

2008 Edition 2.1 – post Budget review

Substantial extra information for clients with large potential Tax Bills
– IHT, CGT, Stamp Duty

Inheritance Tax Saving Secrets for Homeowners

(and their children or other beneficiaries!)

England and Wales

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Author: Stephen Pett and the staff of Allied Professional Will Writers Ltd.

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Clientline: 0845 166 8873

www.apww.co.uk e-mail: info@apww.co.uk

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Foreword

by Ron G Holland, a man who has created almost as many millionaires as Bill Gates!

I have devoted my life to helping people fulfil their potential, and very often that has been the potential to build wealth through establishing and growing a thriving business.

Since I met Steve, I have further reflected on the reasons why we all strive to achieve our true potential. They are many and varied, but the two most common underlying reasons are:

- self-fulfilment – we are determined to do the best we possibly can and
- to benefit our families and others

Too often I have seen the dream fulfilled, only for the plug to be pulled by the Grim Reaper or one of his non-fatal henchmen, draining away a lifetime's achievement faster than you would believe possible, with families and employees alike suffering and all of the hard work in building up wasted. Businesses routinely make contingency plans or they would fail much sooner. We should all be doing the same.

So I urge you to read an act on the information in this Manual and take advice to underpin and preserve what you have achieved for yourself and your family. Life and death are a matter of chance and chances taken. Optimise yours for your own sake and that of your family!

Ron G Holland

www.TopBizGuru.co.uk

Welcome!

First, a brief note on Alistair Darlings 2007 Pre- Budget Review – which will not become Law until the second half of 2008.

The Pre-Budget Review on October 9th 2007 introduced transferability between husband and wife and between legally registered partners, so if the first partner to die does not use the full Nil Rate Band Tax allowance, the rest of it is available on the death of the surviving partner provided the correct hoops have been jumped through and the relevant records kept.

This was pretty much a political gimmick to stop the Conservatives stealing all the headlines with their campaign to abolish IHT (which will be promptly forgotten once they get in to power and realise just how short of income Gordon Brown is!)

Effectively, readers of earlier editions of this book will realise, Mr Darling gave very little away, as any family with sufficient assets to pay IHT and a decent set of advisers would already have put in place special Wills to ensure that both Nil Rate Bands were fully used. Such plans will now need review, but it is difficult to second guess what the legislation will actually say by the time it becomes Law over half way through 2008, as Mr Darling made it clear that some aspects would be retrospective to 9th October 2007 and beyond. Even the Taxman is sitting on the fence until he sees the final legislation.

One of the very biggest problems with the new transferable allowance is that it does not work fully ***unless each of the couple have written a Last Will and Testament essentially leaving everything to each other, which will then potentially be neatly caught by the Community Care Tax.*** This means that wise and ongoing Legal Advice is even more important than ever. **Not** having Wills will also normally prevent the effective transfer of the full allowance, as well as creating a potentially disastrous situation for any surviving spouse or partner.

Mr Darling is secretly determined that any small amounts of tax lost by this measure will be more than recouped by increased vigilance and scrutiny of IHT returns by the Taxman, which will lead to greater needs for the security provided to family executors by professional advisers. When appointing these it is crucial that you realise you are making a choice which could affect your family significantly starting in on your death and then continuing for as much as 80 years, if you decide to create a Family Trust. With some professional firms charging fees over two and a half times other equally competent firms, it is vital that your family retain the right to get rid of incompetent or ridiculously expensive advisers. Before appointing one, make sure you get, in writing, a guarantee similar to that offered by the [SWW Trust Corporation](#) which promises to stand down charging only for time spent if the beneficiaries do not wish them to act. Be warned that some banks and solicitors will only stand down after their FULL fee has been paid, even though they have done no work. That is not ethical. SWW Trust Corporation are not generalists, they specialise in Trust and Probate work.

I do hope you find these tips a useful starting point - please bear in mind that you will need personal advice before implementing them: they are by necessity a gross over simplification of a very complicated tax system, which is changing almost every day. These ideas should be discussed with your Financial Adviser, who will most likely work with us to implement appropriate measures agreed with you.

We are by profession Will Writers and Estate Planners, working in association with experienced financial advisers and other professionals. If you wish to take ACTION, our instruction form is at the end of this document (together with some information on our services) for you to print off, complete and fax or FREEPOST to us. If the form is past its' "sell by" date, please call us to check that the fees are still current, on 0845 166 8873 or download the latest form from <http://www.apww.co.uk>

If you need FINANCIAL ADVICE please contact the financial adviser who paid for this ebook, if none contact us and we will find you one.

You will appreciate that we cannot answer individual questions except where clients have completed our Instruction Form and sent it in with the appropriate fee, though you can short circuit this by calling our admin staff during office hours with your debit or credit card to hand, or by faxing the instruction form through.

If you are a millionaire, you may wish to take advantage of our full tax planning service (which covers the full range of issues – in conjunction with your Financial Adviser - rather than just Will): a brief outline of your situation and concerns can be sent in via the sponsor: there is no fee for the initial enquiry: fees will be agreed before proceeding.

Steve Pett

Managing Director

Allied Professional Will Writers Ltd www.APWW.co.uk

Will Custodian Ltd www.WillCustodian.co.uk

Director: **SWW Trust Corporation** www.SWWTrust.co.uk

About the author:

Stephen Pett was an Independent Financial Adviser for more years than he cares to remember, and began the transition to his current business in the early 1990's. He writes extensively on financial and legal matters and is a Regional Director of the Society of Will Writers & Estate Planning Practitioners and a shareholder in the SWW Trust Corporation.

Several STEP Members are associated with his practice, two of whom are very senior figures in the Will Writing world – but he insists that any error in this book is his!

IMPORTANT NOTE: CIVIL PARTNERSHIPS – these are treated the same as married couples, so the terms are interchangeable in this book – spouse = legally married partner or civilly registered partner. This is not ALWAYS an advantage!

Is Inheritance Tax (IHT) REALLY the major issue?

For many people, the answer will be **NO!**

It is quite trendy to have an IHT problem, but many who do have one don't recognise it, and many who do have a significant IHT liability are actually in far greater danger from elsewhere.

Do I have an IHT Problem?

If your assets are, or could become, substantially in excess of £300,000, whether you are single or married – YES, at least potentially.

If your assets are less than that, but you have significant life insurance (often even if it is in trust – 99% of the time the ultimate recipient is the spouse, not the children, so no IHT is saved – it just swells the Chancellors take on the second death, unless it gets spent first), death in service benefit, pensions or your parents are still alive and likely to leave you a significant inheritance – YES.

If you are younger, own your own home, and your assets are growing, you will have an IHT problem in future, certainly if you take out any significant life insurance, and it is cheaper to plan in advance to reduce the impact of IHT.

Your notes:

What is the approximate value of home, other assets, pension fund, life insurance etc? £

Do you have an IHT problem? NO / YES / FUTURE

Do you know anyone else who might benefit from being emailed a copy of this book?

(Feel free to do so – the book may be forwarded but may not be copied or amended – though suggestions for improvements are welcome).

Our joint assets are around £450,000. Is that an IHT problem?

If you are married and initially leave everything to each other, on the second death tax, provided the necessary records have been kept would be, no. However, if the first to die does **NOT have a Will**, the Rules of Intestacy would decide how the estate was to be distributed, and the probability is that needless IHT would have to be paid on the second death. The Will can be a pretty basic one – no clever tricks or special Trusts needed. For unmarried people, IHT kicks in immediately over £300,000, so the bill will be at least £60,000.

HOWEVER: *What if one of you needed Care under the Community Care Act?*

Then it is quite possible that a substantial proportion of your assets could be eaten up paying Care Fees, leaving little or nothing for your family to inherit. Even home visit carers can cost an arm and a leg, never mind 24 hour nursing care which will leave little or no change out of £50,000 a year in a care home, and probably more if you stay at home. I don't know about you, but I would hate to be put into a care home and to have my life controlled by the managements routines, however well intentioned. Hourly rates charge out rates for simple care provided by Local Authorities can exceed £27 an hour.

In theory, the Local Council pick up the tab for the Nursing element of the Care Home Fees, though this is typically very small, and in theory they will fund your fees within the maximum they will pay if you have insufficient assets. However, they will expect you to pretty much exhaust your savings before they start paying a significant amount (they are more generous in Scotland), and then they may put a debt charge on your home. This enables them to recover their costs when your home is sold. Over 70,000 homes are sold each year to pay off debts to Local Authorities as care fees can be more than £1,000 a week – not many people have a net pension income high enough to cover that!

