

TECHNICAL SALES BRIEFING

THE RESIDENCE NIL RATE BAND



WHAT IS THE RESIDENCE NIL RATE BAND (RNRB)?

Below are a few key points on the Residence Nil Rate Band (RNRB):

- › Introduced in the Finance (No2) Act 2015.
- › Cited as aligning with the Conservative Party's original 2010 manifesto pledge of providing a £1m Inheritance Tax Nil Rate Band.
- › Introduced in a bid to try and take the average family home out of the scope of UK Inheritance Tax.
- › Not available to all estates.
- › Can only be claimed if there is a qualifying residence left to direct descendants (or where the downsizing rules apply). For people who have only ever rented properties, their estate will not be able to utilise the RNRB on their death.
- › Some estates containing family homes may not qualify for the RNRB and the application of this additional Nil Rate Band is complex.
- › The rules surrounding downsizing are complex and require detailed analysis.
- › A review of the client's estate planning, including their wills, may be necessary to make sure that adequate measures are in place to make full use of the RNRB.
- › Gifting may impact the estate's ability to claim RNRB, especially where gifting involves the home.

This briefing is designed to cover the main principles and explore some of the planning considerations that surround the RNRB legislation. For more information on the RNRB HMRC has comprehensive guidance on their website which can be accessed using the link below:

www.gov.uk/guidance/inheritance-tax-residence-nil-rate-band#the-home

WHAT ARE THE MAIN RULES?

A UK estate will be entitled to the RNRB when a person dies on or after 6 April 2017 and where all the following conditions are met:

- A) The deceased owned a home (in full or in part);
- B) the home was included in their estate on death; and
- C) the home was left to direct descendants.



KEY INFORMATION

The RNRB is given in addition to the standard Nil Rate Band (NRB) and is tapered away where the estate is valued at more than £2m. The rules on tapering are considered later on in this briefing.

Unlike the standard NRB, the RNRB can only apply on death and does not apply on lifetime transfers. The tapering of the RNRB means that some larger estates will not qualify for the additional RNRB.

HOW MUCH IS THE RNRB?

- › The RNRB is £175,000 in the tax year 2025/26 and is set to stay at this level until the end of the tax year 2029/30.
- › There is also a “deemed” RNRB of £100,000 for deaths before 6 April 2017.
- › In later years HMRC state that the rate will increase with CPI.

If the value of the nominated home is less than the RNRB the additional amount of RNRB is ordinarily lost and cannot be used to reduce IHT on other assets within the estate. For calculation purposes the RNRB is considered before the availability of any standard NRB. However, there are rules which consider downsizing which are contained later in this briefing.



EXAMPLE

Sally dies in September 2025 with an estate worth £505,000. She has never been married or in a civil partnership. She has made no previous gifts prior to her death and has left the full value of her estate (including a home she has held since 2005 worth £165,000) to her only daughter.

Her Executors will be able to claim RNRB up to the value of £165,000. Sally's remaining estate will also be able to claim the standard Nil Rate Band of £325,000. The remaining £15,000 of her estate will be subject to IHT at 40%. Whilst the maximum RNRB was £175,000 on her death, Sally's executors cannot apply the further £10,000 of available RNRB to the remaining estate and this is lost.

LETS TAKE A LOOK AT EACH CONDITION

CONDITION A - THE DECEASED OWNED A HOME (IN FULL OR PART)

RNRB is only available where, on death, the home of the deceased is included in their estate and this home has been previously lived in at some stage by the deceased. The following points should also be noted:

- › Where the deceased owned more than one home, the Personal Representatives of the estate are required to nominate which home should qualify for the RNRB.
- › There is no minimum period that the home needs to have been lived in.
- › Where only a proportion of the home is left to direct descendants (defined in condition C) only this proportion would qualify for RNRB.
- › The home doesn't need to be located in the UK but must be within the scope of UK IHT. For example, people who are not long-term UK resident (or not UK domiciled prior to 6 April 2025) are only subject to IHT on their UK situs assets and therefore only their UK homes are in scope for RNRB. Conversely, a person who is long-term UK resident from 6 April 2025 is subject to IHT on their worldwide assets and could make a claim for any foreign home.

- › The definition of the home is given in s5 of 8H IHTA 1984 and refers specifically to a "dwelling house" which is to include "any land occupied and enjoyed with it as its garden".

The open market value of the home is used for the purposes of valuation less any liabilities secured on it, such as a mortgage.

