



INHERITANCE TAX

Nick Kirby answers some common questions

■ I'm the executor for my uncle's will. The size of his estate means some inheritance tax has to be paid. When do I have to pay it by?

Inheritance tax is due six months after the end of the month in which your uncle died, and it has to be paid before you can be granted probate – the process which allows you to distribute assets between the beneficiaries.

You can go beyond this six-month deadline but the Revenue will start charging interest; at the time we went to press, the rate was 4 per cent.

However, you can't delay indefinitely. The time limit for delivering the 'account' (in Scotland, inventory) of the assets, liabilities, reliefs and gifts on which the inheritance tax bill is based is 12 months after the end of the month in which death occurred. If you don't pay by then, the Revenue can ask the Special Commissioners (see p7) to impose penalties.

■ My parents keep telling me to make a will. Surely it doesn't matter as my partner will get everything?

It's time to correct a common fallacy. In England and Wales there is no such thing as a 'common-law' husband or wife. If you're not married and haven't made a will, your partner has no automatic right to inherit. The intestacy rules apply (see p64). If you don't have children, this means your assets would go to your parents. The Civil Partnership Act will allow same-sex (but not opposite-sex) partners to register and be treated as married for inheritance tax purposes.

A surviving partner may be able to claim a share of an estate through the courts under the Inheritance (Provision for Family and Dependents) Act 1975 if you lived together for two years before your death. But it's definitely far more straightforward for unmarried partners to make a will.

■ I'm an executor and know some inheritance tax will have to be paid. I don't want to borrow the money. Can I use some of the deceased's assets to pay the tax?

You are allowed to use some of the estate assets to pay inheritance tax before probate is granted. At



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one point, you could have access only to National Savings & Investments and government bonds (gilts) but you can now have recourse to the deceased's bank or building society accounts (provided the bank or building society agrees). If there's sufficient money in these accounts to pay the whole bill, you can usually arrange for the tax to be paid directly. Alternatively, some banks and building societies will write a cheque on the funds payable to the Revenue.

If you're forced to take out a loan to pay the inheritance tax, you can claim income tax relief on the interest via the executor's tax return.

It's far simpler if unmarried partners make a will

For more information on how to use National Savings and gilts, see Inland Revenue leaflet IHT 11 *Payment of inheritance tax from National Savings or British Government stock*.

■ My mother wants to sign over her house to my sister and me but doesn't want to move. Can she do this?

She can, but it's not likely that she'll avoid inheritance tax as a result. Giving away a house but continuing to live in it means the gift will fall under the 'gift with reservation' rules (see p63). This means the value of your mother's estate will not fall as a result. If the total value of the estate at the time of her death, including the value of her house, is above the nil-rate band (£272,000 for the 2005-2006 tax year), that means an inheritance tax bill.

Your mother can avoid the transfer being treated as a gift with reservation by paying you and your sister a market rent for the house. Obviously, though, this will have tax implications for you and your sister – you may have to fill out a tax return as a result. The alternative would be for you and your sister to move in, and for your mother to bear her full share of the house's running costs. But that may not be an ideal or practical solution. ■

MORE HELP

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- The Which? Guide to Giving and Inheriting £10.99 (GAI)
- Wills and Probate £11.99 (W&P)
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