Generally you are quite safe if a protected relative is living in the home – spouse, school age child etc – but if not, or if they move out, the home could be lost to pay back the Council for Care fees.

It may be that Asset Protection is really a greater priority than saving IHT; we may have at least a partial solution for you, provided it is carried out several years in advance of any expectation of need. However, should Alzheimer's, or some other progressive disorder have been diagnosed already, it is probably too late to implement the plan, but you could warn others so they get the chance to protect at their family's inheritance – perhaps by forwarding this ebook.

To take action on Protective Property Trusts (or basic Wills) complete the Will Instruction Form at the end of the book.

Your Financial Adviser will also be able to help you plan your finances to better withstand the onslaught of Care Home bills.

Your notes:

Are Care Fees an issue? YES / NO / IHT is of greater concern / At least basic Wills in place

If you have friends or relatives who are getting towards the stage that domestic care will be needed within a year or so, we strongly suggest you contact **Grace Consulting** (grace@APWW.co.uk) who can provide expert advice and support, both in keeping people at home, or in choosing a DECENT

Care Home – their modest fees should be recovered many times over if you call them in early enough.

Are your affairs in apple pie order – will your Executor have an easy time, or will he/ she be unable to find key documents? Do you have an organised record keeping system? Would you like to give the family executors the option of receiving economical professional assistance? We can provide a free Codicil that allows that, and even a home visit to pre-sort your affairs!

Inheritance Tax Saving Tips

There are many legitimate ways to minimise Inheritance Tax: the following are mainly specific exemptions available to anyone who can afford to take advantage of them and planning devices which may be of use (with advice) where circumstances are appropriate.

Bear in mind that pounds sterling are just a measure of the value transferred (given) and any item given will have a value: sometimes this value can be greater than the value of the item given – for example, giving one of a pair of valuable vases away deprives your estate of more value than the intrinsic value of a single vase, as the pair would typically be worth much more! Trying to be a little TOO clever can bring about unforeseen consequences – like an in depth tax investigation followed by a large lifetime tax bill and penalties!

1. All gifts to your spouse (legal husband/wife/civil partner) are exempt

provided **he/she is UK domiciled** (broadly this means that the UK is definitely your home country and no other country might be considered to be – you initially have the domicile of your father, and it is not easy to change)– if **not** then the most they can receive tax-free is **just the Nil Rate Band plus £55,000** on death, and or £55,000 every 7 complete years. The biggest planning tip here is to work very hard to remove any doubt that a new UK domicile has been established. This is far from easy and one slip can destroy years of hard work. IHT rules are the same throughout the UK, but Wills and the Rules of Intestacy (what happens if you do not leave a valid will) are very different.

Domicile is a complex area that may require specialist advice. The Revenue Helpline is 0845 302 0900 should you need it, but if you or your father were born in any foreign country including Eire, you need to investigate domicile further as you may be subject to inheritance rules other than those of the England and Wales, or be treated as non-domiciled for IHT purposes. <http://www.hmrc.gov.uk/cto/customerguide/page20.htm> - we are not experts on domicile.

I have yet to hear of a series of tax driven divorces, marriages then further divorces in a family to spread assets around but I guess it would be very effective! I wonder if the Taxman would require proof of consummation to ensure the marriages were not called into question as shams? Perhaps better not try that one.

Your notes:

Any issues? YES / NO

2. Everyone is allowed to give away up to £3,000 in value in any tax year

– this could be 10 gifts of £300 or just one of £3,000. You can even give last years allowance away (if unused) this year (once you have used this years). For a couple, that is £6,000, which can be given away, **every** year. It is interesting to note that the amount of £3,000 has remained static since 1981/82. Your Financial Adviser will be able to advise you as to how these relatively minor gifts can be made more beneficial – you could easily secure the future for a couple of grandchildren.

Your notes:

Should you be planning to use this exemption, in an organised, regular way?

Whom should you benefit?

3. When is a gift made? **WARNING!!**

As far as the Taxman is concerned, if you write out a cheque on 1st April, and the person you are giving it to banks it on 5th April (the last day of the tax year), and it clears on 10th April, the gift is not made until 10th April and one years allowance could be lost.

Your notes:

4. You can give as many gifts of up to £250

(or less) as you like, each to different people, provided the recipient has not had any other benefit (e.g. a share of the £3,000). Someone worth £250 million could give away £250 to a million people free of tax. But those who had a legitimate interest in their estate might question their sanity! If you give someone a benefit worth £250.01, that will come out of the £3,000 allowance above or become a Potentially Exempt Transfer (PET (SEE SECTION 9)). On its own, £250 is not a lot, but saved up and turned into a capital sum via a savings plan in the child's name, your financial adviser could make it much more worth while – and possibly self-completing if you should die early.

Your notes:

Should you be planning to use this exemption, in an organised, regular way?

Whom should you benefit?

5. One of the biggest exemptions

for those with high incomes (or business owners who can manipulate their own incomes) is the **normal expenditure out of income rule**. Say you have a net income of £1,000,000 a year, but you habitually spend only £500,000 a year (I could live on that!), then you can give away £500,000 a year. J K Rowling bumbles along on about £2 million a week, so if she pulled her horns in, she could give away over £50 million a year **but only** if the economical lifestyle was (or became provably) **normal** for her. You cannot spend it all one year, then go all economical and expect to get away with it – it is called the **normal** expenditure rule for a good reason. Gifts must not reduce your established, normal standard of living: the Revenue may well require proof if they feel you have been pushing your luck! Once again, your financial adviser can help turn a series of relatively modest payments into a substantial sum over a period.

A classic use of this exemption is using a regular premium pension or insurance to benefit someone else – the regular contributions help establish the pattern as being gifts out of normal income. Pensions, unit trusts, saving plans, sometimes Whole Life policies to create inheritances or provide funds for paying IHT.

It would be wise to keep very careful records if you want to use this exemption to anything like its full potential, not only for the year the gifts are made in but several years before and after to ensure the pattern can be proved. However, it is perfectly acceptable to make a resolution to establish a pattern from now on, perhaps by assuming payments for a loan, or establishing a sensible, regular pattern of giving, provided you live long enough for regularity to be established (but a specific written declaration of intention would certainly help). Your Financial Plan would be an ideal place to do this.

Income means what it says, gifts necessitating withdrawals of capital (remember, it is **gifts out of normal income**) will not work and care should be taken to treat withdrawals from investments such as bonds as capital. **REGULARITY** is an essential character of any payment under this rule to avoid it being treated as an excessive gift under section 2 or 4 above (and thus become a potentially exempt transfer.)

Your notes:

Should you be planning to use this exemption, in an organised, regular way?

Whom should you benefit?

Are you keeping adequate records if you intend to use this exemption now or in the future?

6. Payments of maintenance or support

for ex-spouses, children or stepchildren under 18 or in full time education, or other relatives who are dependent on you are exempt. No doubt the Revenue would add the word "reasonable" – nevertheless, this could be a very useful way of helping less well off relatives, at least partially at the Taxman's expense (HMRC are effectively subsidising the gifts by 40% if you are in the IHT band despite your best planning efforts.) This is actually rather more useful than at first appears: where the receiving spouse/ civil partner is not UK domiciled, gifts exceeding £55,000 in a 7 year period would normally incur lifetime IHT, but if they are for *reasonable* maintenance and support, they may well be exempted under this rule. The moral is, if you have an IHT problem, be sensibly generous here!

It is also a great way of transferring funds to *responsible* children.

Your notes:

Should you be planning to use this exemption more?

Whom should you benefit?

7. Gifts to UK Registered Charities

and qualifying political parties, registered housing associations, universities, national museums, the National Trust etc. This can be a bit more interesting than it sounds – some people establish their own Charitable Foundations – a useful personalised way of making a difference suitable for the seriously wealthy. Some even further fund the Foundation with a large life policy.

Such gifts are an excellent way of reducing your estate for tax purposes before or after death, as gifts in both cases will be free of Inheritance Tax. HOWEVER a couple of serious points arise:

A) If you make a lifetime gift to a charity that has an ongoing Gift Aid arrangement with you and the Taxman, the Charity will automatically reclaim basic rate income tax from the Taxman. Any excess over the amount of basic rate tax you have actually paid in the tax year will be recovered from you, so a £100,000 gift, given at the wrong time, could land you with a bill of £22,000. **Beware!**

B) A gift to a registered charity in your Will is exempt from tax, so unless you make arrangements to the contrary, the charity will receive a gift based on the GROSS estate before tax, which will reduce gifts to others who will get only a share of the NET estate. This is an issue where gifts are left (very sensibly) in percentages. Charities are keen to maximise their share, so make sure your Will is clear.

