



## WILLS, TAX PLANNING WILLS and INHERITANCE TAX

### WILLS

The purpose of your Will is for you to decide:-

- how you wish your Estate to be dealt with
- who is to have your Estate
- and with what conditions (if any).

If you do not make a Will you die “intestate”. Your estate will pass in accordance with the “Rules of Intestacy” which may not be to the people that you would like to inherit. This is particularly important for people who are cohabiting, as your partner would not automatically be entitled to receive anything from your estate.

Your Will is an important legal document and we would suggest that you use a Solicitor to make your Will – a homemade Will can contain mistakes or create trusts that you did not intend and could be expensive to rectify after you die!

When making a Will some of the things that you should consider are:-

- Who you would like to administer your estate when you die – these are your Executors?
- If you have children who would you like to look after them when you die – these are Guardians?
- What do you have to give away – do you want to include gifts of specific items (referred to as personal chattels) or amounts of money in your Will?
- Who do you want to inherit everything else that you own when you die – this is called the residue of your estate?
- Do you have any specific funeral wishes that you would like to include within your Will?

Thursfields can also provide you with advice as to Inheritance Tax (IHT) planning. If you have a potential IHT liability in your estate you may require a “*flexible will*” to be drafted to help reduce the tax.

### TAX PLANNING WILLS or FLEXIBLE WILLS (NRDT Wills)

A “Flexible Will” is a Will that contains a type of trust called a Discretionary Trust (now referred to by the Revenue as a Relevant Property Trust (RPT)). It can be used to reduce an IHT liability and is of particular advantage to married couples, or for those within a civil partnership.

The trust will include a list of Beneficiaries and your spouse can be one of them. The Trustees of the trust fund have “discretion” as to who can receive income or capital from the trust, meaning that no beneficiary “owns” the assets of the trust. The trust assets are not therefore included within the beneficiary’s personal estate unless and until distributions to that person are made.

Some of the other advantages of the Flexible Wills are:-

- Protection of assets if your surviving spouse faces the possibility of needing residential or nursing care in the future the assets of the trust are not taken into account when calculating your spouse's means for paying for their care.
- Protection of assets if one of the beneficiaries is disabled and receiving means tested benefits; again the trust assets are not taken into account.
- The Wills contain wide powers for the Trustees to "loan" assets of the trust, for example, to the surviving spouse to give added flexibility.
- Protection of the assets if your spouse remarries
- Benefit for future generations e.g. distributions could be made to grandchildren
- Further very advantageous IHT planning can be carried out if you have business assets or agricultural assets. So if you have such assets then contact Thursfields now!

## INHERITANCE TAX

You should also consider the size of your estate or for couples the size of both of your estates and whether your estate(s) will be liable for Inheritance Tax (IHT) when you die.

The current IHT threshold (or nil rate band) for each individual is £325,000 from 6 April 2009. This will increase to £350,000 from 6 April 2010. For a married couple (or for those in a civil partnership) this may be increased on the second death by up to 100% (this is Transferable Nil Rate Band) which based on the current IHT threshold is £650,000 from 6 April 2009 and will be £700,000 from 6 April 2010.

If IHT is payable on your estate the rate is 40%, which could mean that a large percentage of your estate passes straight to the Government!

There may well be IHT planning opportunities to reduce the potential IHT liability within your estate (or for couples in both your estates) which you can look at with Thursfields.

### Thursfields' Probate, Tax & Trusts Department Members at each office are:

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Kathy Jones		
Tina Circus		
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Phone Thursfields today to make an appointment to discuss these matters as they affect you or your family

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