TAX HELP

A guide to taxation at bereavement

The charity service providing FREE help and advice to older people with tax problems.

2019/20

Foreword

Dealing with banks, government departments, local councils, electricity and gas companies, credit cards, plumber's bills, hospital appointments, insurance renewals, MOT for the car etc. can be difficult and time-consuming enough on your own account. Handling all that for someone else can be even more so – who knows where the relevant bits of paper and documents are? – and doing so for someone who has just died, someone to whom you were very close, is almost impossible. In your bereavement, everyday matters become subordinated to your fragile state of mind, while there are more pressing matters to be dealt with, both in winding up the affairs of the deceased and in adjusting to your new circumstances.

One area which needs attention in the majority of bereavements is tax. It is also the area most likely to be overlooked or relegated to the bottom of the list of things to do. Most people have a natural tendency to ignore tax during their lifetime, hoping that Her Majesty's Revenue & Customs (HMRC) are handling it correctly and that they don't need to do anything about it.

Registering the death and contacting the Department for Work and Pensions (DWP) to sort out state benefits are usually pretty automatic, but remembering to tell HMRC is frequently overlooked completely, especially when the survivor is a non-taxpayer and has had no direct contact with the Revenue for years (if ever). This situation might be improved if you are offered the 'Tell Us Once' service (TUO) when registering the death, which can include notifying HMRC, but problems can still occur if you do not realise that you need to tell HMRC about the death. TUO is explained further in chapter 1.

This booklet is a checklist and reminder of things to do with tax when dealing with bereavement. It is not aimed at those who have professional representatives like solicitors handling their affairs, but the large number where the personal representative of the person who has died is the surviving spouse or close family. Nor is it intended to be an exhaustive account of the entire tax system, but rather to provide sufficient guidance on the common issues which need to be addressed and to ensure adequate contact with HMRC to enable you to take the right steps.

Inevitably there is an enormous amount of detail for which there is no space in a booklet designed as an aide-memoire for the lay person. The list of useful contacts in Appendix B however, will guide you to the relevant specialist organisations, whether by internet or telephone, to obtain further help or information.

Tax Help for Older People is a registered charity which provides free professional advice on tax to older people on modest incomes, and inevitably helps a large number of people at bereavement, so this booklet draws on our daily experience. We have also included a section which contains material more relevant to the death of a younger person as well. The list of contacts at the end is designed to signpost other organisations, both statutory and voluntary, whom you may need or want to deal with. In the period following bereavement, you are not going to be keen on sorting out the tax side of things, so we hope to make the task as easy as possible for you.

CONTENTS

CHAPTER 1: TAXATION OF THE PERSON WHO HAS DIED	4
CHAPTER 2: TAXATION OF THE SURVIVING PARTNER	7
CHAPTER 3: TAXATION OF THE ESTATE	9
APPENDIX A: CALCULATION OF TAXABLE INCOME	12
APPENDIX B: EXAMPLE OF HOW TRANSFER OF NIL RATE BANDS FOR INHERITANCE TAX WORKS	14
APPENDIX C: USEFUL CONTACTS	16

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CHAPTER 1
Taxation of the person who has died

The first thing is not to panic about the tax matters after a death. While it should not be ignored, there are plenty of other aspects which should be tackled first and sooner, like informing banks and pension providers including the Department for Work & Pensions (DWP) for the state pension and pension credit, or other state benefits so that accounts and pensions can be stopped or transferred to the surviving partner. You, the personal representative, should then get started on the tax aspects so that you can obtain probate, or Confirmation in Scotland, distribute the estate and deal with the tax implications for the surviving partner. If you want a timescale, we suggest within a couple of months after the death.

Was the deceased a taxpayer? If the answer is yes, then read this section. If not, then skip to the next chapter. If you are not sure, read the advice on the next page and then return to this point.

Before anything else, inform HMRC of the death if you have not already done so through TUO (see next paragraph), preferably in writing (but see also next paragraph). There will be telephone numbers and addresses on any correspondence from HMRC or coding notices. If you cannot find any of these, then call the general HMRC helpline on 0300 200 3300 – if calling from abroad +44 135 535 9022 – and answer the automated questions which guide you to the bereavement team. Simply say “I want to report a death”.