Q KEY INFORMATION

For people who have only ever rented properties, their estate will not be able to claim the RNRB. However, RNRB is also potentially available where the deceased previously owned a house but sold this prior to their death on or after 8 July 2015. More information on this is given in the 'downsizing' section of this briefing.

CONDITION B - THE HOME WAS INCLUDED IN THEIR ESTATE ON DEATH

The home needs to be inherited by a direct descendant on death but this does not necessarily mean that the deceased's will needs to specifically pass the property to them. If the property is left as part of the residue of the estate, but not specifically mentioned, then a claim for RNRB can still apply. Furthermore, the property doesn't have to ultimately end up in the ownership of the direct descendants following the death of the deceased for a claim to be valid. A claim to RNRB can still be made if the home was included in the estate on death and was destined to pass to the direct descendants, even if the executors, or beneficiaries, subsequently decide to sell the qualifying house.

Where trusts are included in the will then, for this condition to apply, much will depend on whether there is any contingency, or discretion, for the beneficiaries to receive their interest in the qualifying property. Broadly, where the will creates a discretionary trust, or a trust subject to contingency, the beneficiaries will not be considered to "inherit" their interest in the home on death and the RNRB will not apply. This will apply even if the only beneficiaries of the discretionary trust are direct descendants.

Finally, where a deed of variation is used then it would be necessary to view the amended terms of the deed rather than the will itself to ascertain whether the RNRB could apply.

CONDITION C - THE HOME WAS LEFT TO DIRECT DESCENDANTS

Here direct descendants (referred to as those who have "closely inherited" in the legislation itself) include the following people:

- › A child, grandchild or 'lineal descendant' of that person.
- › A spouse or civil partner of the child or grandchild described above.
- › A child that was fostered or adopted.
- › Any step-child of the deceased whereby the deceased was their parent's spouse. It will also include situations whereby the property is left to the child of the deceased who was appointed a guardian under s5 of the children's act 1989 (or equivalent in Scotland and Northern Ireland) and that child is under 18.

- › Direct descendants can also apply where property is left to certain trusts - covered later in this briefing.

Q KEY INFORMATION

It is important to understand that direct descendants do not include brothers or sisters of the deceased, nor do they include nieces, nephews or parents. Where a deceased has not been a parent (or legal guardian) of any child they will not be able to make use of the additional RNRB, despite the fact they may have siblings, or other family such as parents, to inherit their assets on death.

TAPERING OF THE RNRB WHERE THE ESTATE IS VALUED AT MORE THAN £2M

Where the estate is valued at more than £2m the value of the RNRB will be reduced by £1 for every £2 the estate exceeds this value. This threshold was frozen in the Autumn Budget 2024 and will remain at £2m until at least the end of tax year 2029/30.

Here the value of the estate is the total value of the assets in the estate less any debts or liabilities. Further, as announced in the Autumn Budget 2024, most unused pension pots will fall into scope for IHT from 6 April 2027. However, when looking at the value of the estate for tapering purposes the net estate is used but before any relief and exemptions. The availability of the Spousal Exemption, Nil Rate Band, Business Relief or Agricultural Property Relief is therefore ignored for assessing the value for tapering purposes.

As a result of this tapering and the freezing of the taper amount itself, up until the end of tax year 2029/30 the RNRB will not be available where the net estate exceeds £2,350,000.

The effect of tapering can reduce the amount of RNRB that could be available either on first or second death and can also impact the amount of RNRB that can be transferred to a spouse or civil partner on first death.



EXAMPLE

Upon death in 2025/26 a person leaves all their estate to their spouse or civil partner. The value of their net estate exceeded £2,350,000 at the time of their death. Here there would be no "unused" additional RNRB able to be claimed on second death due to tapering.



KEY INFORMATION

Where the estate encompasses assets which qualify for Business Relief or Agricultural Property Relief these must still be included in the estate to calculate tapering. So whilst the particular assets may qualify for IHT exemptions on death, the holding of such assets may impact the availability of RNRB for the remaining estate.