C) Gift Aid can enable the Charity to reclaim basic rate tax, so if you give them £80, they actually receive £100 – so make sure you tick the box! If you are giving this from an estate liable to IHT, the net cost to your beneficiaries is just £48 – and it gets even better for higher rate taxpayers who can reclaim tax relief of 20% giving a true net cost of just £28 – a fabulous result! The moral is that giving in your Will is great, but giving while you are still a taxpayer is even better! Some organisations – like www.cafonline.org allow you to make regular gifts to a designated Charity account, and then send cheques out to your chosen charities when you wish to.

D) Payroll Giving can be a great way of getting your employer to help local charities – check out <http://www.HMRC.gov.uk/payrollgiving/employers/why.htm> Charities benefit from increased administrative ease, no tax to reclaim, and 40% taxpayers effectively get their relief immediately rather than having to claim it.

<http://www.charitiestrust.org> 0151 284 2822 Jason Doherty info@charitiestrust.org and <http://www.cafonline.org> 01732 520 018 giveasyouearn@cafonline.org

E) Get registered as a Charity so you can benefit (School Funds are an obvious example, and most probably should be registered – though not all of their activities count as charitable) see <http://www.charity-commission.gov.uk/registration/> - you may even be able to piggy back with another Charity to reduce costs and administration. HMRC Charities Benefit 0845 302 0203

Confederation of Parent Teacher Associations - 01732 375460 info@ncpta.org.uk - they are BRILLIANT value and every PTA should be a member – maximum cost is £95, with free public liability insurance. Amongst many splendid support services, they have a fast track system to help PTAs become Charities and reap the tax benefits.

If you are involved with a Charity, you may be interested to hear that Allied Professional Will Writers Ltd is happy to agree arrangements with Charities to write charitable legacy Codicils FREE OF CHARGE. Just ask the charity to contact us on 0845 166 8873.

The SWW Trust Corporation can be “branded” to offer probate services to charities members and contribute towards the Charities overheads. This ebook can be sponsored form of fund raising and legacy generation at no cost.

Your notes: Might this section be of benefit to a school or Charity you are connected with?
Could you make your gifts more cost effective?

8. Gifts in “contemplation of marriage or civil registration” **WARNING!**

These must be made on or just **before** or **after** – typically no more than 7 days either side - and **specific to** and **conditional on** the marriage/ civil registration to natural, adopted or step-children **either**

- from a parent to bride/ groom - £5,000 – parents can give up to £5,000 each plus their £3,000 annual allowance (and even the previous years, if not already used) making a total of £22,000 of exempt gifts. You can only have 2 parents each, so birth parents of adopted children can only give £1,000 IHT free.
- grandparent to bride or groom - £2,500
- Anyone else to bride/ groom - £1,000

If the marriage does not proceed, the gift must be returned, or (unless other allowances would cover it – e.g. the £3,000 or £250 ones) it becomes a Potentially Exempt Transfer.

It should also be noted that the Revenue are looking for a sort of contract “If you get married on such and such a day, I will give you £x.” A gift made after the wedding could fail to gain exemption if the happy couple were not aware before the marriage both that it was coming **and conditional on the marriage taking place**. VERY old fashioned! To be safe, all gifts seeking exemption should impose these conditions in writing.

WARNING 1

Marriage invalidates a Will unless the Will was specifically and clearly written with that marriage in mind, typically with the date already having been set before the Will was signed, and that date within 12 months.

WARNING 2

Paying for the wedding is considered the parents responsibility by some, but any gifts outside the limits above are **not exempt**, they are lifetime transfers and **potentially taxable**, nor can the Normal Expenditure or Maintenance Rules be used (unless you have a bride or groom who is still in full time education or is otherwise provably a dependent – but don't bet on getting away with it!)

Your notes:

9. Potentially Exempt Transfers

PETs - during your lifetime, you can make gifts in excess of those detailed in 2 and 4 above without being liable to an **immediate** tax charge. **If you survive 7 years** after making the gift, it generally is accepted as being outside your estate for IHT purposes. If you die within the period, then the gift is included on a sliding scale with a 20% reduction after 3 full years, plus a further 20% each full year thereafter. There are limited circumstances where the Taxman can go back 14 years.

WARNINGS

1) A vital point, often missed, is that PETs will (on death within 7 years) be first used to fill up the Nil Rate Band: only when PETs exceed Nil Rate Band (so they would have started to be taxed at lifetime rates) will the so-called reduction be of any benefit. If you give away £300,000 on 6th April 2007 and die on 4th April 2010, you will have NO Nil Rate Band remaining (apart from any inflationary increase the Chancellor has allowed), so your entire remaining estate would be taxed at 40% (and any other gifts in the meantime would also be taxed initially at lifetime rates). This is why financial advisers often recommend a 7 year level term insurance to cover the potential IHT on lifetime gifts. If you give regularly, a whole life (permanent cover) insurance may be more appropriate than regularly buying new term insurance policies – especially if your health deteriorates.

2) Be aware that if there is the slightest suspicion that you might continue to benefit from what you have given away, the Taxman will be all over you (or more likely your Executors) trying to bring back the gift into the tax net. Worst case scenario is your executors picking up the extra tax bill – personally.

3) The recipient is liable to pay the IHT if you die, unless it has been specifically agreed to the contrary that your estate will bear the tax. There are a number of excellent investment products that can allow you some access to capital or income from such gifts, where you do not wish to pass total control over to the beneficiary. Your Financial Adviser can advise.

4) Always keep a careful record of PETs, and bear in mind the issue over when cheques are cleared! Ignorance is no excuse if your Executor fails to declare something, and it could result in action against both the executor and beneficiaries by HMRC.

Your notes:

PET insurance? (!)

10. Trusts

There are two basic types of Trust, interest in possession Trusts (IIP) and discretionary Trusts. There are also charitable Trusts but they are a very specialised area. All these types of Trust can be created as Will Trusts or as inter-vivos (during your lifetime) Trusts (often called a settlement).

The interest in possession trust is the traditional Trust giving income to a life tenant (generally the spouse) on whose death the capital passes to individuals called remaindermen (usually the children - should be remainder persons these days!) They can include a power of appointment exercisable (power to give the trust capital to any of the potential beneficiaries permitted by the Trust deed) by the life tenant (person/s entitled to income during their lifetime). The fund can also be sheltered by the use of a 'protective life interest'; a statutory provision which prevents the life tenant from disposing of their right to income. It is also quite common to have flexible life interest trusts that are flexible both as to a power to advance capital and to cancel the life interest.

If set up during the lifetime of the donor the gift is treated as a PET for IHT purposes. On the death of the life tenant the value of the trust fund is added to the life tenant's free estate and charged to IHT at the full death rate, the effect is to apportion the Nil Rate Band between the Trust and the free estate.

The trustees are assessable to pay CGT when they sell assets. Tax on gains is payable from the trust fund and the annual exemption available to trustees is £4,600 (2007/08), i.e. one half the individual annual exemption. The rate of tax is 40%. All income received by the trustees will bear tax at the basic rate or, if received net, have had basic rate tax deducted.

In the discretionary trust the distribution of income and capital is at the discretion of the trustees who are often guided by a letter of wishes from the settlor or testator. Such distributions can be into further trusts for the benefit of the beneficiaries. These Trusts often have wide administrative powers and can even give the trustees the power to add beneficiaries. The administration of these Trusts is often complex and as a result expensive. Often, family executors are quite unaware of the rules or the implications of ignoring them.

Inter vivos (lifetime) gifts into a discretionary Trust are treated as a chargeable gift with an immediate liability at the lifetime rate of 20% on the excess over the nil rate band. There are also regular 10-year charges to IHT and exit charges on distribution and the termination of the Trust. The rules are complex.

Similar CGT rules apply as with an IIP trust except that for CGT purposes an election may be made for holdover relief. Trustees of discretionary trusts pay income tax at the special rate of 40% (RAT) on all trust income. They have no personal allowance. Tax is dealt with via the tax pool the operation of which is less than simple.

Accumulation and Maintenance Trusts are a cross between the IIP and discretionary Trust.

They are for the benefit of children or grand children; capital must be distributable at age 25 or remain on an interest in possession trust. Some tax can become payable once the age of 18 is reached, which is why an increasing number of Will distribute benefits to children at the rather early age of 18, rather than pay a mere 0.5% extra tax a year, in effect.

