MW McEwanWallace By your side

SHOULD YOU PASS ON WEALTH NOW TO AVOID INHERITANCE TAX?

Many wealthy individuals are apparently passing on substantial amounts of their wealth in anticipation of possible changes to inheritance tax (IHT) in Labour's first Budget on 30 October. This allegedly includes a number of high-profile individuals such as TV presenter Anne Robinson who confirmed that she had passed on £50 million to her children and grandchildren. Should you consider doing the same?

Firstly, you need to check with us the value of your estate and potential IHT exposure under the current rules. Currently each individual receives a nil rate band of £325,000 and potentially up to a further £175,000 against the value of the family home, provided it, or assets to its value, is left to direct descendants on death. This additional £175,000 allowance is referred to as the residence nil rate band (RNRB).

There is currently an unlimited exemption where assets are transferred during lifetime or on death to the surviving spouse or civil partner. If the deceased spouse's nil rate bands are unused then they are available to the survivor, potentially increasing the tax-free amount on the death of the second spouse to £1 million. Unfortunately, it's not quite that simple as where the estate exceeds £2 million the RNRB is reduced by £1 for every £2 that the estate exceeds £2 million. Consequently, for wealthy couples the RNRB reduces to nil where the value of the estate exceeds £2.7 million leaving just the combined nil rate bands of £650,000. Note that the current rate of IHT on the death estate is 40% once the nil rate band has been used.

There is currently 100% relief from IHT where business and farming assets are transferred during lifetime and on death and it is hoped that these reliefs will continue so that survivors do not need to sell off assets to pay the tax. However, those generous reliefs may not continue under the new government.

Transfers during lifetime

Under the current rules there is no IHT payable where the donor survives for at least 7 years following the date that assets are transferred. Such transfers are referred to as potentially exempt transfers (PETs) and IHT is payable should the donor die within 7 years. Note that the transfer needs to be an outright gift with no continued use or enjoyment of the asset by the donor. Hence giving away the family home but continuing to live there will generally be ineffective unless other conditions, such as paying market rent, are satisfied.

There may also be capital gains tax (CGT) consequences of a lifetime gift, although it may be possible to hold over the gain so that no CGT is payable on the increase in value from when the asset was acquired. Holdover relief is currently available in the case of business assets and on transfers of assets into trust.

Please get in touch with us if you have concerns about IHT and want to consider taking action before Budget Day.