TRANSFER OF RNRB AND SECOND DEATH CONSIDERATIONS

Like the standard Nil Rate Band, the additional RNRB can also be transferred to the estate of a spouse or civil partner if it is not utilised on first death. The value transferred is calculated in accordance to the percentage 'unused' on first death using the formula below:

$$\text{Uplift in RNRB on second death (\%)} = \left[1 + \frac{(\text{unused amount of RNRB on first death})}{(\text{Additional threshold available on first death})} \right] \times 100$$



EXAMPLE

Ben dies in 2017/18 and only £50,000 of his estate was utilised for the purposes of RNRB. In 2025/26 his spouse Susan dies when the RNRB was £175,000. Susan's executors would be able to claim a 50% 'uplift' allowing the estate to claim £262,500 of RNRB. This is calculated as follows:

$$\text{Uplift in RNRB on second death (\%)} = \left[1 + \frac{£50,000}{£100,000} \right] \times 100$$

$$\text{Uplift in RNRB on second death (\%)} = 150\% \text{ (i.e. 50\% additional uplift on RNRB)}$$

$$\text{Available RNRB on second death} = 150\% \times £175,000 = £262,500$$

If the first death occurred before the introduction of RNRB (i.e. before 6 April 2017) then the unused amount of RNRB will be deemed to be £100,000 and thus the formula above creates an automatic 100% 'uplift' in such situations, allowing the surviving spouse or civil partner double the available RNRB (subject to tapering considerations). This is because the RNRB could not possibly have been utilised on first death. As such, a deemed value of £100,000 is used, aligning with the 2017/18 introductory threshold.

The available RNRB on first death is calculated in accordance to tapering as discussed previously and this is one of the main reasons for including the £100,000 deemed allowance. So in the example above, if the net estate on first death was valued over £2,200,000 then no RNRB would be able to be transferred as the unused proportion of first death would be deemed to reduce to zero which would result in the calculation yielding 100% (no uplift).

Further, if on second death the estate of the deceased exceeds the £2,000,000 threshold then the uplifted RNRB would be tapered down until it was lost entirely. In the previous example the estate would lose any claim to RNRB once the estate was valued at £2,525,000 or above, i.e. reducing the £262,500 additional RNRB to £0.

The Personal Representatives of the estate of the surviving spouse or civil partner must make a claim to transfer the unused RNRB within 2 years of the end of the month in which the person dies.

The interaction of wills with the RNRB is especially sensitive in this area. Where the will of the first to die dictates that the property (or part of it) will pass to the surviving spouse then the RNRB may not necessarily be maintained.

Q KEY INFORMATION

- › If an individual has had more than one spouse or civil partner and their estate makes a claim on second death – the total claim for uplift cannot exceed 200%. In other words the maximum RNRB on second death is limited to twice the threshold at the time of death
- › The home that is left on second death doesn't have to be the same home that they lived in with their previous spouse. It can be any home providing that it is left to direct descendants
- › The impact of tapering can create a 60% IHT trap where the RNRB is not utilised on first death.



EXAMPLE

Derek, who is UK long term resident as of 6 April 2025, passed his entire estate to his wife Rachel on his death in December 2025 and his estate is valued at £2m. Rachel, also UK long-term resident, dies in January 2026 with an estate valued at £2.4m.

On first death the full amount of the RNRB was available but was not utilised by Derek's estate. The growth in the value of the estate has meant the transferable RNRB is now tapered due to Rachel's estate exceeding £2m on her death. The effect here is that, for every £2 the estate increases in value, the resulting RNRB will decrease by £1. The £400,000 above £2m is not only subject to IHT but also causes £200,000 of RNRB to be lost. IHT is now therefore charged on £600,000 because of the effects of tapering of the RNRB. The effect of this is that the £400,000 in excess of the £2m taper threshold creates an additional £600,000 subject to IHT which gives rise to the 60% rate against the additional £400,000.



PLANNING POINTS

Giving away surplus income or making lifetime gifts (where the settlor cannot benefit) can be used to counter any impact of tapering here. In some circumstances it may also be appropriate to make use of the RNRB on first death by leaving other assets up to the value of the standard NRB to children or grandchildren on first death, i.e. to reduce the amount of the estate that passes to the surviving spouse.

Individuals may also want to make sure they take pension benefits prior to death to avoid the unused proportions being subject to additional IHT from 6 April 2027, especially when considering the tapering provisions. This may encourage more people to use their pension pots when alive rather than try and pass them on to family.

Where unmarried people with children co-habit, any property could be held as tenants in common with their respective shares of the property left to the children on first death. However, if the family fall out, this may leave the surviving partner in position where they may be forced out of their home. Care should therefore be exercised here if adopting such strategies.

Advisers need to look at each situation and assess how current wills will interact with the availability of the standard NRB and RNRB.