A further variant of the discretionary Trust is the Trusts for disabled persons. They have disadvantages and provision can often be better made by use of a full discretionary Trust.

There are special rules governing the taxation of accumulation and maintenance settlements and trusts for disabled people.

Last years Budget introduced what is effectively an additional 0.5% a year tax on the capital value of most Trusts with assets that are or have grown above the IHT limit.

Your notes:

11. Heritage Property

Exemption from IHT is available on transfers of certain pictures, prints, books, manuscripts, works of art or scientific objects which are of national, scientific or historical or artistic interest. Exemption is also available in respect of land of outstanding scenic, historic or scientific interest, buildings of outstanding historic or architectural interest and objects associated with such buildings. Strict objective tests apply. The exemption from IHT is conditional on the taxpayer (or other suitable person) providing undertakings to HMRC (Her Majesty's Revenue and Customs – aka the Taxman!) that he will maintain the object or property and that he will allow reasonable public access to it. The exemption from IHT for heritage property only lasts for so long as the taxpayer complies with the undertakings and does not dispose of the asset. Breach of an undertaking or disposal will give rise to an immediate tax charge. It should be noted that HMRC are insistent that the public do gain genuine and reasonable access - they used to be rather lax on this. You can look up the days and times of access and what you can see (divided into buildings and contents, works of art and collections) at: <http://www.inlandrevenue.gov.uk/heritage> - each section is divided up into regions for convenience.

Land that is deemed to be of outstanding scientific interest (along with land of outstanding historic and/or scenic interest) may qualify for conditional exemption from Inheritance Tax. New advice on managing these outstanding areas of land in England is now available from the Countryside Agency's website at www.countryside.gov.uk/heritagelandscapes.

The conditional exemption scheme allows for relief from Inheritance Tax that could otherwise require these heritage assets to be sold or broken up to pay the tax. In return, owners undertake to manage the land, preserve its character and provide reasonable public access. This secures the future of the outstanding areas in private ownership and allows people to visit some of England's finest countryside.

To assist owners, and their advisers, a booklet titled: 'Conditional Exemption and Heritage Management Plans: An introduction for owners and their advisers' has been written. Both documents can be viewed and downloaded from the Countryside Agency's website. Further information can be obtained by contacting William Du Croz on 01733 455145 or by email: William.DuCroz@english-nature.org.uk

Your notes:

12. Agricultural property relief

For transfers of owner-occupied farms and tenanted farms, 100% relief is potentially available where the transferor ("owner") has vacant possession of the land, or could have within 12 months.

- 100% relief is also available where this condition is not met but the land is tenanted under a lease that started after 31 August 1995.
- 50% relief is available for tenanted land where the lease started before 1 September 1995.

It is essential that your Will drafter fully understand the issues around agricultural holdings, and that you have made them aware of exactly what your holdings are and how they are structured.

WARNING changes of use by diversification can put land outside the scope of agricultural property relief. Consideration should be given to separating such land legally from the farm so as not to jeopardise agricultural relief.

Your notes:

If relevant, was Will Writer made fully aware of your holdings?

Other issues?

13. Business property relief

Relief from IHT at either 100% or 50% is available to a taxpayer on the transfer of certain business assets. There are various conditions that must be satisfied to qualify for the relief:

- The business must be a qualifying business (i.e. basically it must be a trading rather than an investment entity)
- The asset must be relevant business property
- The asset must have been owned for two years

The availability of relief depends on the type of asset being transferred:

Unincorporated Business

The whole or part of an unincorporated business qualifies for 100% relief. Do bear in mind that you may need to undertake some planning to make sure the business will even survive your death – many will not, often for no other reason than no one can even sign cheques to pay the wages!

For all businesses, consideration needs to be given to Wills, partnership/ co-shareholders agreements, key person insurance and Powers of Attorney. It isn't just death which can cripple a business!

Unquoted Shares

All unquoted shares now qualify for 100% relief, as do some AIM shares (not all, as before the 2007 Budget). You should also be aware that the company Memorandum and Articles of Association may affect what you are allowed to do with your shares.

Quoted Shares

Quoted shares, which gave the owner voting control over the company immediately before the transfer, will qualify for 50% relief.

Land, Buildings, Plant and Machinery used by a company controlled by the giver, or a partnership of which he is a partner or a trust of which he is a beneficiary, will qualify for 50% relief.

Relief is given on gifts of business assets provided the giver has owned them for at least two years. Relief is not available where the business consists of dealing in securities or land and buildings, or making investments.

Once again, your financial adviser will have access to specialist investments that can carry full business relief, if they are suitable for you.

Business or Exempt Assets –

i) Some ordinary investments are treated as Business Assets: they tend to be rather higher risk than ordinary shares etc, but many are packaged together in such a way as to minimise risk, and advisers are always looking at way to give them wider appeal by reducing risk. Remember that a business asset can achieve 100% IHT relief in just two years! Speak to your financial adviser.

ii) Don't leave them to your spouse! At least, not unless your total joint estates are definitely less than £600,000. If you can, leave any exempt assets to **non**-exempt beneficiaries (anyone except your

spouse), even if you want them to end up owned by your spouse. An example will demonstrate the logic: you have assets worth £2,000,000, half of which is a business that qualifies for 100% relief, the other half just ordinary assets. Let's assume no other planning (it's just an example!) and that Mrs X survives Mr X and is not in any desperate need of inheriting from him, having substantial assets of her own:

Mr X dies and leaves his children £1,250,000, the rest to his wife. IHT payable £1,250,000 less £300,000 x 40% = £386,000. Net benefit £864,000

Mr X dies and leaves the business to his children plus £300,000. The children decide to sell the business back to Mrs X after 2 years ownership to qualify for Business Property Relief at the probate valuation (technically, no profit!) and end up with a cool £1,300,000 and no IHT to pay!!

Mrs X conveniently lasts another 2 years so the business again qualifies for 100% BPR, so it can be left a second time to the children (etc) free of IHT. Double whammy!

iii) Don't secure loans on business assets with 100% BPR – Business Property Relief - (at least, not for IHT purposes) – deducting the value of a loan from an exempt asset will do no good at all in tax saving terms. Transfer that loan to something which is taxable, preferably fully taxable such your home, and there will be a substantial reduction in your taxable estate – up to 40% of the loan will be deducted from the IHT bill. Clearly, it may not always be prudent to secure loans on your home, but the balance may shift if you are in your prime or 65+ and not in good health. If you are in business and are given bad news by the doctor, a spot of swift re-allocation of debt could be very profitable for those left behind. The same exercise could be carried out under an Enduring or Lasting Power of Attorney (see item 29 below).

iv) Selling you business on death – Buy/Sell Agreements – when a business owner or partner dies, it is often appropriate to have an agreement in place to ensure that other shareholders or partners have the right or option to buy the deceased's share of the business.

There are two issues here: a partnership which does not have a formal Partnership Agreement will cease to exist if one partner dies, so there is no value to pass on. Partnership Agreements are absolutely essential for this and many other reasons.

The second is that an agreement should be in place to ensure a proper valuation and pre-agreed destination for shares or partnership share – very often to the other owners in proportion to their existing ownership, so as not to disturb the balance of power. The **key point** is that careless organisation of this agreement **will destroy IHT relief**. If there is a **binding** buy/sell agreement in place, there is **no relief** – and many older agreements will be written like this. To retain full relief, what is needed is a **double option agreement** – this gives both the buyer and the seller the **right**, but not the obligation, to insist the sale goes ahead – if both parties are happy with the situation as it is, the sale does not have to happen. Probably the main reason for these agreements is to ensure that the business stays in the hands of working owners, rather than forcing them to work with the deceased's spouse or children, who may know nothing about the business and cause all sorts of aggravation!

v) Consider Transferring Business (rather than other) **assets into a Trust** – with 100% BPR this will not incur a charge as a Lifetime Transfer as it is exempt. The Trust could then sell them back, at market price.

vi) Employee Benefit Trusts – gifts to these are exempt from IHT (but you would require advice in this specialist area).

vii) Waiver of Remuneration or Dividends is not considered a loss to the [Estate](#), so might be a useful planning device in some circumstances.

TIP

You can potentially leave business assets to a Trust within your Will, with power to sell the shares (perhaps under a double option agreement) and distribute the proceeds to your family, with a Memorandum of Wish that your spouse should be looked after. Rather than give exempt assets to the exempt spouse, and waste the exemption, this leaves the door open to lending cash to the spouse (neutral for IHT purposes – more cash as an asset, but a balancing IOU as a liability) before distributing any surplus he / she may not need. The instruction form is at the end!!