Tell Us Once is a service that is offered by most local authorities on behalf of the DWP. The service allows you to inform central and local government services of the death at one time, rather than having to contact each service individually, and it is completely free. If the scheme is available in your area, you will be told about it when you go to register the death. So when you go to your appointment with the Registrar, take with you all the government or local authority documents of the deceased – driving licence, passport, tax reference number, National Insurance number (NINO), NHS number, Blue Badge, etc. – and these can be cancelled or appropriate action initiated as the Registrar notifies whichever local or central government departments and agencies you wish to inform about the death. The choice is yours. This scheme does not apply to private or commercial organisations, so while the DVLA for example can be notified and the driving licence cancelled via TUO, you will have to notify the car insurance company separately.

You may not be sure whether s/he was a taxpayer or not. So here’s what to look for.

Pay As You Earn (PAYE) taxpayers will have end-of-year certificates, P60s, showing earnings or pensions paid and tax deducted. If you can find one of those, you will have most of what you want because it will show the National Insurance Number (NINO) as well as tax references which will enable HMRC to trace and co-ordinate the deceased’s income sources. There may also be payslips from employers, but pension providers have almost entirely abandoned sending out payslips any more. Payslips and P60s may have been given electronically, so you might need to ask the deceased’s employer for copies of them.

Self Assessment taxpayers should have copies of their tax returns, tax calculations or similar correspondence. Apart from the address of HMRC (see Appendix B), there will also importantly be a 10 digit number called UTR which is the Unique Taxpayer Reference. This will identify the taxpayer to HMRC.

Other clues can be found in building society statements showing interest with tax deducted (section 975 certificates for years up to 2015/16; after that interest is paid in most cases without deduction of income tax but an annual interest statement might still

be sent) and HMRC coding notices (a P2) showing allowances given against sources of income.

You are probably going to need these pieces of paper anyway, so keep them all together in a box or file. If you need to determine for yourself whether the deceased was a taxpayer or not, then go to Appendix A which will help you with the calculations.

The purpose of this exercise is to determine whether there is any potential repayment of tax due, or more rarely any tax still owed, to HMRC. We will illustrate an example below. Please note, throughout this booklet we are going to use approximate round figures to avoid muddying the explanation. The ones we use are roughly in line with the rates and allowances applying to the tax year 2019/2020 for England.

Brian dies aged 73, exactly halfway through the tax year on 5 October. His taxable income from state pension and works pension was £16,500 a year. His personal allowance was £12,500, so tax was due at 20% on the remainder, £4,000 i.e. £800. Under PAYE this is collected monthly from his works pension, so he pays £66.67 a month (£800 divided by 12). Thus when he dies, he has paid £400 of tax. His income, however, at the date of his death has only been £8,250 and he is entitled to his full personal allowance for the tax year in which he dies. His allowances at £12,500 obviously exceed his received income of only £8,250, so he clearly is not liable for any tax. Therefore all the £400 he paid between April and October should be repaid to his estate.

Let’s up his pension income to £24,500 and see what happens. His monthly tax bill will have been £24,500 - £12,500 at 20%, so £2,400 a year or £200 a month. At death therefore he will have earned £12,250 and the total personal allowance he is entitled to is £12,500. His estate is therefore due a refund of £1,200 which is the tax he has paid so far (6 x £200).

What should you do?

If you notified HMRC of the death via TUO, HMRC will write to you to explain what, if anything, they need to know or what they need you to do. If their information is correct or you confirm any details they need, then they will automatically arrange any repayment of tax. **It is important that you do your own checks to make sure that all relevant information has been included. Do not just assume that HMRC know everything.** Should they fail to make contact within about a month of registering the death, then it would be advisable to telephone them to make sure that they have logged the death and are taking appropriate action.

The Self Assessment taxpayer

The above will normally sort out the deceased, dealt with under PAYE**.** What if they were in Self Assessment (SA), sometimes the same process will be all that is needed, but much will depend on the complexity of the deceased’s tax affairs. If there are likely to be any complications or unusual aspects, HMRC may well issue an SA return to be completed for the period to date of death. This will achieve the same result of assessing the tax due and paid at death. You, the personal representative, will need the same information whichever route is taken.