TRUSTS AND THE RNRB

There are provisions within the legislation that allow the RNRB to apply where assets are passed to certain types of trust on death. Broadly, for a trust to qualify for the RNRB the trust must contain a beneficiary that is a direct descendant of the settlor that has an immediate 'vested' right to enjoy the trust property on their death, i.e. retains an interest in possession.

Trusts which are discretionary in nature, or are subject to an overriding power of appointment, cannot benefit from the RNRB nor can any trust, other than those specifically carved out, which are subject to a contingency. Here the amount of RNRB will be dependent on the available RNRB and how much is passed to such a beneficiary. The following trusts will allow the RNRB to apply providing the beneficiary is classified as a direct descendant:

- › Bare trusts (sometimes called absolute) for a direct descendant.
- › Immediate Post Death Interest trusts for a direct descendant – this will include an IIP set up through a person's will on death but not during their lifetime.
- › A Bereaved Minor trust set up for a direct descendant as defined in s71A of IHTA 84.
- › An 18 to 25 trust, as defined in s71D of IHTA 84 set up for a direct descendant. Note the conditions of an 18 to 25 trust require the trust to be set up on the death of a parent for their child and the trust property must vest with the child before age 25.

An Accumulation and Maintenance trust set up by a grandparent for their grandchildren **would not qualify**, even if the beneficiary was entitled to the trust income or capital at age 18 or above.



PLANNING POINTS

Care has to be taken when reviewing certain trusts. In some circumstances a deed of variation could be used to redirect the will to allow for RNRB to apply. However, such a deed of variation requires the agreement of those impacted by the variation, so such a strategy shouldn't be relied upon when considering the implications of the current planning.

Care should be taken in this area, as the taxation of the estate needs to be balanced with the requirements of making sure the estate is distributed in accordance to the wishes of the deceased and that of the beneficiaries.

S144 of IHTA can also be used where a discretionary trust has been created on death. Here if an appointment is made to a direct descendant within 2 years of the death the RNRB can be secured.

DOWNSIZING

The downsizing rules are the most complex area of the legislation and this briefing is not designed to cover all the rules or permutations.

In broad terms, an estate may still be able to qualify for additional RNRB (known as a downsizing addition) where the following conditions apply:

- › The deceased downsized or disposed of their home on or after 8 July 2015.
- › At least some of the estate on their death is left to direct descendants.
- › The resulting downsizing addition where the property is sold, and no other property is bought, can only be claimed in full where other assets are left to direct descendants that are equal to the available downsizing addition.

- › RNRB where a person moves to a smaller property can only be claimed in full where the new property is left to direct descendants and other property equal to the downsizing addition is left to direct descendants.

HMRC doesn't need to be made aware of the downsizing when it occurs but records should be kept to assist the executors in making a necessary return on death, bearing in mind that there is no future time limit for utilising the downsizing provisions. Only one former home can be taken into account for downsizing and the personal representatives of the deceased must make a claim for downsizing addition within 2 years of the end of the month in which the person dies (as per the general rule outlined previously).

There are then 5 steps to calculate the availability of the RNRB in respect to downsizing:

STEP 1	<p>Work out the maximum additional RNRB that could have applied on the date of the disposal of the former home (adding in any uplift as calculated using the previous formula provided under the transfer of RNRB). If this occurred prior to 6 April 2017 the available RNRB will be deemed to be £100,000.</p>
STEP 2	<p>Divide the value of the former home by the figure in Step 1 and multiple by 100 to get a percentage. If the value of the home at the date of disposal was greater than the relevant threshold at this date then this will be limited to 100%. The formula is given below:</p> $\text{RNRB (sale/downsize)} = \frac{\text{Value of previous home}}{\text{RNRB available at time of disposal/downsize}^*} \times 100 \text{ (this cannot exceed 100\%)}$ <p>* Where the RNRB has been transferred, due to not being used on first death, use the RNRB available at the time of disposal/downsize and add this to the RNRB at the date of second death.</p> <p>The next step then depends on whether the estate has downsized to a smaller house or whether they have simply sold the house and moved into other accommodation, for example moved in with family or rented accommodation.</p>
STEP 3	<p>Downsized</p> <p>Work out the availability of the RNRB on death (including any uplift as calculated using the previous formula provided under transfer of RNRB). Again, as before, divide the value of the home on death by the value of the available threshold. The RNRB on death is calculated as:</p> $\frac{\text{Value of home on death}}{\text{RNRB available on death}} \times 100 \text{ (this cannot exceed 100\%)}$ <p>Sold their property</p> <p>The % is deemed to be 0% and you can simply use the figure given in step 2 to in Step 5.</p>
STEP 4	<p>Deduct the percentage figure given in Step 3 from percentage given in step 2, i.e. Step 2 - Step 3 = Step 4.</p>
STEP 5	<p>You are now left with a % figure which is the lost additional threshold. This is then multiplied by the RNRB at the date of death to ascertain the available downsizing addition.</p>

 DISPOSAL OF HOUSE AFTER 8 JULY 2015.

