

Estate Planning Guide

Just Wills Plc



■ Estate Planning Guide

No one wants to pay tax unnecessarily to the Chancellor but it's surprising how many people end up doing it. Changes to inheritance rules in October 2007 affect married couples and those in civil partnerships but for everyone else, the rules remain unchanged. It is charged at 40% on any assets above the personal tax-free limits set by HM Revenue and Customs, so it is very important to prepare for a potential tax liability. By doing so you could be saving many thousands of pounds.

The following guide is intended to help ensure that you maximise your Estate for those you love... rather than see a disproportionate amount go to the Taxman, Local Authorities or (in our increasingly litigious society) dissipated via lawsuits or attack by hostile creditors.

With our high quality, specialist advice we can help you identify simple and effective ways of protecting your property and assets. We then work closely with you to implement these measures.



About Just Wills Plc

Just Wills is one of the UK's leading Estate Planning organisations and produces many thousands of Wills and associated legal documents each year.

We have a UK network of experienced Consultants who can assess your requirements in light of your specific situation and then present a complete Estate Planning solution.

By operating in conjunction with our own Trust Corporation we are able to provide the full range of products - from tax-efficient Wills to Lifetime Trusts and Probate services.

Starting at the beginning: Your Will

When it comes to thorough Financial and Estate Planning your Will is your starting point. There's no way you can take effective measures to minimise your IHT bill without having one. But in addition to saving tax there are a range of other benefits, which make having a Will essential:

- Choice of who inherits your possessions, property and money.
- Control over the amount of tax paid on your Estate, so the people you love inherit more and less goes to the Taxman.
- Protect your children by appointing trusted Guardians. If you don't they may be taken into the care of the Social Services, or Guardians appointed who you may not have wanted to act.
- Establish Will Trust solutions to minimise IHT.
- Peace of mind knowing that financial provision has been made for your children and Grandchildren after your death.
- Prepare for your funeral, with a prepayment scheme.
- Leave a legacy to a Charity or make provision for a family pet.

**59% of UK adults
don't have a Will**

Simple ways to minimise Inheritance Tax

Will Trusts

One of the biggest benefits of comprehensive Estate Planning is that you can ensure you don't pay a penny more in tax than you have to. This is because your Will can be drafted to include a provision to set up Trusts that will enable you to save Inheritance Tax (IHT).

These types of products are known as IOU Discretionary Will Trusts but we like to call ours the Generation Plan and Asset Protection Plan. Despite IHT rule changes, there are still a number of reasons why a married couple might consider provision for this in their Wills. We are one of the specialists in the UK and (given our ability to act as a professional Trustee) are experienced in dealing with the implementation and administration of the Trust.

Generation Plan

Our Generation Plan for Mirror Wills captures both partners' Nil Rate Bands on second death and holds them in Trust for future generations.

The Second Death Discretionary Will Trust gives the inheritors the opportunity of excluding that money from their Estate and perhaps passing it on in the future to their own children. They will retain the flexibility to draw from it, take loans or make gifts to their own children or grandchildren. They may even wish to add to this Trust going forwards with their own Nil Rate Bands at a later date, maybe even creating a family Trust for future generations.

We also have a Generation Plan in place 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 or part of their Nil Rate Band. It will include the same Discretionary Trust on their death or potential for the Discretionary Trust at that point.

Benefits are similar to the Mirror Will but apply to a single person. The people who will benefit most are widows and widowers whose spouse died without using their NRB. They will be able to create a Trust for up to £600,000 without payment of IHT.

Asset Protection Plan (IOU DWT)

The IOU Discretionary Will Trust (IOU DWT) that is created on first death instantly has an interest in the property. If a Local Authority are looking to take a further charge on this property to pay for the long-term care costs of the survivor, they will be unable to. Please also remember that the Discretionary Will Trust created on first death ring fences assets up to the Nil Rate Band and does not allow these to be taken by Local Authorities if they are looking to recover costs for long term care, on second death. The Asset Protection Plan will give maximum flexibility for both long-term care costs and future Inheritance Tax planning.

**Treasury estimates
IHT receipts of
over £3.6 Billion²**

**83% of Married
couples have done
no Estate Planning**



Benefits of the Generation and Asset Protection Plan

The first Trust (IOU) protects assets for a spouse and future generations (long term care element). The second Trust (on second death) ring fences both nil rate bands allowing the inheritors the flexibility of passing this amount onto their own children and grandchildren through the Trust rather than via their own estate.