Other tax-related matters

Gift Aid donations. Because these are connected with the tax status of the deceased, banks and building societies will automatically cancel direct debits and standing orders once you have reported the death to them. You will, however, need to keep records of them in case they are relevant when winding up the tax situation.

National Insurance Contributions (NICs). If the deceased was over state pension age, then they will no longer be paying NICs. If he or she was under that age and employed, obviously the employer will stop contributions automatically, but should the deceased

have been self-employed and paying Class 2 contributions, then you need to contact HMRC to tell them. Any Class 4 contributions (an additional tax on the profits of the self-employed above a certain ceiling) will be sorted out in the Self Assessment process.

Tax credits. It is important that you notify the Tax Credit Office (TCO) if the deceased was in receipt of any form of tax credits or was part of a joint claim with their surviving partner. HMRC will need to stop payments immediately to ensure no overpayments build up. If the surviving partner is still entitled to tax credits, they will need to make a new claim. Tax credits are gradually being replaced by universal credit, and in some areas it is no longer possible for many people to make a new claim for tax credits. Remember, pension credit is a benefit paid by the DWP and is not relevant here. If you notified the DWP through TUO, they will take the appropriate action.

Student loans. If the deceased was repaying a student loan, then you should make sure that HMRC know, because they are responsible for collecting the repayments. You will also need to contact the Student Loans Company, as they are not currently informed through Tell Us Once. Write to them at: Student Loans Company Limited, 100 Bothwell Street, Glasgow, G2 7JD, or call 0141 306 2000.

ISAs normally lose their tax-free status on death, so see the chapter on taxation of the estate for what to do about them.

Was the deceased a non-taxpayer?

There is obviously no question of claiming any tax back as in the above section but action may be needed if

1) tax credits were involved either individually or jointly
2) pension credit or other benefits were involved either individually or jointly
3) assets or income passes to a spouse or civil partner

If 1), then seek advice from Citizens Advice for information about tax credits; if 2), then you should be contacting the DWP (see Appendix B); if 3), go to chapter 2.

CHAPTER 2
Taxation of a surviving partner

Where there is a surviving partner, tax is almost certainly going to be a major topic to tackle. There are several scenarios depending whether the two partners were both taxpayers, only one was or both were non-taxpayers. Their individual and joint sources of income and savings will affect the tax position.

Again, let us illustrate with some examples.

Brian, 73, received a company pension of £12,000 a year, a state pension of £7,500 a year and a small personal pension of £1,200, total £20,700. He was therefore a taxpayer. His wife Mary had never worked enough to acquire a state pension in her own right, so her income aged 71 is only the £3,500 she gets off his contributions and a couple of hundred a year from her savings interest. Definitely nowhere near a taxpayer. When Brian dies, she inherits his state pension, £7,500 and half his company pension, £6,000. His personal pension ceases on his death. So Mary now has an annual income of £13,500 (plus her savings interest but that is tax-free at this level) and is liable for tax on £1,000 of that. She must therefore make sure that HMRC know about her new circumstances so that they can issue the correct codes to collect the tax due via the company pension. She should not assume that HMRC will make the instant and correct assumptions about her new income and tax status, simply because she has told them that Brian has died.

Let us take this example a stage further. Because Brian died on 5 October, Mary is actually only going to acquire half that income in the year of death i.e. only £6,750 plus the £1,750 she received by way of state pension up to his death. So she remains a non-taxpayer for that tax year, only becoming one in the following tax year. We will come back to this point after the next paragraph.

Now let us add another ingredient. Let's have Brian born before 6 April 1935 so that he is entitled to the Married Couples Allowance (MCA). This allowance continues to the end of the tax year in which the death occurred and is transferable between spouses or civil partners, so Mary is entitled to any unused portion. Thus, ignoring the figures in the examples above, supposing Mary's income after Brian's death gave her a liability of, say, £200 for the rest of that year, but there remained £300 of unused MCA, then that would be applied to her tax and reduce it to nil (you cannot get a refund of the unused £100). The MCA would cease in the following tax year and she would be reduced to just the personal allowance. So again, she might not become a taxpayer immediately, but rather with a time-lag until the next 6 April.