Your notes on Business issues:

Will drafter aware of all business assets?

Memorandum & Articles checked?

Co-shareholder/ partnership agreement in place?

Double option agreement used to preserve tax relief, instead of old-fashioned and ineffective buy/ sell agreement?

Life cover needed to fund sale/ purchase?

14. Equalisation of Estates and Effective use of the allowances

Phizackerly affected Artic Systems affected

Married (or those in registered single sex relationship) couples cannot always make maximum use of their allowances as often one spouse has the overwhelming bulk of the wealth. Sadly, the Phizackerly case means that the Taxman no longer recognises the role of the home maker as being part of the wealth creation process, an appalling decision which, though now overturned, the situation may actually become worse as the Taxman is pressured to bring in more cash and has glimpsed another pot of gold. One effect of this case is to make it more difficult to balance assets later in life, if one partner has clearly been the wealth creator. So it is vital to address this issue early on as the use of lifetime allowances by both partners may no longer work effectively where they involve use of transfers from one spouse to the other.

Your notes:

Action needed?

Financial Adviser consulted?

Legal matters – severance and new tax efficient Wills? – complete Instruction form further on!

15. Last Will & Testament (heavily revised)

- these used to be a relatively inexpensive way of gaining maximum benefit from **both** Nil Rate Bands tax free allowance on death where the partners cannot actually afford to give away money (let alone £300,000) on the first death. Issues concerning these Wills remain unresolved, and whilst we are rarely writing new ones in the old form, significant benefits remain in many, and it would not seem sensible to re-write them at least until the rules become law, in the second half of the year.

One very useful device is our Family Trust Plan for Mirror Wills captures both partner's Nil Rate Bands on second death and holds them in trust for future generations – for up to 80 years.

The Second Death Discretionary Will Trust gives the beneficiaries the opportunity of keeping that money from their estate and perhaps passing it on in to their own children or grandchildren if they don't need it. They keep the flexibility to draw from it, take loans or make gifts to their own children or grandchildren. They may even wish to add to the Trust with their own Nil Rate Bands and build up a sort of Family Bank which can last for up to 80 years, benefiting the family with gifts and loans. What a fabulous legacy!

We also have a Family Plan for single people, widows or widowers who have the potential to use up two Nil Rate Bands on their death, i.e. widows or widowers whose spouse died prior to 9 October 2007 without using all of their Nil Rate Band.

Being able to create a Trust for up to £600,000 without payment of IHT is a tremendous gift to future generations.

A good Last Will and Testament each remains vital for good IHT planning, but need not be as sophisticated as was formerly the case, for most couples. For unmarried couples, the Nil Rate Band IOU Trust will remain a common recommendation, provided Asset Protection is not a greater priority.

I would suggest that Asset Protection, Family Trust and Business Trust Wills are going to be much more important from now on, as it is no longer the case that Nil Rate Band Trusts should be the default choice for married couples: advice will need to be much more personalised, and readers of this book will at least have the advantage of being much better informed than most, as some professional advisers don't have the time to educate their clients so they can make an informed decision. Many don't have the time to keep themselves up to date.

WARNING

HMRC is tightening its grip on this area and the slightest deviation from their requirements may cause such planning to fail. Regular review is essential (and if your legal adviser does not have such a facility in place, that must be a warning to you) and professional advice is essential on the first death. Contact the SWW Trust Corporation at this time on 01522 687888 option 2

Your notes:

Does this need sorting? Fill in the form at the end!

If it was done a few years ago, is your spouse both an executor and trustee: we do not consider this wise these days – (how can executors and trustees be said to deal with each other at arms length if the spouse is executor, trustee and beneficiary?) – If so, we recommend amending the Will by way of Codicil if everything else is OK. Some earlier planning devices may cause problems rather than

resolving them, which is where our Professional Maintenance Services comes in.

You should be aware that professional advice is essential on the first death, but that doesn't mean you have to put a solicitor, bank or (better) the SWW Trust Corporation in total charge if you don't want to – though 70% of probate cases are dealt with by solicitors.

Do you have arrangements in place to keep your Legal Planning up to date and effective? See last 2 pages if not.

16. Death on active service

Where a member of the armed forces dies as a result of a wound inflicted, an accident occurring or a disease contracted while on active service, his/her estate will be exempt from IHT. Death resulting from an existing problem that is aggravated by active service could also trigger this exemption. Similar relief is available to members of the Police Service of Northern Ireland (formerly Royal Ulster Constabulary) who die as a result of terrorist activity in Northern Ireland. Certain other individuals may also qualify if they are subject to the law governing the armed forces.

The personal representatives of an individual should contact the Ministry of Defence for a certificate substantiating any claim. Personal representatives / executors might not be aware of the exemption.

Your notes:

17. Trusts 2

Virtually all life insurance policies and pensions offer the opportunity to place the death benefits in Trust from the start. Life policies potentially create immediate and large potentially taxable benefits. Pension funds grow slowly, but can become vast reservoirs of capital, which can substantially alter an individual's IHT situation. If plans are not in Trust, or where they are automatically in Trust (as are many pension policies) but the Trustees have not been advised of your wishes as to how they should pay out the benefits on your death, the omission can be expensive in tax terms. Putting policies in Trust after they have been set up may also have tax consequences, so take professional advice. Flexible Trusts can be set up so that the Trustees can direct the benefit to the spouse or the children, which can be very handy if the spouses die together. If one dies first, the chances are that the benefits will be paid out to the survivor and substantially swell that estate.

There is some argument that life policies covering loans or mortgages should not be in Trust, as some lenders may not be happy with such an arrangement as it reduces their security. However, in most other circumstances it is very important to take advantage of one of the many Trust arrangements available, with professional advice being essential as the type and wording of the Trust will be driven by your personal objectives. Buying cheap insurance without full advice on Trusts is a false economy. Finally, it should be noted that Insurance Company **Investment Bonds** are also life insurance policies and can be set up in Trust.

There can be sound reasons for not putting policies in trust, so speak to your financial adviser.

WARNING

A mortgage is only paid off automatically on death if the life policy covering it is assigned to the lender: this is no longer normal, so a house is typically inherited **with a mortgage**, and the life policy which was intended to pay it off may well go to a different beneficiary.

This can be circumvented by making it clear in your Will that the life policy should pay off the mortgage. You can also say that property passes free of mortgage, which will then reduce the balance of the estate by the amount of the mortgage – which is fine if there is an adequate mortgage life policy in place.

Your notes:

18. Trusts 3 – gifting to grandchildren

Many grandparents support their grandchildren on a regular or irregular basis. Let's take an example where the grandparents have been making an annual allowance out of taxed income to support (say) school fees for two children. A more tax efficient approach would be to gift £300,000 – the nil rate allowance – which would essentially fall out of the IHT net after 7 years. It would probably best be gifted equally out of both estates, or perhaps from the younger/ fitter spouse. This would go into an accumulation and maintenance trust, probably within an investment product, which might produce a gross income of £10,000 a year, which would be taxed at 40%, producing a net income of £6,000 a year. Clearly, each partner could gift £300,000 (or the current nil rate band) every 7 years.

The Trust then pays out £3,000 to each child, who will be treated as having received £5,000 gross income, on which they can then reclaim tax of £1,975 each – an annual profit of £3,950 to the family, with a further potential saving of £120,000 if the giver survives the requisite 7 years.

HMRC have now confirmed that the treatment of bare trusts for children will continue to be favourable, dispelling worries that they would now be taxed under the more convoluted new trust rules and a 6% tax charge. It is clear that those who wish to make gifts into bare trusts for children will not be at risk of a 20% tax charge levied on gifts to more complex trusts.

Your notes:

Relevant?

Action?

Talk to Financial Adviser?

19. Quick succession relief

– not really a planning tip, but you need to be aware if it. Where an individual dies within five years of receiving a chargeable transfer from another person, credit is given for part of the IHT paid on the previous transfer.

Maximum time between transfers	1 yr	2	3	4	5
Credit (%)	100	80	60	40	20

Your notes:

Might this be relevant to anyone you know who may have paid too much tax in ignorance of the rules?