Chris, a bachelor, sells his small flat on the 10 July 2015 for £80,000 and moves into rented accommodation. On death in October 2020 he leaves all his estate valued at £500,000 to his daughter Lee-Ann. Applying each formula below:

STEP 1	The available RNRB is £100,000 as the sale occurred after 8 July 2015 but before 6 April 2017.
STEP 2	$\text{RNRB (sale)} = \frac{80,000}{100,000} \times 100 \text{ (this cannot exceed 100\%)} = 80\%$
STEP 3	RNRB (death) = 0%
STEP 4	Step 2 - Step 3 = 80%
STEP 5	The calculation above shows that £140,000 (80%) has been "lost", i.e. the amount (in % terms) calculated against the available RNRB of £175,000 on his death. This is calculating that Chris would have perhaps been able to claim a maximum of £140,000 of RNRB, in future terms, if he had kept his house until death and the house increased exactly in line with the RNRB rises. As he is leaving all of his remaining estate (valued at £500,000) to his daughter, then the maximum RNRB Downsizing addition he can claim is the lower of the lost RNRB or £500,000. Chris's estate can therefore claim for the full £140,000 RNRB Downsizing addition. This would be in addition to any Nil Rate Band Chris's estate could claim.

 DOWNSIZING

John, a widower, downsizes from his four bedroom house worth £180,000 following the death of his civil partner Barry in January 2018. He buys a small bungalow in a local area for £100,000. On his death in November 2024 he left all his estate valued at £877,500 to their adopted daughter Tilly. The estate includes the bungalow which was worth £122,500 on his death (Barry's estate did not utilise the NRB or RNRB on his death). Applying each formula below:

STEP 1	The available RNRB is £275,000 as the downsizing occurred in Jan 2018, here the previous formula applies to calculate the available transferable RNRB and this is added to the £100,000 available on Barry's death.
STEP 2	$RNRB \text{ (downsize)} = \frac{180,000}{275,000} \times 100$ (this cannot exceed 100%) = 65%
STEP 3	$RNRB \text{ (death)} = \frac{122,500}{350,000} \times 100$ (this cannot exceed 100%) = 35%
STEP 4	Step 2 - Step 3 = 30%
STEP 5	The available RNRB on death would ordinarily be £350,000, however, ordinarily John's estate could only claim the RNRB against the value of his house currently worth £122,500. The calculation above shows that £105,000 has been "lost" in today's terms.

John is leaving all of his remaining estate (£755,000 excluding the bungalow) to his direct descendent Tilly. John's estate can also claim a transferable NRB of £650,000, meaning the maximum downsizing addition his estate can claim is the lower of the lost RNRB (£105,000) or the amount he is leaving to Tilly (£105,000 - after the deduction of the transferred NRB). John's estate can therefore claim a £105,000 downsizing addition in addition to £122,500 (the value of the house he is leaving to Tilly).

The calculation would therefore be:

Value of John's estate	£877,500
Less the transferred NRB	(£650,000)
Less the RNRB (value of the property)	(£122,500)
Less the Downsizing addition	(£105,000)
Net IHT due on the estate =	£0

The effect of the legislation is to try and counter the fact he has lost some RNRB due to downsizing. In other words, if John had remained in the four bedroom house, and passed this to Tilly, the estate would have been able to claim more RNRB than they can on this smaller property (up to the £350,000 available).

In all cases the full downsizing addition can only be claimed where other property is left to direct descendants which is equal to (or greater than) the calculated downsizing addition. Where the other property is left to people, or trusts, who do not qualify then the downsizing addition cannot be claimed. It should be noted that the downsizing addition can also be claimed where property is gifted away, providing the property was lived in at some point and the gift happened on or after 8 July 2015. However, as shown in the next section, care needs to be taken if property is being gifted.