A slightly different process applies to the Transferable Marriage Allowance. The transfer will similarly continue until the end of the tax year before expiring, with the difference that if it is the recipient of the allowance who dies, their allowance will remain at the higher level while the transferor's allowance will return to the full amount before transfer. Conversely if it is the transferor of the allowance who dies, their allowance will remain at the lower level while the surviving recipient will remain at the higher level.

We were looking just at the pension income above, but what about savings? First there is a 0% tax band on savings interest for those whose income is below or no more than £5,000 above their personal allowance. As we saw above, Mary is only £1,000 over her personal allowance, so she has £4,000 of her savings interest taxable at 0%. Secondly all basic rate taxpayers now have a Personal Savings Allowance (PSA) of £1,000 tax-free on any savings interest (and higher rate taxpayers a PSA of £500). Banks and building societies no longer deduct tax at source and most people will pay no tax on savings interest. The saver therefore will not have to do anything unless their interest exceeds their tax-free limit, in which case they will have to notify HMRC. Sometimes the

calculations can be complicated, but help can be obtained from Tax Help for Older People. The Low Incomes Tax Reform group (LITRG)[1] website also gives examples of how all the new nil rate bands work together.

One more example to show how two non-taxpayers can become one taxpayer on a lower income.

Let's give Brian, aged 85, an income of £14,000, made up of £6,000 state pension and £8,000 occupational pension. Mary, 77, worked quite a lot and clocked up £4,000 of state pension through her own contributions and an occupational pension of £5,000. She obviously is below her personal allowances of £12,500, so pays no tax. Brian is above his allowances but the tax liability of £300 is wiped out by the MCA which knocks some £891 off the bill. So they are both non-taxpayers.

On his death, Mary inherits Brian's state pension which is bigger than hers and half his occupational pension, totalling £13,000. She still has her own occupational pension of £5,000, so her taxable income on 6 April the year following Brian's death is £18,000, well above her allowances and the MCA has disappeared. Six months earlier their household income was £23,000 a year and they paid not a penny in tax. Now on an income two thirds of that, Mary is going to pay around £1,100 a year in tax. As mentioned above at various places, she will need to check that the tax office know about her new status.

One last example to show the possible complications.

Brian dies aged 66. His sole income is his state pension of £12,800 a year. It passes to Mary, aged 63. This is some £300 above her personal allowance, so she becomes a taxpayer with a tax liability of £60. Because she has no other income which is taxable at source, she must pay the tax due through simple assessment. In the past this would have meant that Mary, who had never earned enough to pay tax or National Insurance contributions in her life, would have had to complete an annual tax return. The new simple assessment process is easier and Mary will be sent a tax calculation which will explain how she can pay her tax. However, she will need to check that the figures on the calculation are correct.

In short it is important for the survivor to examine carefully their changed financial circumstances and therefore probably their tax position. Some incomes such as state pensions may only transfer to a spouse while others may be disposed of to other beneficiaries in a will. More on that in the chapter Taxation of the Estate.

Checklist

Has your income changed?

If increased, do you become a taxpayer?
If decreased, do you necessarily become a non-taxpayer?
Either way, notify the tax office.

Have you acquired the deceased's investments?

If yes, have you re-registered them in your name?
Keep the dividend vouchers – you will need them for most tax forms.

Do your new circumstances mean that you must complete Self Assessment tax returns?

You should check with HMRC or a charity like Tax Help.

[1] The LITRG is an initiative of the Chartered Institute of Taxation (an educational charity) to give a voice to unrepresented taxpayers and tax credit claimants.

CHAPTER 3
Taxation of the estate

At death, the deceased no longer owns anything and all the assets go into a limbo awaiting probate and distribution according to the terms of the will or, in cases of intestacy (that is, where there is no will), according to fixed laws of entitlement. Note however that this does not apply in cases where the couple are joint tenants rather than tenants in common. Joint tenants both own the whole property equally rather than distinct shares in the property, so probate is bypassed.

While there, the assets continue to be taxable, although it is the estate which is paying the tax, not the beneficiaries or the executors of the estate. The executors, however, are responsible for the payment of any taxes due from the estate. Therefore, even in a case where all assets pass to the surviving partner, until probate has been granted, the estate's tax liability will not be added to the survivor's, which might possibly have pushed them into a higher rate band.