20. Trusts 4 - Spousal By Pass Trusts

These can be useful to employed people with a Death in Service Scheme. As an employee, you can write to the scheme Trustees and advise them to whom you would wish the benefits to go, to avoid them being paid into your Estate and causing the eventual loss of 40% to the Taxman. However, it is difficult to foresee the future, and neither the Trustees (though they can exercise their discretion) nor the newly bereaved spouse or partner are unlikely to give enormous thought to your IHT situation. A spousal by pass Trust can be set up in your Will, and the Trustees be requested to pay any death benefit into that. This then leaves your own personally selected Trustees in charge who will have a much better understanding of your situation and wishes. They can potentially pass or loan the money to your spouse, children, grandchildren or whoever else you may wish to benefit and, with the appropriate powers, assist in saving IHT. These Trusts are subject to the normal taxation rules of trusts, but the money will normally go straight out to the surviving partner and be replaced by an IOU to prevent the survivor's liability to IHT increasing. If the survivor doesn't need all or part of it, it can go straight through to other beneficiaries.

The instruction form is on the last page....

Your notes:

Well worthwhile in large estates, or where the salary and hence death in service benefit is high and would typically be paid to the surviving spouses.

Check first that the employer will allow you to nominate a Will trust (you can set up a lifetime Trust, but that is WAY more expensive!)

Do I have a death in service or other pension scheme where I should nominate beneficiaries?

21. Paying Tax by instalments (normally on property)

if you qualify, go for it but make sure the funds are guaranteed, as **the Executor remains liable until the tax is paid in full!** Interest free over 10 years or until the property is sold is a big benefit.

Your notes:

Might this information stop someone you know from needless worry?

22. Moving Offshore – changing domicile and **WARNING**

Remember that a “non domiciled” spouse can only be given the ***Nil Rate Allowance plus £55,000***. If you intend decamping to tax-friendlier climes, if one spouse/civil partner goes first and establishes an offshore domicile, there may be a potential to transfer all your assets offshore without even a potential tax liability.

If you are non-domiciled, you have the opportunity to set up a “settlement” which remains offshore and is comprised solely of offshore assets. Even if you return to UK domicile, these assets will remain outside the UK IHT net.

If you plan on using this route you will need **very** specialist advice.

Your notes:

23. Buy to Let

Investing in buy to let property direct as an individual offers no IHT savings (it is treated as an investment business which does not qualify) but investing in property for **furnished holiday lets** (minimum actual lets 70 days a year) *does* carry business IHT relief.

Don't forget to use ownership to balance estates for IHT and Capital Gains Tax savings. Everyone is allowed a significant amount of capital gains each year free of tax – so why not spread the gains round the family a little. And your financial advisers won't thank me if I forget to remind you to talk to them about the mortgages!

You could use fractional ownership to transfer small portions of buy to let property each year to use your CGT allowance – it IS worth considering when you don't have the potential IHT saving available to owners of furnished holiday lets. Each of you can crystallise a profit (assuming this is assessable to Capital Gains Tax rather than income tax) of £9,200 a year to pass on to (say) children – though this is actually a fairly significant PET (potentially exempt transfer) – you might (each) be passing over a property share worth (say) £30,000 (£21,800 indexed purchase price + £9,200 profit) which means a £30,000 PET which will need to be taken into account on death within 7 years, along with all other gifts not otherwise exempt made within the 7 year period.

Your notes:

24. Planning with Pensions

Changes to legislation in April 2006 allow you to take your tax-free lump sum from your personal pension and leave the fund invested. It is not even necessary to draw any pension. With the additional introduction of Alternatively Secured Pensions in April 2006, it was widely hoped that Self Invested Personal Pension plans (SIPPs), would be an effective way of passing on wealth free of Inheritance Tax. Under Alternatively Secured Pensions it was no longer a legal requirement to purchase an annuity with your pension fund at your 75th birthday if you had not done so before.

The idea was that by not drawing an income your pension fund could remain intact and on death the member and his dependants the fund could be passed free of taxes to a SIPP belonging to the member's chosen beneficiary.

However the Treasury saw this as potentially lost tax and announced in December 2006 new draconian tax charges on wealth passed on in this way, which has destroyed all hope of this being an effective method of Inheritance Tax planning. Budget 2007 re-enforced this though with no detail (so check with your Financial Adviser).

Pension plans still offer three ways to pass on wealth without being liable to Inheritance Tax, which are effective in some situations:

- i. Benefits on death before age 75 and before your pension commences payment
- ii. Benefits on death before age 75 but after your pension commences payment
- iii. Payment of contributions on behalf of another person

Benefits on Death Before Age 75 and Before Your Pension Commences Payment

The death benefits that can be paid, if you die before you take your pension, provide a very effective method of avoiding Inheritance Tax. Normally the whole of your pension fund can be paid to your dependants as a lump sum totally free of Inheritance Tax. This is especially beneficial when you consider that you would have received tax relief at 22% or even 40%.

The maximum fund that you can pass on this way, without tax penalties, is limited to the "Lifetime Allowance," which is currently £1.6m (2006/07 tax year).

The big disadvantage with this method is that you need to die before age 75, for it to work. In addition you must not have started receiving your pension.

Benefits on Death Before Age 75 but After Your Pension Commences Payment

What happens if you need the income from your pension. If you buy a traditional annuity with all of your pension funds, then if you die there will be no lump sum to pass on. However you can choose a "Capital Protected Annuity." These annuities would pay out the balance of the original purchase price of the annuity less the total annuity received, as a lump sum. This would be taxed on being paid out by the pension plan at 35%. This charge is deemed to make up for the tax relief received when contributions were made to the personal pension.

Alternatively, you do not have to buy an annuity on retirement; you can leave the fund invested and draw your pension from the investments. This was called Income Drawdown or Pension Fund Withdrawal but is currently called Unsecured Pension. You do not even need to take a pension if you do not want to until age 75, when a pension must be payable.

On death the remaining fund can be paid out less 35% tax. By setting up a suitable trust the return of fund should not be liable to Inheritance Tax. Please note that if your pension fund includes any "Protected Rights" then this must be used to provide a pension for your spouse or civil partner. Again there is no need to provide an annuity and no need even to take the pension until age 75. If your spouse or civil partner dies before age 75 the remaining pension fund can be paid out less 35% tax.

Again the big disadvantage with this method is that you and perhaps your spouse or civil partner need to die before age 75 for it to work.

"Protected Rights" are benefits in relation to contracting out of the State Earnings Related Pension Scheme and its successor the State Second Pension.

Payment of Contributions on Behalf of Another Person

Since April 2006 it has been possible for any individual to pay contributions to a personal pension policy on behalf of another individual. For example contributions could be set up for your son or daughter or your grandchild. If these contributions are paid regularly and can be shown to have been paid out of Earned Income, they are deemed to be outside the estate for Inheritance Tax purposes, otherwise they would be regarded as a Potentially Exempt Transfer. Earned Income includes income from pension schemes but not from non-pension investments.

Tax relief will only be granted for gross contributions up to the level of the Scheme Member's taxable earnings or £3,600 if that is higher than the taxable earnings. This means that persons who do not pay tax can still have contributions paid on their behalf up to £3,600 gross each tax year. Strangely tax relief is still granted, at the Basic Rate of 22%, even when the Scheme Member does not pay tax.

Tax relief is granted, notionally to the Scheme Member, on the contribution and not to the payer of the contribution, i.e. if the policy is set up for a grandchild, the grandchild would receive the tax relief. However in practice all contributions are payable net of Basic Rate Tax and the Personal Pension Provider reclaims the tax relief from the Inland Revenue and it is added to the policy. For example if you wish to make a gross contribution of £3,600, you would only need to pay £3,600 less 22% tax relief (£3,600 - £792) which is £2,808. The payer therefore effectively receives Basic Rate Tax relief on the contribution. If the Scheme Member is a 40% taxpayer he can reclaim the additional 18% via his Tax Return or PAYE coding.

If you wish to make contributions for a grandchild who is a non-taxpayer, you would only be able to contribute £2,808 net of Basic Rate Tax each tax year. You would need, therefore, to start contributing very early in the grandchild's life in order to make much reduction to your Inheritance Tax liability.

Your notes:

25. SSAS – Small Self-Administered Pension Schemes

These schemes are mainly for company directors who will have advisers well capable of explaining the ins and outs of this complex subject. Suffice it to say that the overall scheme is a pot of value, which can be in theory be distributed as the Trustees agree, so if one member dies, the Trustees could agree to transfer the benefits to (for example) a younger member of the scheme, rather than paying them out as death benefits (which would also normally be IHT free), subject to the potential IHT as described above, but....

Tax breaks in pensions are rather a political football and HMRC have made nasty noises about moving money between the generations – take expert advice.

