nil rate band on discretionary trust in wills, however, the introduction of the transferrable nil rate band has rendered this kind of planning unnecessary and often expensive as there is a cost to administering a trust.

It is therefore important to review your wills in light of the above and consider whether these need to be updated.

2) Lasting powers of attorney

Thanks to advances in healthcare and improvements in standards of living, we are all living longer, which is a fantastic thing.

However, the sad reality is that the Alzheimer's Society calculates currently one in six people over the age of 80 (or 850,000 people) have dementia, and predicts this number is set to soar in coming years.

Those are stark statistics and push us to consider what would happen if the worst were indeed to happen to us?

If an individual loses capacity, their bank accounts are effectively frozen and it would be necessary for a close relative (such a spouse or child) to make an application to the court for an order to access those accounts in order to pay bills and day to day living expenses.

Getting court orders can be time consuming and expensive. So what can be done on a practical level to prepare for this?

We recommend that our clients put in place lasting powers of attorney (LPAs), one for property and financial affairs and one for health and welfare, as soon as possible.

LPAs are legal documents whereby the ‘donor’ appoints one or more people (known as ‘attorneys’) to make decisions on the donor’s behalf.

Lasting power of attorney: property and financial affairs

The LPA for property and financial affairs gives your attorney(s) powers to take action on your behalf and for your benefit in relation to your property and finances including buying and selling investments, accessing your bank accounts and buying and selling property.

The attorneys appointed under an LPA for property and financial affairs can act as soon as they are appointed, provided they are acting with the consent of the donor.

This can be useful in situations where a particular document requires an urgent signature, but the donor is overseas on holiday, for example.

Lasting power of attorney: health and welfare

The health and welfare LPA gives your attorney(s) authority to make decisions about your healthcare and medical treatment, including where you live and day-to-day decisions about your personal welfare.

The attorneys appointed under an LPA for health and welfare can act only once the donor has lost capacity.

Putting LPAs in place can be of great comfort because it allows the donor to select the most appropriate people to make decisions for them if they have an accident or an illness and cannot make their own decisions because they lack mental capacity.

3) Provision for yourself

It is important to make sure that financial planning takes into consideration all aspects of a person's wealth and what the person intends to use certain pots of money for.

A pot of cash

It is always helpful to have an emergency pot of cash set aside for a "rainy day".

Having ready access to liquid cash is extremely helpful in the immediate term for both your executors, who will have to settle bills and funeral expenses shortly after your death, and your spouse and children, who may require cash rather than assets that are tied up and not immediately accessible.

Care home fees

As we are all living longer, the reality is that many of us will require care at the end of our lives and supported housing.

Care homes can be expensive and so it is important to factor in this cost and consider what early planning might be done to prepare for it.

4) Pensions

The pension regime has undergone significant reform over the last few years.

On your death, any remaining pension pot can be passed to one's heirs free of IHT with the funds then being drawn as income and taxed as the beneficiaries' income.

Clients may therefore wish to consider maximising their pension contributions. Under current rules, up to £40,000 may be contributed to a personal pension annually, free of tax.

This annual allowance is reduced by £1 for every £2 of adjusted income in excess of £150,000 for additional rate taxpayers (subject to a minimum contribution of £10,000).

To the extent that this annual limit has not been used in previous tax years, such unused portion can be rolled up (for a maximum of the three previous tax years) and contributed now.

It is important to review any current pension arrangements and ensure that your pensions are structured sensibly.

5) Lifetime gifting and planning opportunities

It may be worth considering your wider family. You might have grown-up children and grandchildren who need to fund university and school fees, or are having a tough time getting themselves onto the property ladder.

It certainly makes sense from an IHT perspective to make gifts during your lifetime so the gifts are classed as potentially exempt transfers, and potentially free of IHT, provided you survive the gifts by seven years.

Lifetime gifts also help to reduce the overall estate so that ultimately the estate is smaller on death and therefore there is less IHT to pay.

Provided you survive any lifetime gifts by seven years, such gifts will fall out of account for IHT purposes.

However, if you do die within that seven year period, the value of the gift is treated as forming part of their estate on death and IHT could become payable on the gift.