The executors or personal representative will be responsible for liaising with HMRC to make sure the correct amount of tax is paid by the estate, although in most cases this is likely to be only the income from the assembled savings and dividends. Only where the estate is approaching the Inheritance Tax (IHT) threshold (£325,000 in 2019/20) will there be a need to complete the full IHT forms and arrange to settle the tax bill (see below).

ISAs are always individual accounts, never joint. That means their value will form part of the deceased's estate for IHT purposes. It used to be the case that the tax-exempt status of ISAs from Income Tax and Capital Gains Tax ended on the date of death, but new rules from 6 April 2018 mean that these usual ISA tax exemptions can continue during a period of estate administration of up to 3 years.

Since 2015, a surviving spouse or civil partner is immediately entitled to an "Additional Permitted Subscription" (APS) amount for ISA, which is equivalent to the value of the deceased's ISAs. Unless the deceased's will directs the ISA monies are to be inherited by someone else, an APS effectively enables the ISAs to be passed on to a surviving spouse or civil partner and the tax exemptions to continue. It is, however, worth noting that only a surviving spouse or civil partner gets the APS and they are free to use it for different available monies if appropriate or preferred. There are time limits and administrative processes connected to an APS, but all ISA providers should be able to offer detailed information on request.

Inheritance Tax (IHT)

Let's take IHT first because this is the most major of the tax issues when handling the estate. If the value of the estate is likely to be £325,000 plus, then you should contact the tax office (see the helpline number below) to discuss. You may well have to complete form IHT400 which like so many HMRC forms merely tots up the assets and debts to calculate whether any tax is due. You can download this form with checklists and guidance from the HMRC website (see details in the appendix) or ask for it from the Probate & Inheritance helpline on 0300 123 1072 or +44 300 123 1072 if overseas. This helpline also handles queries about trusts and deceased persons' estates. It is reasonably straightforward to complete the form if the estate is routine such as a house (most estate agents will do a free valuation for probate), savings and investments, perhaps even a holiday cottage, but if there are matters like trusts, foreign assets, non-exempt gifts over the last seven years, business or agricultural assets to deal with, you must take professional advice as they can be rather complicated for the layman to unravel. See a solicitor or tax adviser, preferably one who is also a member of the Society of Trust & Estate Practitioners (STEP - see contact details in the appendix). The form will also guide you if you need to spread payment of IHT over a period of years.

No Inheritance Tax

The vast majority of estates, however, are below the IHT threshold, especially now that the unused proportion of the Nil Rate Band (NRB), that is, the first £325,000 which is taxed at 0%, of the first spouse or civil partner to die is transferable to the surviving spouse or civil partner for use on their death. Furthermore there is now a Main Residence NRB of the value of the main residence up to a maximum of £150,000 for 2019/20, increasing to £175,000 by 2020/21, providing that the property passes to a direct descendant, children or grandchildren, biological or step. It is also transferable between spouses and civil partners. Form IHT205 for online use or IHT206 for postal deal with these simple cases. See Appendix C for a fuller example of how this works.

So you will mainly be concerned with checking that tax is paid on any assets in the estate generating taxable income. As we said, most of this will probably just be savings and dividend income which will now be untaxed at source anyway, but there might be other untaxed sources like National Savings & Investments (NS & I) bonds or rental income. If the aggregate of these exceeds any allowances (see chapter 2 above), the executor will be responsible for making sure that any tax due is paid out of the estate. See under Probate in Appendix B for useful contacts.

Taxation for the beneficiaries

There seems to be a widespread belief that gifts and legacies are taxable on the recipients; this is very rarely the case. Just occasionally the recipients of gifts made during the deceased’s lifetime might have to pay some tax on them if the death was within seven years of the gift, but this would assume that the donor was really quite wealthy and had already made gifts of more than the nil rate band. Any tax due will have been settled by the estate before distribution and the bequests themselves are neutral. Tax only arises when the recipients actually do something with the money or assets, apart from rushing out and spending it. So if you are left £10,000 that is tax-free. Buy shares with it or put it into a savings account, then you create a taxable income stream and perhaps ultimately a capital gain from the shares.