26. Other pensions

Most pensions have the facility to nominate a beneficiary to receive the benefit payable on death – this should ideally go to someone *other* than the spouse (as benefits to him/ her are free of IHT anyway) but to a non-exempt beneficiary such as the children. But **ONLY IF the widow/er can afford it**. We often have clients where the husband thinks the wife can survive half the capital and half the income the couple currently enjoy: life doesn't work like that unless you are **very** rich!

Some people prefer to set up a special Trust within their Wills to receive these benefits, which can then be dealt with by a family member rather than by the remote Trustees of the Death in Service Scheme. It is then possible to have the best of both worlds – the family Trustee lends the money to the surviving spouse, in exchange for an IOU. This means the spouse has the use of the cash, but it is not enlarging their estate for IHT purposes, as it is only a loan! We know a man who can.....

Your notes on pensions related issues:

Speak to financial adviser?

Nominate death benefits?

27. Financial Advice

Financial advisers have a wide array of tools in their armoury:

a) Where you have investments that can be transferred into a Trust wrapper that potentially enables all or part of the fund to drop out of your taxable estate immediately or over a period. There are all sorts of cunning plans, some of which may be enormously beneficial to you if you have significant savings or investments - your adviser will know far more about them than we do. If this book is sponsored by a Financial Adviser, discuss it with them, if not feel free to contact us as we know lots of good ones.

b) Life insurance can be used to create the funds to pay the IHT, or even to create a fund that would not exist otherwise.

c) Home income plans of various types can be used to withdraw wealth from the home so you can spend it or give it away (within the limits above). There is even a scheme where you can transfer your home into an investment bond in return for a holding in that bond and a 90 year lease on your own property. You can even move to a new home. When you die, the home is sold, your beneficiaries get the investment bond, but can buy your old home if they wish. None of this is cheap planning, but it is still well worth considering, especially for single people who cannot take advantage of my favourite – the Discretionary Will Trust – but then I am biased!

Your notes:

Contact the sponsoring IFA (if none, call us 0845 166 8873 and ask for an introduction)

28. If all else fails

at the moment a **Deed of Family Arrangement** or **Instrument of Variation** completed and delivered within 2 years of death can write or re-write the deceased's Will, for IHT and Capital Gains Tax purposes or just to re-distribute money more appropriately without risking extra tax as the money passes through additional hands, provided:

- a) everyone adversely affected agrees
- b) there is no reciprocation – no one is compensated for what they give up.
- c) none of the assets are affected by a Gift With Reservation
- d) if the variation affects the rights of children or unborn children, Court approval will probably be needed.

It is possible to amend (“vary”) a Will or indeed Intestacy after a death. There are many reasons why this may be desirable, for example, to balance the differences in the finances of the beneficiaries (perhaps from a rich brother to a poor sister), or to pass the inheritance on to the next generation rather than swelling the (taxable) estates of well heeled parents (maybe in modest health) to struggling grand or even great-grandchildren.

Normally, a variation takes effect from the date of the document varying the inheritance. But provided those making the variation comply with the requirements, it can be treated for inheritance tax (IHT) and certain capital gains tax (CGT) purposes as if it had been made by the deceased on the date of death. IHT is recalculated taking account of the variation being made.

WARNING

Some advisers consider Instruments of Variation will solve all problems after death, so Will planning is of limited value. We think such advice is **dangerous**, as the loophole could be removed at any time. No one should be without ongoing Legal Planning Advice, in exactly the same way as ongoing Financial Advice is essential.

Your notes:

If you may need one, call us or [SWW Trust Corporation](#) direct on 01522 687888 option 2.

A Deed of Variation can be a godsend to people who have never heard of one – make sure you send this ebook to anyone where there has been a death in the family in the last 2 years (or indeed, where there may be one imminent)

29. and now for something completely different - other matters we can help with

a) A Will deals with what happens if you straight out DIE – but what happens if you go into a coma, for example, after a serious accident? Your Will is irrelevant, as it has no power until you are dead.

Lasting Powers of Attorney (LPA)

NO ONE has the right to manage your finances or personal welfare if you become mentally incapable through sickness, accident or sheer old age – not even your husband or wife – **UNLESS** you have written a Lasting Power of Attorney LPA. The only alternative is for a friend or relative to apply to be appointed as your RECEIVER at a cost of £580 or so plus legal fees (which could be substantial) plus substantial ongoing costs. An LPA costs only a fraction of that and allows YOU to decide, in advance, who you would like to look after your money (the Property and Affairs LPA), and/or your welfare (the Personal Welfare LPA) if you become unable to do so yourself. An Advance Decision is a very much cut down and simplified (cheaper) version of an LPA Personal Welfare which **ONLY** covers Medical matters.

Everyone over 18 should ideally have both LPAs – Personal Welfare and Property and Affairs.

Act now! Fill in the instruction form at the end...

Your notes:

Action needed? Yes / No

Who should be Attorneys and Medical Proxies?

Do you know anyone who is starting to deteriorate in health who should get sorted before it is too late?

b) OTHER TAXES WE CAN HELP WITH (through your Financial Adviser, if any)

For those with serious tax issues “high net worth individuals” – for example, saving over 50% of the Stamp Duty buying a £1m + home, taking your entire estate out of tax, saving capital gains tax on the sale of your business, we have access to enormous expertise.

If you have a major tax issue or will have in the future, and understand that the fee for this sort of work are substantial (but not nearly as substantial as the savings) send us an outline of your situation via your financial adviser (if one sponsored this) and we will put the appropriate specialist in touch for a free initial discussion.

The fiduciary and investment institutions who collaborate in the provision of such solutions need paying for their expertise and practical input - the products can be self-financing through tax savings and accordingly do not compromise or place at risk the assets they protect.

The tax bills you face now and in the future, in the UK or abroad, generally add up in total to the actual value of your wealth today - that's all taxes: inheritance tax, capital gains tax, corporation tax, income tax and overseas wealth taxes. If you are in business then the total tax bills you will face probably exceed that yardstick by a significant amount.

Some issues which can be addressed:

- you have asset value trapped in the current approved or registered pension system.
- you own a principal place of residence either in the UK or abroad
- you have savings and investments as well which all make up your taxable estate
- you own other property in your name which you probably rent out
- you may have a company through which you own property which is rented out
- you may have a privately owned company which has pre tax profits
- you may have a holding in a private shares portfolio
- wherever and however your income is derived it is undoubtedly taxed.
- you are buying a home for over £1m

All in all, your assets in whatever form, add up to in excess of £750,000 and your income is probably taxed in some way before you receive it.

Restructure your assets to maximise the efficiency of their future use

Your notes:

Action needed? Yes / No

30. Keeping it all together

Family circumstances, tax, the law, the value of your assets and where you want them to go on your death will change. Not may change, **will** change.

So it is prudent to have your Legal and Financial Planning reviewed on a regular basis.

For our Will service, we have in place our Professional Maintenance Service, which at its most basic and inexpensive level reminds you to review matters each year, provides a checklist to do so, and a newsletter raising the issues which have changed in tax and the law during the year. You can add a free helpline or even free rewrites for an additional subscription.

Full details at the end.

Your notes:

Set up regular review with financial adviser

Join the Will Custodian Ltd Professional Maintenance Service for annual reminders and updates on relevant tax and legal issues and, optionally FREE ADVICE.

31. THAT'S IT

I hope it was of interest – now is the time to **act**. The excuse that you meant to write a Will, meant to appoint Guardians for your children, meant to have an Enduring Power of Attorney etc won't help if events catch up with you. They will just have to find the money to pay the potentially enormous burden your delay has laid on them.

I attach a Will Enquiry form, which can be used to instruct us to write Wills and or just Lasting Powers of Attorney if you already have up to date and tax efficient Wills, plus a Financial Adviser enquiry form on the last page. You may also want to join the Professional Maintenance Service provided by Will Custodian Ltd to ensure you have the opportunity to keep your Legal Planning [ship shape and Bristol fashion!](#)

Now would be a good time!

Steve Pett

PS If you would like to learn more about Legal and Financial Planning, visit our website www.APWW.co.uk and subscribe to our email Course – no cost, no obligation.

For Probate & Deeds of Variation www.SWWTrust.co.uk 01522 687 888 Option 2

Financial Advice Enquiry (form supplied by Allied Professional Will Writers Ltd)

(Allied Professional Will Writers are NOT themselves financial advisers, but we can refer you to one if no one is listed below).