- Holds Assets in Trust for the beneficiaries
- Children have autonomy and discretion over the trust funds
- Grandparents leave a lasting legacy in Trust for the Grandchildren
- Grandparents finance the future hopes, wants and aspirations for the Grandchildren

Funds can be used for purposes such as:

- General spending and out of pocket expenses
- School, College, University fees
- Travel
- Deposit or outright purchase of private dwelling
- Furnishing of private dwelling
- Purchase a car
- Pay for engagement / Wedding
- Invest for income or growth, or both
- Holidays / "gap year" funds
- Loans
- Repay student "debts"
- No need for further loans / credit
- Enable financial planning for the Grandchildren

The Asset Protection Plan will give maximum flexibility for both long-term care costs and future Inheritance Tax planning.

Lifetime Trusts

Establishing Lifetime Trusts is another important way of mitigating IHT but in addition to being tax effective they also offer other benefits. Many Trusts are also used to prevent children from accessing money until a certain age or until they are capable of dealing with the funds.

A further (and increasingly important) use is to protect assets, typically property, in the event of divorce, business failure or other financial pressures³. It is important to understand that, once assets have been placed in the Trust, you may no longer have access to them, so you should think carefully about what you can safely afford to give away. The following are some of the most popular types of Trust:

Interest in Possession Trust

This is often used to protect capital (the family home) and ensure that it eventually passes to beneficiaries without the costs and delays associated with probate (whilst providing protection against hostile creditors). The Trust caters for two types of beneficiary - 'Life Tenants' may use the income earned on the assets or enjoy the right to live in a property placed in the Trust. The second 'Capital Beneficiaries' receive capital, either on the death of the last life tenant or at a set date.

**Residential or Nursing Care
can cost up to £35,000pa in
some parts of the UK**

Another version of Interest in Possession Trust takes any type of asset (except your main home) out of your Estate for IHT purposes. This allows you to retain control over the assets, which is often preferable to making an outright gift to the recipients. This Trust is a PET, so you must survive seven whole years to avoid IHT completely.

Please note that IHT mitigation is not possible with these types of Trusts if a settlor or spouse retains interest in the Trust assets.

Other Services

Power of Attorney

Should you become mentally or physically incapacitated or simply leave the country for an extended period of time this document permits you to grant legal permission to named individuals to run your affairs on your behalf. It is a standard component of any Estate Planning package.

Business Solutions

In the face of increasing business and employment legislation, protecting a business is becoming ever more important - but over 90% of small businesses in the UK do not have the fundamental legal documentation in place to do so. By not taking simple and cost-effective action they are exposing themselves to unnecessarily dangerous risks - for instance their company could be wound-up or a new (undesirable) shareholder introduced. Succession planning is also vital in smaller businesses. Finally whilst shareholders in a publicly quoted company have the luxury of an active market to sell their shares, private business assets are often very difficult to market and rarely achieve their true value unless careful provisions have been made.

If you are running a business and can't answer the following questions please talk to us about the solutions we can provide:

1. **What is your exit strategy from your business?** What happens when you decide to leave; how is your portion valued, how do you guarantee that a fair value is obtained?
2. **What would happen if a co-director / partner contracted a critical illness... or died?** How would you ensure that their family got a fair price for their stake without impacting the business?
3. **Is there a legal agreement covering the transfer/sale of Company Shares?** Could your colleague's spouse / partner be your future business partner?

Advance Directives (Living Wills)

Many clients choose to detail the level of care that they wish to receive should they require urgent medical attention. An Advance Directive (Living Will) allows you to leave clear instructions for your doctors in the case of life threatening medical emergencies, which may result in guidance being needed.