Capital Gains Tax (CGT) is another Frequently Asked Question. Your aunt leaves you her house; no tax was due on that because her estate was below the IHT threshold. Nor is it taxable when you receive it, only potentially when you sell it or dispose of it. If you move into it, then it usually becomes your principal private residence (PPR). You have 18 months (reducing to 9 months from April 2020) in which to sell your previous house to retain the exemption from CGT which a PPR attracts when you own and live in it. If you simply sell it straightaway, there is probably no CGT due because you have (2019/20) an exempt band of £12,000 on your total annual gains. The value of the house when you inherited it is the value when your aunt died. If you sell it 6 months later and the value is unlikely to exceed your exempt amount (the gain is the net gain after deducting expenses such as estate agents and solicitors). Hanging on to it for a few years and letting it out will then generate both income tax on the rental (you will need to tell HMRC when you start letting it out) and possibly CGT on selling it.

An important point for non-taxpaying beneficiaries; we said that the estate pays tax while awaiting distribution. When you, the non-taxpayer, receive your share, you may be able to reclaim the tax paid or overpaid on your inheritance.

The LITRG website (see Appendix B) has some useful guidance for personal representatives handling the estate themselves.

APPENDIX A

INCOME FOR TAX PURPOSES

You need to be clear what chunks of your money are of interest to the taxman. It sounds odd, but this is not necessarily the same as the interests of the benefits people or the local council. If, for example, you win £100,000 on the lottery, the taxman will pay no attention to that lump sum, whereas the council will promptly withdraw your council tax support. So here is a list of the most common sources which HMRC take an interest in:

- Earned income from employment or self-employment
- Pensions, including state pension, foreign pensions and annuities (except war pensions)
- Interest from savings accounts
- Dividends from investments
- Income from lettings
- Taxable state benefits which include:
  - Jobseeker's allowance
  - Contribution based employment and support allowance
  - Carer's allowance
  - Bereavement allowance
  - Widowed parent's allowance
  - Income support (only if you are involved in a trade dispute)
  - Incapacity Benefit (unless short term lower rate or long term in payment since before 13 April 1995)

And here is a list of some sources which they are not interested in:

- Pension credit
- Lottery or Premium Bonds wins (or any other gambling wins)
- Winter fuel payments
- Disability Living Allowance
- Personal Independence Payments
- Attendance Allowance
- War pensions
- Industrial Disability
- ISAs
- Some National Savings & Investment products
- Bereavement support payment
- Tax credits (although dealt with by HMRC they do not count as income for tax purposes)
- Universal credit See https://www.litrg.org.uk/tax-guides/tax-credits-and-benefits/state-benefits

Remember, neither of these lists is exhaustive. As always throughout this booklet, if in doubt, contact HMRC or Tax Help for fuller information.

Capital in itself does not attract tax. It is only interest or income generated by that capital which is taxable. So if you put that £100,000 win on the lottery in a sock under the mattress, it is still no concern of the taxman, other than it would be an asset for inheritance tax purposes. However, as soon as you put those winnings into a savings account and start to get some interest, then that interest will be taxable.

SO WHAT MAKES SOMEONE A TAXPAYER?

That will depend on whether the taxable income exceeds the personal tax-free allowances which everyone (except the very rich) gets from birth. You add together all the sources of income from the first list and see if they are greater or smaller than your Personal Allowances (PA). If smaller, then you are a non-taxpayer; if greater, then you will have some tax to pay.

The first step, therefore, is to know what your personal allowances are. For 2019/20 the personal allowance for anyone with an income under £100,000 a year is £12,500. This may be increased by additions such as Married Couples Allowance (MCA) or Blind Persons Allowance (see next paragraph), or perhaps decreased by transferring the Married Allowance to a spouse (again, see below), underpayments of tax from a previous year or taxable benefits such as medical insurance or use of a company car. Those with incomes over £100,000 a year start to lose their personal allowance at the rate of £1 for every £2 of income above this threshold.

There are two major allowances and one minor mentioned above which can affect your tax bill.