GIFTS AND THE RNRB

Gifts during lifetime can be useful in allowing the RNRB to be maintained by the estate, especially where the estate is near, or over, the tapering threshold. However, care needs to be taken where gifts of the house are made during a person's lifetime.

GIFTING THE PROPERTY DURING BILL'S LIFETIME

Bill, a widow, is a UK resident and UK long term resident individual who owns a UK property worth £800,000 on his death in February 2027. He left his entire estate to his only son, Leon. Bill had made no gifts in the previous 7 years. The rest of his estate including deposits for various banks and building society accounts and share portfolio (not AIM listed) amount to £200,000. Bill's spouse Mary died in May 2025 and left her entire estate to Bill in her will.

The IHT due on Bill's estate in 2027 will be calculated as follows:

Property	£800,000
Other assets	£200,000
Less	
2 x NRB	£650,000
2 x RNRB	£350,000
Net estate subject to IHT	£0
IHT payable by estate	£0
Estate received by Leon	£1,000,000

Now let's assume that Bill had gone into a nursing home in the year prior to his death and, as a result, had decided to gift his house to Leon in December 2026, in a bid to reduce his estate's exposure to IHT.

Now consider the IHT impact of this when Bill dies:

- › The gift of the house to Leon would be a failed PET for a value of £794,000 on the assumption Bill has been able to use his IHT annual exemptions of £6,000 (2 x £3,000).
- › IHT taper relief cannot apply on the failed gift as the gift was only made less than a year ago.
- › The estate can claim transferable Nil Rate Band of £650,000 with £144,000 of the failed gift become chargeable to Leon as recipient of the gift. Leon must pay IHT on the failed PET calculated at £144,000 x 40% = £57,600.
- › The remaining estate is £200,000, but here a claim can still be made by Bill's estate for a downsizing addition under the rules explained previously. This is because Bill gave away his property on or after 8 July 2015. However, as the remaining estate is below the available calculated (transferred) RNRB of £350,000 then £150,000 of the downsizing addition is effectively lost.

Here the gift of the property has resulted in more IHT on the estate and Leon receiving less money. Had Bill had simply retained the home and not sold it then no IHT would have been due on his estate. This example highlights the complexity of the rules and why a detailed understanding of the rules is critical for advisers.



PLANNING POINTS

The use of insurance based products, such as loan trusts or discounted gift trusts, can be useful to reduce the value of the estate. This may also be appropriate where the estate will be subject to the tapering conditions on first or second death. If a discounted gift scheme is used it is essential that the income produced is spent or this will accumulate back in the estate which would increase the value for tapering purposes.



KEY INFORMATION

It is important when considering gifting to review the effects of both the standard NRB and the RNRB. Where a person has sold, or downsized, then a claim can only be made against the residual estate if there is sufficient value passing to direct descendants.

ADMINISTRATION

To claim the RNRB the Personal Representatives of the estate must fill in the appropriate administration forms following the death. These forms are available from HMRC through the links below:

IHT 435 - Claim of RNRB

www.gov.uk/government/publications/claim-the-residence-nil-rate-band-rnrb-ih435

IHT 436 - Claim of Transferable RNRB

www.gov.uk/government/publications/claim-to-transfer-any-unused-residence-nil-rate-band-ih436

Given the complexities of the rules, HMRC also produce a useful calculator which is also available on their website.

SUMMARY

Consideration of the rules is critical when people are planning their affairs to make sure that they do not potentially create situations where the RNRB is lost. Gifting of the estate can be effective to reduce a person's exposure to IHT, but care has to be taken if gifts involve the person's house and any planning needs to be reviewed in light of the RNRB rules.

The tapering of the allowance (in certain circumstances) also means that advisers may need to plan around first death when considering estate planning for married couples and civil partners, as opposed to just waiting until the second death. This will then ensure that 100% allowance can be transferred to the estate of the surviving spouse (civil partner). Such planning could buy some time to implement suitable IHT mitigation strategies before the second death.

This change of focus in planning around the first death represents perhaps a significant change in the general IHT planning process.

Advisers should also encourage clients who may be impacted by these rules to discuss their wills with their legal adviser. In some cases the drafting will not allow the estate to make a claim for RNRB and whilst the RNRB can be transferred to a spouse or civil partner on second death, the impact of tapering can cause the RNRB to be reduced in certain cases.

Whilst some situations may be resolved by a deed of variation, or by using s144, this shouldn't be relied upon.

TECHNICAL SERVICES

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