Fortunately, once one survives a gift by more than three years, the IHT liability in respect of the gift reduces by 20 per cent a year, down to 0 per cent after seven years, when the gift falls out of account.

Where assisting with a property purchase, an additional benefit of a gift as opposed to purchasing the property in your clients' name, is that the purchase will not be subject to the higher rate of Stamp Duty Land Tax on additional properties, assuming that they already own a property of their own.

An alternative approach might be to lend the funds required to purchase the property, rather than gifting cash outright.

This approach allows for greater asset protection because it means that only the growth in value, rather than the capital value, will be exposed in the context of any financial or marital difficulties.

The value of the loan will remain in the client's estate for IHT purposes, but there is the flexibility to decide to write off the loan (in full or part) at some point in the future.

The forgiving of the loan would be a lifetime gift and, as explained above, provided the client survives any gifts by seven years, there will be no IHT to pay.

6) Allowances and reliefs

There are some useful allowances and reliefs available, so it is important to make use of them where circumstances allow.

Perhaps the most important one to consider is the 'spouse exemption' which allows everything to pass to a surviving spouse (or civil partner) free of tax on the first death.

This ensures that there is no tax to pay on the first death and also allows the surviving spouse the opportunity to explore what they can do themselves in terms of lifetime planning after the death of their spouse.

It certainly makes sense from an IHT perspective to make gifts during your lifetime.

Importantly, the base cost of assets left to your spouse will be uplifted for capital gains tax (CGT) purposes, so can be gifted to children without triggering CGT.

Another very useful exemption is the gifts out of excess income exemption. Provided the gift is made as part of a regular pattern of giving and is funded from actual income (and not, for example, any capital assets) which exceed your own requirements, there is no limit to the amount which can be gifted, free of IHT.

In addition to this, there is the annual exemption which allows each individual to give away £3,000 each tax year.

It is possible to carry forward one year's unused allowance to the next so that a total gift of up to £6,000 may be given in one year.

7) Life insurance

Life insurance products can be a useful way of planning for any IHT exposure and, depending on your clients' age and personal circumstances, can be relatively cheap and easy to put in place.

Provided the product is structured tax efficiently - for example, the benefits are assigned into trust rather than being paid to the taxable estate of the insured - this can be a helpful way of ensuring there are sufficient liquid funds available to cover any IHT exposure.

If you already have life insurance, it is important to review your policies to check whether these are structured tax-efficiently.

It is also important to review your personal circumstances and the current level of cover to ensure that there is adequate cover.

8) Charitable giving

If you are philanthropically-minded, it is important to note that any gifts to charity are IHT-free.

In addition to this, the rate of IHT applied to estates on death is reduced where at least 10 per cent of the estate is left to charity. In such cases, the rate of IHT applied reduces from 40 per cent to 36 per cent.

9) Tell the family what your wishes are

It is important for you to let those close to you know what your wishes are. Such as: What are your funeral wishes? Would you prefer a religious service? Do you want to be buried or cremated?

You should also think about your chattels, and to whom you might wish to leave any special items.

10) Business assets and business succession

For those who own and run their own business, it is good practice to consider what will happen to the business after they are no longer around.

Questions to consider include: Have you considered what your succession plan for the business is? Have you planned your retirement? Will family be involved?

You will also need to consider the IHT treatment of your interest in the business. The good news is that business assets can qualify for relief from IHT, but you will need to be thinking about what needs to be done in order to maximise the availability of this relief.

Depending on the circumstances, it may be sensible to settle the assets into trust while they qualify for the relief.

This allows assets to pass into trust without an immediate IHT charge and, following a future sale of the sales, the trustees will hold, invest and manage the proceeds of the Trust's shareholding for the benefit of the trust beneficiaries (which might include children and grandchildren).

The rules are strict: in order to qualify for relief, there must be a trading business (rather than investments).

There is also an ownership requirement for the relief to apply at all.

The general rule is that the assets must have been owned by the individual making the transfer to trust for at least two years before the transfer. If this minimum ownership requirement is not met, the relief will not be available.

Information is current as at 26 February 2018.