One is the **Blind Persons Allowance** which is worth £2,450 in 2019/20, so someone who is registered blind (or in Scotland/ Northern Ireland is sufficiently without sight so as to prevent them doing work for which eyesight would normally be required, were they of working age) would have tax-free allowances against income of £12,500 + £2,450 = £14,950.

The second one is the **MCA**. This one is a bit more complicated. The MCA is not an allowance against income like the one above, but is rather a reducer of any tax due. The MCA is only available to married couples or civil partners where one of the two (does not matter which) was born before 6 April 1935. In 2019/20 it is worth £8,915 but only given at 10%, i.e. it knocks up to £891.50 off the tax bill.

The recently-introduced Marriage Allowance is available to spouses/civil partners born after 5 April 1935 (you cannot claim both). This allows a transfer of 10% of the personal allowance between a non-taxpaying partner to a basic rate-paying partner. So in 2019/20 that is £1,250, given as a tax reduction so the tax saving is 20% of £1,250, i.e. £250. If claimed for the first time in 2019/20, it can also be claimed for 2018/19, 2017/18, 2016/17 and 2015/16, the year of its introduction. There can be complications with this, so you may well wish to check with HMRC or Tax Help to ensure compliance with the rules.

These allowances can be claimed retrospectively, so if you have only just spotted you were eligible, as the executor or personal representative you can claim them, going back 4 years.

Remember that establishing whether you are a taxpayer or not means you must tot up all your taxable income which includes pensions, savings, investments, any work, etc. Importantly, add them up gross, i.e. before any tax is deducted at source. Since you are probably doing this for the person who has died, look back at chapter 1 for the sort of information which you will need.

APPENDIX B

EXAMPLE OF HOW TRANSFER OF NIL RATE BANDS FOR INHERITANCE TAX WORKS

Inheritance Tax (IHT) is a tax that applies not to you but to your estate. The value of all the assets you own on the day after death is calculated, non-exempt gifts made in the previous seven years are included, then debts such as mortgages are deducted to arrive at the value of your estate.

The first £325,000 is treated as taxable at 0% (the nil rate band, NRB) and the rest is taxed at 40%. It is important to note that lifetime gifts, in excess of the various exemptions, made in the previous seven years are applied against the nil rate band first. The main exemption is an annual one of £3,000 which can be carried forward one year only; but there are some others relating to small gifts, regular gifts made out of income (not capital) that do not reduce your normal standard of living, and gifts on marriage to certain relatives. Gifts to charities, gifts for the national heritage and to certain political parties are also exempt.

So, if you gave away £200,000 three years before your death, that would absorb most of the current nil rate band, leaving only £125,000 to set against the value of assets you owned at death.

Where the value of gifts from the estate exceeds the nil rate band, the rate of Inheritance Tax payable is tapered so that less tax is paid on any gifts made more than three years before death. After seven years gifts are excluded from the estate for IHT purposes.

For most people their house is likely to be the main part of their estate and these days can push even low-income pensioners into the IHT bracket. Do not, however, worry too much about Inheritance Tax. Last year only some 4% of estates attracted the tax. Furthermore there is now a Main Residence Nil Rate band (RNRB) of £150,000, increasing to £175,000 2020/21, available to both spouses or civil partners, provided that the house (or proceeds of sale on death) go to a direct descendant. Siblings, nephews, cousins, etc. are excluded from this benefit. It also applies to the value of the property at “downsizing”, so you don’t need to feel you must hang on to the larger property for fear of losing the RNRB. Like the basic NRB, any unused portion is transferable between married couples and civil partners.

The rich can afford to pay advisers to help them mitigate or avoid this tax but for most people there are few ways of escaping it. The most frequently asked question is: ‘Can I give my house to the children and continue to live in it?’ The answer is ‘Yes – but only if you pay a commercial rent’. Remember you may well pay more in rent than you save in Inheritance Tax, and, of course, your children will pay tax on the rental income.

Spouses and civil partners can reduce IHT liability by becoming ‘tenants in common’ of their property. This means that each one owns half the property. On death, therefore, only half the house will be considered for IHT and it can be left in a will to whomever the owner chooses and in most cases the value will be beneath the threshold. A major drawback, however, is that the surviving spouse or partner only owns half the house and the inheritor of the other half could force a sale. Professional advice from a solicitor or member of the Society of Trust & Estate Practitioners (STEP) is strongly recommended. (See Appendix B, Useful organisations.)

