

# Pre-Budget Report 2007

October 2007



In a move that was undoubtedly influenced by the Conservative Party's recent manifesto pledges which improved their rating in the opinion polls, there were significant changes to the law on both Inheritance Tax and Capital Gains Tax in Alastair Darling's first Pre-Budget Report. Currently, the full extent of the changes remains unclear, but this site will be updated when the details have been clarified.

Our understanding of the changes at present is as follows:

## Inheritance Tax

The "Nil Rate Band" for Inheritance Tax (currently £300,000.00) will now be transferable between spouses and civil partners. This has been backdated so that it applies to those who are already widows or widowers.

Before these changes, it was common practice to provide that on the death of the first spouse their Nil Rate Band would be left to children or other beneficiaries outright, or into a "Nil Rate Band Discretionary Trust" for the benefit of the surviving spouse and other issue. This was done to prevent the whole of the combined estate passing to the surviving spouse with the result that the Nil Rate Band of the first spouse to die was wasted. At current rates of tax, preparing tax efficient wills in this way would have saved up to £120,000.00 of Inheritance Tax.

Following the Chancellor's announcement, it would seem that where the first spouse to die has had all (or a proportion) of their Nil Rate Band available at their date of death it can be transferred to the survivor. The relevant Nil Rate Band is that applicable at the date of the second death, rather than the first. For example, if a surviving spouse dies in October 2007 with an estate of £700,000.00 and the predeceased spouse's Nil Rate Band was unused then the total available Nil Rate Band will be £600,000.00. If the predeceased spouse used 50% of their Nil Rate Band by leaving legacies directly to their children, then the survivor will have a Nil Rate Band of £450,000.00 (their own Nil Rate Band of £300,000.00 plus a further 50%).

Where the first death has already occurred and a Nil Rate Band Discretionary Trust has been established either under the will of the predeceased spouse, or by a subsequent Deed of Variation, the transferable Nil Rate Band can still be utilised if the trust fund is appointed out to the surviving spouse absolutely within 2 years of the date of death. We therefore do not intend to change our approach to this type of planning. However, anyone with wills which incorporate simple Nil Rate Band legacies may wish to review their testamentary arrangements as otherwise the level of Nil Rate Band on the first death may be "frozen" as at that date and there would be no uplift on the death of the survivor.

## Capital Gains Tax

There was another significant change in relation to Capital Gains Tax, namely the introduction of a single flat rate of 18% from 6th April 2008.

While at first glance this may seem like a welcome development, particularly for higher rate taxpayers, closer inspection reveals that both Indexation Allowance and Taper Relief will be abolished from that date. The result is that there may be little difference for those disposing of non-business assets which they have held for 10 years or more, and a near doubling of the tax liability for those disposing of assets which would otherwise have qualified for full Business Taper Relief.

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