Probate Services

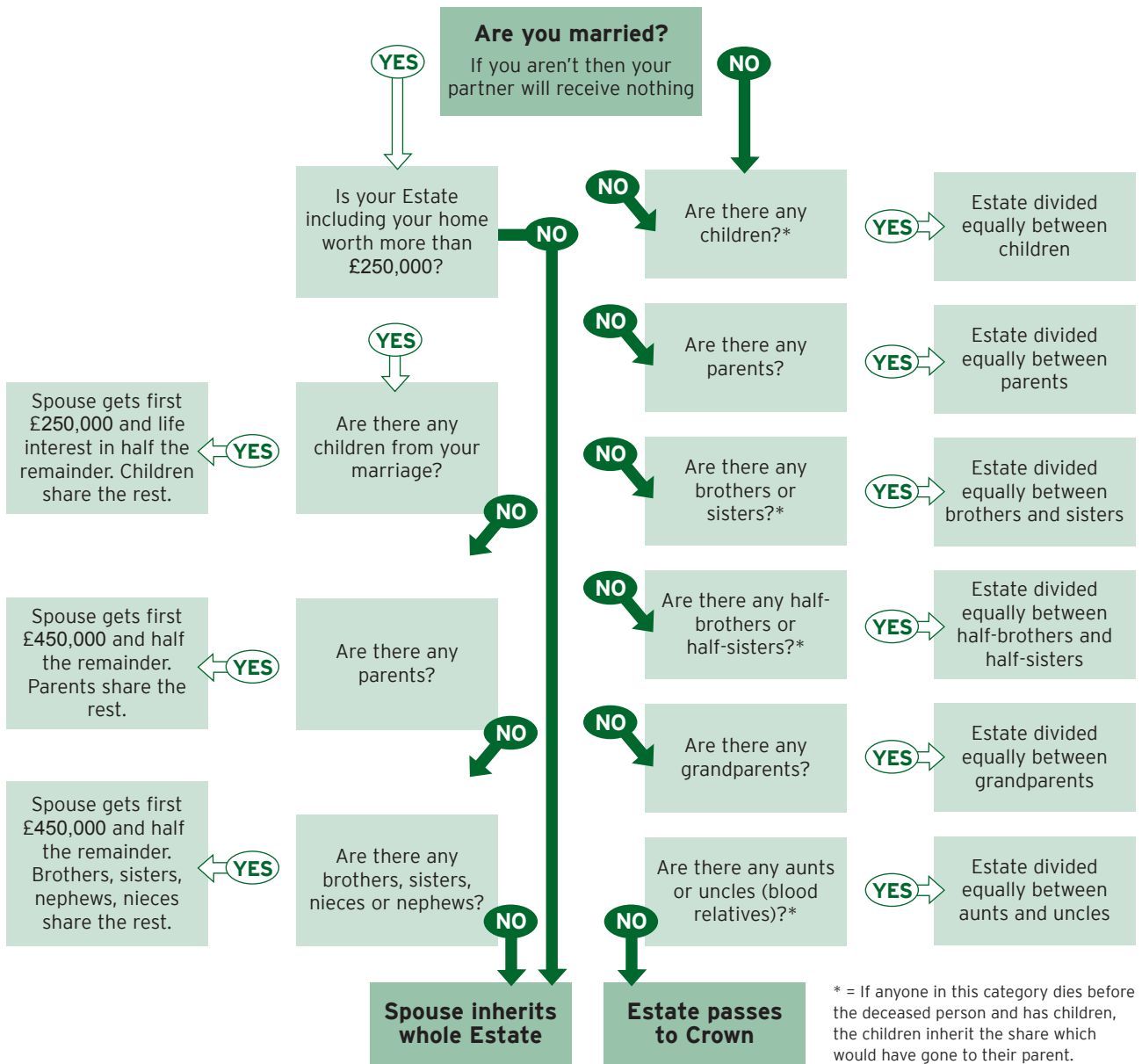
Every person must nominate someone in their Will to 'execute' or carry out their wishes upon death. Many people assume that the role of an Executor will be straightforward, and immediately select their partner or a close friend. Acting as an Executor can be a time consuming, complicated and a traumatic role especially if the Executor was close to the person who has died. We recommend that Clients appoint a professional Executor in some capacity - we can provide professional, cost-effective Probate services through our sister company, The Universal Trust Corporation.

Storage Facilities

The documents that we produce are precious and unique, which once destroyed or lost are gone forever. Furthermore, if a Will becomes damaged or defaced in any way it may be rejected when submitted for the Grant of Probate - a risk that is simply not worth taking. All clients should seriously consider professional storage so please ask your consultant for more details.

What happens if you don't have a Will?

The Laws of Intestacy from 1 February 2009



Contacting us

Call Michelle Mendoza on 0845 3 888825 or 01923 725802

Or email info@maroonblue.co.uk

1. Please note that Stamp Duty Land Tax may be payable. 2. Treasury estimate for 2005-2006 tax year. 3. Please note that certain protection measures can only work if you have no foreknowledge of impending action by creditors.