

## The Nil Rate Band Discretionary Trust

The Inheritance Tax Act 1984 governs Inheritance tax law and since 2007, married couples or those in a Civil Partnership have been allowed to transfer any unused threshold of their inheritance tax-free allowance, known as the Nil Rate Band (“NRB”) which is currently £325,000 to their surviving spouse/civil partner on their death. This means that the basic tax-free threshold available when a wife, husband or civil partner dies can be as much as £650,000 if none of the £325,000 threshold was used when the first of the couple died.

However you will not qualify for the transfer if you are in a relationship but are either unmarried or not in a Civil Partnership which means your partner’s allowance is not available to you, so whilst you may benefit from inheriting his/her estate, your dependants (or other secondary beneficiaries) will be deducted a larger portion of Inheritance Tax on your passing as your estate will be increased through the inheritance your estate received from your deceased partner.

By including a Nil Rate Band Trust in their Will, or more specifically what is technically a Nil Rate Band Discretionary Trust, (“NRBDT”), unmarried couples or those outside of a Civil Partnership can duplicate and make use of the full Inheritance Tax benefits that married couples Civil Partnership couples that live here can utilise pretty much automatically.

This is possible by the tax-free allowance of the first to die to be directed to a resulting NRBDT, which has the effect of protecting that NRB from being included in the taxable estate of the surviving partner following his or her death. The estate/assets/cash held within the NRBDT is accessible to the surviving partner throughout their lifetime and is ‘restocked’ upon the second death so making full use of IHT free limits.

The NRBDT can therefore effectively protect part or all of your joint estate on your death, for the benefit of your secondary beneficiaries, up to the value of your individual NRB’s.

Creating a NRBDT has further benefits since 2017 where a new tax-free allowance on the home was introduced. This ‘new’ Residential Nil Rate Band (“RNRB”), has particular qualifying rules and effects including a reduction on the NRB of £1 of every £2 that your estate is over a value of £2.7 million. If you are fortunate enough to have such an estate valuation at approx. £3 million then by utilising an NRBDT keeps the calculable taxable elements of your estate below the threshold.

Not only are there taxable benefits to your secondary beneficiaries by setting up a NRBDT you are also doing your best to secure that your wishes, for that amount at least, are upheld and protected and as such, are saving your intended secondary beneficiary, at today’s cap of £325,000 NRB and 40% being the IHT rate, £130,000.

[www.Legal-Ask.co.uk](http://www.Legal-Ask.co.uk)

For more information please contact LegalAsk Limited on 07544 320074 or email us at [enquiries@Legal-Ask.co.uk](mailto:enquiries@Legal-Ask.co.uk)