Please contact the book Sponsor:

Tel:

Email:

Your name:	
Your address:	
Postcode:	
Contact: Email:	Day Tel:
Home Tel:	Best time to call: Day/Evening/Weekend

I would like to speak to a Financial Adviser about:

- Creating Financial Security
- Debt Management
- Wealth Creation
- Creating Financial Independence
- Wealth Preservation
- Tax Mitigation
- Inheritance Tax
- Pensions
- Investments
- Mortgages
- Life Insurance
- Tax Shelters
- Staff Benefit Schemes

- Other:

Signed: _____ Dated:

YES, I want to protect myself and my family....

Regulated by:



Fees valid to end of **March 2008** please check with us first after this.

to **Allied Professional Will Writers Ltd** (England & Wales only)

Not sure what you need? – just use the **SIMPLE OPTION** *

1) Your FULL name:

DoB:

Spouse/ partners FULL name (if any):

DoB:

Your address:

Postcode:

Email:

Day Tel:

Home Tel:

Best time to call: Day /Evening /Weekend (Mobile- please call us)

***SIMPLE OPTION** Not sure what you need? **Single** (deposit £129.95) /**Couple** (deposit £189.95) and our consultant will talk the options through with you. If you are fairly sure, tick the boxes below in FEES.

Tick here: if Home country may **not** be England or Wales

Please prepare Wills etc, after discussion, based on information I will give, subject to your terms and conditions at <http://www.apww.co.uk/t+c.htm> (or on request).

I understand I must a) check **ALL** documents are correct and reflect my wishes and b) that they are **NOT VALID** until **correctly signed and witnessed**. I will indemnify APWW in respect of claims arising as a result of my failure to comply. APWW use external consultants, retain paper & computer files, encrypted backup may not be in the EEU. My financial adviser (if any) is introducing me to APWW, not providing me with legal advice. APWW are governed by the Code of Practice of the Society of Will Writers.

The process: we will take the initial fee on receipt; write outlining the issues to consider, asking for a carefully checked list of the FULL names and addresses of people to likely to be mentioned, and ring you (as soon as the list comes back) to set up a time for the telephone consultation before preparing documents.

You can waive your right to a 7 day cancellation period to speed things up by ticking this box . Cancellations after this will be less costs incurred. We aim to complete the work within 14 days of final instructions.

Payment enclosed by **Cheque** or **Card payment** (form below)

Signature 1) Signature 2) Dated:

Return of this form even if unsigned constitutes acceptance of our terms & conditions. If you do **NOT** want us to keep the introducer informed, tick here: If you do **NOT** wish us to contact you after, tick here:

Allied Professional Will Writers Ltd – Telephone 0845 166 8873

www.APWW.co.uk e-mail: admin@APWW.co.uk

Please return to: **FREEPOST SEA 7243 Pevensey BN24 5BR or fax to 0845 129 8831**



Fees: a) £129.95 normal single Will £189.95 pair of very similar normal Wills NO Will

b) £399 (inc. the pair) Lifetime Property Trust Wills for homeowners Single Will/ owner £220

c) £597 (inc. the pair) IHT Tax Planning Toolkit Wills + mutual severance registration if required £50.

d) £697 (inc. the pair) Family Trust Wills + mutual severance registration if required £50.

e) Business Protection Will – depending on asset mix /type of businesses – may vary. **Business expense.**

Options f) Lasting Power of Attorney (Finance) £125 each person (preparation only)/ £95 with Will and/or

g) General Power of Attorney £55 per person/ £35 with Will – as above but invalid after incapacity

h) Lasting Power of Attorney (Welfare) £125 each person (preparation only)/ £95 with Will or

i) Advance Directive covers ONLY Medical Matters £45 each person / £30 with Will

Introducer:

Email:

2) To PAY by card complete the following: (**Fee MUST** accompany form, **full fee up to £200**, above that we take £200 or 50%, if greater, **immediately**, balance when documents are ready.)

Debit/ Credit Card number: (We do **not** accept Amex)

Start date: Expiry date: Security code (on rear): Issue number (if any):



Clientline: 0845 166 8873

www.apww.co.uk e-mail: info@apww.co.uk

Allied Professional Will Writers Ltd

Regulated by:

in association with Will Custodian Ltd www.WillCustodian.co.uk



To join our Professional Maintenance Service (PMS) complete the DIRECT DEBIT and return it with your documents (or copies if you prefer) to Will Custodian Ltd (Staff) FREEPOST SEA7243 Pevensey BN24 5BR

Professional Maintenance Service (PMS) benefits: (or should it be Peace of Mind Service?)
Our *Basic* Service includes:

- Your **documents checked** to ensure they have been signed properly (or they won't work!) if we store the original – which is optional and no extra cost for Wills etc of normal size. With many banks etc there can be problems retrieving documents as the person who needs them cannot prove their authority until they retrieve the document!
- Your Will, EPA/ LPA, Medical Directive, Memorandum, Letter to Beneficiaries and Property Deeds (registered property *only*) held in our secure, fireproofed store, **safe** from malicious or accidental damage or destruction. (Unregistered property deeds are too bulky.)
- **Emergency numbers card** included – a gold card to keep in your wallet showing where your documents are stored, and on the reverse you can put your emergency contacts.
- **Annual reminder** to briefly review your Will and other legal documents, so they stay up to date and relevant.
- **Annual checklist** of personal events that might mean amendment is needed.
- **Annual newsletter** identifying Legal and Tax issues that may affect you and yours
- **Certificates of Storage** so Executors know where documents are kept and how to retrieve them (on death only). Many Wills are never proved because Executors cannot find them (sometimes they are "disappeared" by partners of relatives who do not benefit!)
- **Discounts** when you need to re-write or amend your Will or other documents.

Our Standard Service adds: **This is the level we recommend**

- The **biggest benefit of all** – **FREE** (to PMS members) - our **Helpline**. Should you have any concerns over any relevant matter, you can just pick up the phone and call us – no appointment, no time off work, and no fee (unless amendments are needed, and generally they are not). If it is worth doing Wills etc, it is worth keeping them up to date, and ensuring you never have to worry about such things again! For IHT Wills, the first year fee is double and there is a 3 year commitment to this invaluable service. The reason for this is that extensive advice will be required in the first year.

You have gone to some trouble getting your Legal Planning organised – why not let us help you to keep it that way and know you have done the right thing?

- If you are aware of anyone who could do with some help in sorting out an someone's financial affairs **after a death**, we can offer an economical and personal alternative to expensive banks and solicitors through the SWW Trust Corporation (Probate & Trustee Services Ltd). They are probate professionals, using the latest technology and methods to improve service and reduce costs – sometimes by over 50%. Ring 0845 166 8871.

Why pay a bank £35 a year just for storage?

Full details on next page in the box



Fees for some Wills may (rarely) be higher due to the complexity of issues.

Fees are the same for single people or couples.
IHT Wills cost more as extra advice will be needed, especially in the first year.

Will Custodian Ltd

Instruction to your Bank or Building Society to pay by Direct Debit

Please fill in the whole form including official use box using a ball point pen and send it to:

Will Custodian Limited
2 Hankham Street
Pevensey
East Sussex
BN24 5BG

Originator's Identification Number

6	0	1	2	2	1
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Name(s) of Account Holder(s)

Bank/Building Society account number

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Branch Sort Code

--	--	--	--	--	--

Name and full postal address of your Bank or Building Society

To: The Manager	Bank/Building Society
Address	
Postcode	

FOR Will Custodian Ltd OFFICIAL USE ONLY
This is not part of the instruction to your Bank or Building Society.

1) **Basic PMS** £9.95 yearly Secure storage, certificates, annual newsletter and checklist.
Our recommended service level is:

2) **Standard PMS adds free advice:**
 £1.95 monthly or £19.95 yearly

3) **IHT Wills – £39.95 p.a.** as advice WILL be required. If the Wills are subsequently converted to less complex Wills, fees will then drop by 50%.

Couples pay only ONE fee.

Terms and conditions available on request or at <http://www.willcustodian.co.uk/6201.html>

Client of:

Instruction to your Bank or Building Society

Please pay Will Custodian Ltd Direct Debits from the account detailed in this Instruction subject to the safeguards assured by the Direct Debit Guarantee. I understand that this Instruction may remain with Will Custodian Ltd and, if so, details will be passed electronically to my Bank/Building Society.

Signature(s)
Date

Reference

W	I	L	L																
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DD11

Banks and Building Societies may not accept Direct Debit Instructions from some types of account

This guarantee should be detached and retained by the Payer.

The Direct Debit Guarantee



- This Guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own Bank or Building Society.
- If the amounts to be paid or the payment dates change Will Custodian Ltd will notify you 14 working days in advance of your account being debited or as otherwise agreed.
- If an error is made by Will Custodian Ltd or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid.
- You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us.

