INSIDE THIS ISSUE

Welcome to the May 2019 issue of *The Estate Planner.* Inheritance Tax is no longer something that only affects the very wealthy, but the good news is that there are ways to limit the amount of Inheritance Tax your family may potentially face. You worked hard to earn your wealth, so let us work hard preserving it. On page 02, we look at how you can help your family maintain its financial strength from one generation to the next.

There are several situations where revoking a Will may be feasible. For instance, life changes – such as marriage, divorce or the birth of a child – may change how you wish to dispose of your property upon death. While the reasons for changing a Will may vary, we look at why it is important to know how to reflect your current intentions in your Will on page 04

There is a popular misconception that unmarried couples who have lived together for a long time – and maybe even had children together – will, for legal purposes, be treated as a married couple. However, this simply isn't true. And when it comes to estate planning, the 'default' legal positions for married and unmarried couples are very different. In general, unmarried couples who do not have Wills and do nothing about estate planning can expect to pay a higher rate of Inheritance Tax and may face intestacy rules that force the disposition of their assets in a way that they might not want or intend. Read the full article opposite.

It's good to talk

To arrange an appointment or to discuss any concerns that you may have in relation to making appropriate protection for you, your loved ones and your estate, please contact us. We look forward to hearing from you.

THE ESTATE PLANNER

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ESTATE PLANNING FOR **UNMARRIED COUPLES**

Make sure you're aware of the legal positions

There is a popular misconception that unmarried couples who have lived together for a long time – and maybe even had children together – will, for legal purposes, be treated as a married couple. However, this simply isn't true. And when it comes to estate planning, the 'default' legal positions for married and unmarried couples are very different.

In general, unmarried couples who do not have Wills and do nothing about estate planning can expect to pay a higher rate of Inheritance Tax (IHT) and may face intestacy rules that force the disposition of their assets in a way that they might not want or intend.

WHY IT'S IMPORTANT FOR UNMARRIED PARTNERS TO HAVE WILLS

Consider, for example, an unmarried couple who have lived together for many years and who have several children. If one of them were to die without a Will, the intestacy rules would apply. Under those rules, the deceased's entire estate would go to the children in equal proportions. The surviving partner would have no automatic right to any part of the estate and would need to make an application to the court in order to claim some share of the deceased's estate.

If the couple had no children, then the deceased's estate would go to other family members of the deceased. Again, the surviving partner would have to apply to the court to make a claim against the estate for financial provision*.

So it's easy to see why it is particularly important for unmarried partners to have Wills, at least where they are concerned about making financial provision for the surviving partner when one of the partners dies.

The good news is that where both unmarried partners are still alive, they can plan for the disposition of their respective estates by making Wills, and by getting appropriate tax advice and putting it into effect. They can also consider items such as living Wills and lasting powers of attorney, which may assist one partner in caring for a partner who becomes incapacitated.

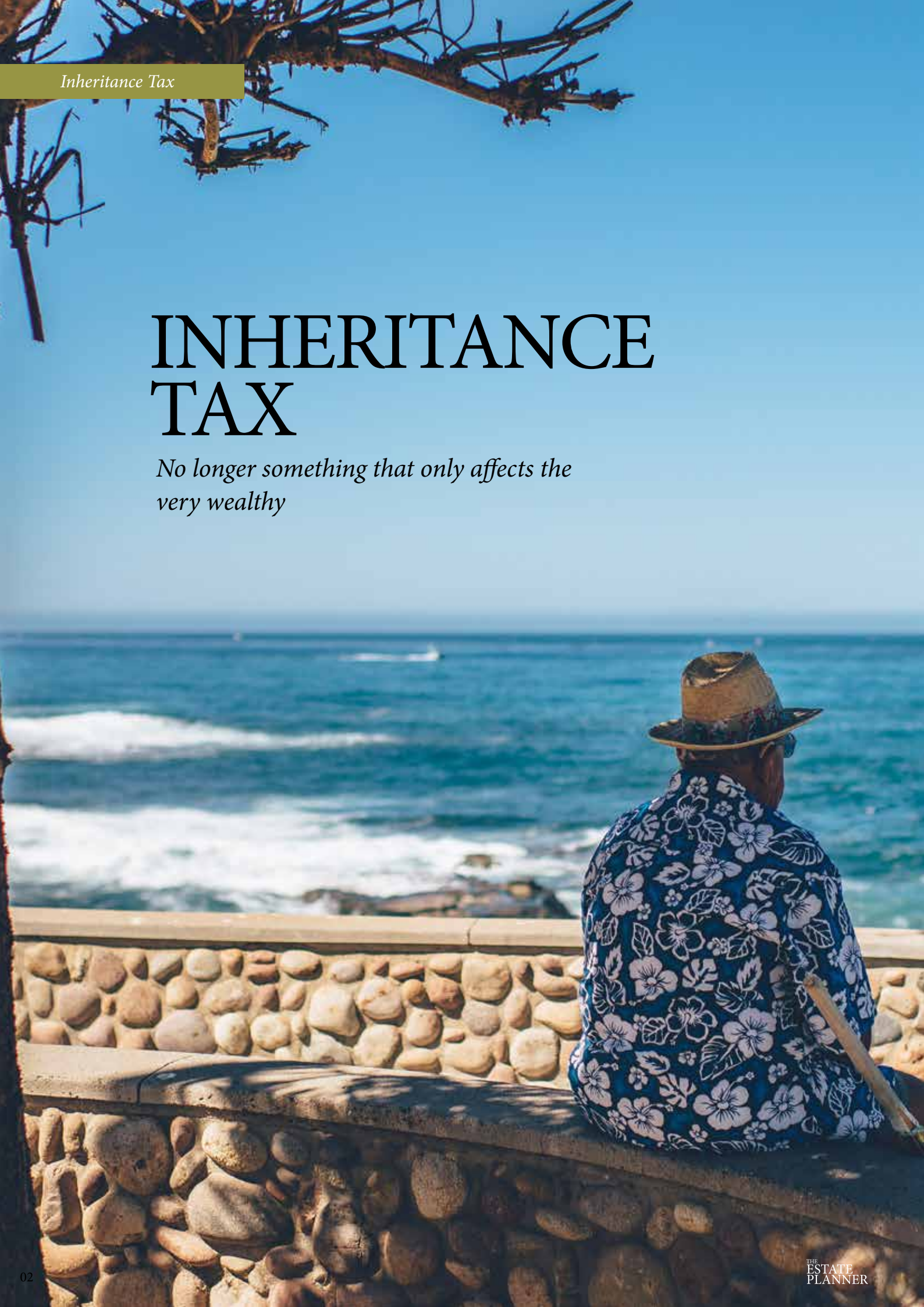
Want to review your situation?