A significant change made in October 2007 was that a surviving spouse can now claim the unused part of the deceased partner’s nil rate band and add it to their threshold at the rate in force at the time of second death. See the example below. This change was backdated to 1972 where one spouse died before 9 October 2007 and the second survived at that date or after.

Example

Claiming the unused part of the nil rate band

Mr A died in 2006/07 and left everything to Mrs A. She therefore acquired 100% of his nil rate band (currently £325,000). Thus on her death, her estate will have a nil rate band of twice the current rate. If she were to die this year 2019/20, her nil rate band would be 2 x £325,000, total £650,000.

If Mr A had left £160,000 to his children, i.e. almost half his nil rate band, his widow would only be able to add just over 50% of the nil rate band in force at the time of her death. So if, as above, she died this year she would only have 1.51 x £325,000 available (£490,000), before Inheritance Tax was levied.

Note

It is only the unused percentage of the nil rate band at the time of the first death, which is carried forward but that percentage is applied to the rates in force at the time of second death.

APPENDIX C
Useful contact details

HMRC	**Her Majesty's Revenue & Customs excluding tax credits – see TCO below** Web: www.gov.uk/government/organisations/hm-revenue-customs or telephone numbers on correspondence of deceased or phone 0300 200 3300 For SA & PAYE the postal address is: Self Assessment & PAYE, HMRC, BX9 1AS
DWP	**Department for Work & Pensions** has now moved to www.gov.uk or ask local JobCentre Plus
Tax Help for Older People	Web: www.taxvol.org.uk Helpline: 0333 207 5653 Email: taxvol@taxvol.org.uk Postal address: Unit 10, Pineapple Business Park, Salway Ash, Bridport, Dorset DT6 5DB
LITRG	**Low Incomes Tax Reform Group** www.litrg.org.uk
CIOT	**Chartered Institute of Taxation** Web: www.tax.org.uk Phone: 0207 340 0550 Postal address: 30 Monck Street, London SW1P 2AP
ATT	**Association of Taxation Technicians** Web: www.att.org.uk Phone: 0207 340 0551 Postal address: 30 Monck Street, London SW1P 2AP
Law Society of England & Wales	Web: www.lawsociety.org.uk Phone: 0207 320 5650 Postal address: The Law Society's Hall, 113 Chancery Lane, London WC2A 1PL
Law Society of Scotland	Web: www.lawscot.org.uk Phone: 0131 226 7411 Postal address: Atria One, 144 Morrison Street, Edinburgh EH3 8EX
Law Society of Northern Ireland	Web: www.lawsoc-ni.org Phone: 028 9023 1614 96 Postal Address: Victoria Street, Belfast BT1 3GN
STEP	**Society of Trust & Estate Practitioners** Web: www.step.org Email: 0203 752 3700 Postal address: Artillery House (South), 11 – 19 Artillery Row, London SW1P 1RT
SOLLA	**Society of Later Life Advisers** whose members specialise in independent financial advice for older people. Web: www.societyoflaterlifeadvisers.co.uk Phone: 0333 2020 454 Postal address: PO Box 590, Sittingbourne, Kent ME10 9EW

TCO	**Tax Credit Office (part of HMRC)** Web: https://www.gov.uk/guidance/help-and-support-with-tax-credits Phone: 0345 300 3900 (Textphone 0345 300 3909) Postal address: HMRC, Tax Credit Office, BX9 1ER (to notify changes of circumstances)
Age UK	**The merged Age Concern & Help the Aged** www.ageuk.org.uk or your local Age Concern/AgeUK. See your telephone directory.
Citizens Advice	www.citizensadvice.org.uk will guide you to find a local CA in England, Wales & Scotland or for N Ireland go to www.adviceni.net. See local telephone directories under local businesses & services for your nearest bureau.
Probate	www.gov.uk and search Probate. HMRC helpline for probate and Inheritance Tax 0300 123 1072

Pineapple Business Park, Salway Ash, Bridport, Dorset DT6 5DB

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