To arrange an appointment or to discuss any concerns that you may have in relation to making appropriate protection for you, your loved ones and your estate, please contact us – we look forward to hearing from you.

**The legislation governing such applications applies only in England, Wales and Northern Ireland. In Scotland, there may be remedies for a surviving cohabitee under the Family Law (Scotland) Act 2006.*

INHERITANCE TAX

No longer something that only affects the very wealthy



Inheritance Tax is no longer something that only affects the very wealthy, but the good news is that there are ways to limit the amount of Inheritance Tax your family may potentially face.

When someone dies, Inheritance Tax is charged on their estate above a certain value. A person's estate is basically everything they own, including their main property, any other properties, cars, boats, life assurance policies not written in an appropriate trust and other investments, as well as personal effects such as jewellery.

Inheritance Tax is potentially charged at a rate of 40% on the value of everything you own above the Nil-Rate Band threshold. This is the value of your estate that is not chargeable to Inheritance Tax. The amount is set by the Government and is currently £325,000, which is frozen until 2021. When you die, your estate is not liable to tax on any assets up to this amount. However, anything over this amount may be taxed at a rate of 40%.

Since 6 April 2017, if you leave your home to direct lineal descendants, which includes your children (adopted, fostered and stepchildren) and grandchildren, the value of your estate before tax is paid will increase with the addition of the Residence Nil-Rate Band, currently £150,000 in 2019/20.

Inheritance Tax is an unpopular and controversial tax, coming as it does at a time of loss and mourning, and can impact on families with even quite modest assets. However, there are legitimate ways to mitigate against this tax. However, some of the most valuable exemptions must be used seven years before your death to be fully effective, so it makes sense to obtain professional financial advice and consider ways to tackle this issue sooner rather than later.

MAKING PLANS TO MITIGATE AGAINST INHERITANCE TAX

MAKE A WILL

Dying intestate (without a Will) means that you may not be making the most of the Inheritance Tax exemption which exists if you wish your estate to pass to your spouse or registered civil partner. For example, if you don't make a Will, then relatives other than your spouse or registered civil partner may be entitled to a share of your estate, and this might trigger an Inheritance Tax liability.

THE FACTS:

• Inheritance Tax is levied at a fixed rate of 40% on all assets worth more than £325,000 per person (0% under this amount) – or £650,000 per couple if other exemptions cannot be applied

• The Residence Nil-Rate Band is currently £150,000. This is an allowance that can be added to the basic tax-free £325,000 to allow people to leave property to direct descendants such as children and grandchildren – the allowance will be reduced by £1 for every £2 that the value of the estate exceeds £2 million

MAKE LIFETIME GIFTS

Gifts made more than seven years before the donor dies, to an individual or to a bare trust, are free of Inheritance Tax. So, if appropriate, you could pass on some of your wealth while you are still alive. This will reduce the value of your estate when it is assessed for Inheritance Tax purposes, and there is no limit on the sums you can pass on.

You can gift as much as you wish, and this is known as a 'Potentially Exempt Transfer' (PET). However, you will need to live for seven years after making such a gift for it to be exempt from Inheritance Tax, but should you be unfortunate enough to die within seven years, then it will still be counted as part of your estate if it is above the annual gift allowance.

You need to be particularly careful if you are giving away your home to your children with conditions attached to it, or if you give it away but continue to benefit from it. This is known as a 'Gift with Reservation of Benefit'.

LEAVE A PROPORTION TO CHARITY

Being generous to your favourite charity can reduce your Inheritance Tax bill. If you leave at least 10% of your estate to a charity or number of charities, then your Inheritance Tax liability on the taxable portion of the estate is reduced to 36% rather than 40%.

SET UP A TRUST

Family trusts can be useful as a way of reducing Inheritance Tax, making provision for your children and spouse, and potentially protecting family businesses. Trusts enable the donor to control who benefits (the beneficiaries) and under what circumstances, sometimes long after the donor's death.

Compare this with making a direct gift (for example, to a child) which offers no control to the donor once given. When you set up a trust, it is a legal arrangement, and you will need to appoint 'trustees' who are responsible for holding and managing the assets. Trustees have a responsibility to manage the trust on behalf of and in the best interest of the beneficiaries, in accordance with the trust terms. The terms will be set out in a legal document called 'the trust deed'.

WILL YOUR LOVED ONES BE FACED WITH A LARGE TAX BILL?

Without making provision for Inheritance Tax, your loved ones could be faced with a large tax bill when you die. They may even have to sell assets, such as the family home, in order to pay the bill. With some forward planning, we can help ensure that the people you want to benefit from your estate actually do. To assess whether you need to consider making plans to mitigate a possible Inheritance Tax liability, please contact us.

INFORMATION IS BASED ON OUR CURRENT UNDERSTANDING OF TAXATION LEGISLATION AND REGULATIONS.

ANY LEVELS AND BASES OF, AND RELIEFS FROM, TAXATION ARE SUBJECT TO CHANGE.

THE RULES AROUND TRUSTS ARE COMPLICATED, SO YOU SHOULD ALWAYS OBTAIN PROFESSIONAL ADVICE.

Revoking your Will

What to do if your true intentions aren't reflected

There are several situations where revoking a Will may be feasible. For instance, life changes – such as marriage, divorce or the birth of a child – may change how you wish to dispose of your property upon death. While the reasons for changing a Will may vary, it is important to know how to reflect your current intentions in your Will.

There are several ways of revoking a Will. This can happen when the person who made the Will intends to revoke it, but there are also some ways that it can happen automatically, by operation of law, and even if the person who made the Will did not intend to revoke it.

LEGAL EFFECT

A person can always revoke his Will while he is alive and has legal capacity. A clause in a Will indicating that the Will cannot be revoked has no legal effect — the person who made the Will can still revoke the Will.

The destruction of the original signed Will, combined with the intention to revoke the Will, is a valid means of revoking a Will. If a solicitor has drafted your Will, or if you have done it yourself on a computer, there may be an electronic version of the Will. Therefore, if you intend to revoke a Will by destroying it, you might want to ensure that any electronic versions are deleted or amended to reflect the fact that the Will is no longer valid.

It is also worth remembering that disputes over Wills generally arise after the death of the person who has made the Will. With that in mind, you will probably want to make some record of your intent to revoke the Will, such as a revocation clause in a new Will (as discussed below) or, if you are not making a new Will, some other signed written document indicating that you intended to destroy your Will and allow the intestacy rules to apply.

REVOCATION CLAUSE

When a solicitor is drafting a new Will for someone, they will usually include an express revocation clause, indicating that any old Wills are revoked by the new Will. In fact, even if you intend to keep elements of an old Will, it is generally regarded as good practice to produce a new document that includes any provisions of an old Will that you wish to retain. Remember, it is in the interest of your executors and beneficiaries to have as little ambiguity or confusion as possible in the documentation, enabling them to get on with the administration of the Will rather than having to worry about piecing together lots of different documents in order to determine what you intended.

If a new Will does not include an express revocation clause, the new Will does not revoke and supersede the old Will in its entirety. A new Will without an express revocation clause does, however, automatically revoke provisions of the old Will that are inconsistent with the provisions of the new Will.

MARRIAGE AND DIVORCE

If you get married or enter into a civil partnership, then any Will that you may have made prior to doing so is automatically revoked. An exception to this rule is a Will that you have made in anticipation of the marriage to, or civil partnership with, the particular person involved.

On the divorce or annulment of a marriage, or the dissolution of a civil partnership, any gifts to the spouse or civil partner in the Will automatically lapse. The rest of the Will may continue to be valid, however.

This can have various consequences. For example, if the spouse were to be given a life interest in a particular asset, with the asset to go to another beneficiary on their death, the other beneficiary would immediately get the full interest in the asset when the person who made the Will dies – because the spouse's life interest in the asset would have lapsed.

In summary, a person who makes a Will can revoke it at any time. A Will cannot be made irrevocable. Certain events, such as divorce or the making of a later Will, can partially or completely revoke the Will by making certain terms of the Will ineffective. If a person gets married or enters into a civil partnership, their Will is automatically revoked unless it was made in anticipation of the marriage or civil partnership.

Make sure your wishes are carried out

Some people put off making a Will, often until they're in their later life. Making a Will can save your family unnecessary distress at an already difficult time and makes sure your wishes are carried out when it comes to who inherits what.