



**Estate planning for £1m to £5m estates:
maximising the benefits of the Residence Nil Rate Band**

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Irwin Mitchell Private Wealth

- **Irwin Mitchell Private Wealth comprises 4 national teams:**
 - Tax, Trusts & Estates
 - Wills, Trusts and Estates Disputes
 - Family
 - Residential Property

- **Tax, Trusts & Estates team includes:-**
 - Will drafting, Inheritance Tax & Estate Planning;
 - Planning with APR & BPR for farm and business owners;
 - Trusts: advice and drafting to create, vary, re-arrange and wind up trusts;
 - Tax & trust compliance: all the advice, accounting, tax and admin;
 - Estate administration (Probate);
 - International Tax planning, wealth structuring & estate planning for HNWIs;
 - Elderly & Vulnerable Clients: a wide range of services including LPAs & COP.

1.1 Estate Planning for £1m to £5m estates for RNRB

- **Residence Nil Rate Band (RNRB) introduced April 2017**
 - Major opportunity to save IHT
 - But lots of traps and hurdles
 - Many unsuspecting clients will not qualify
- **Key focus: £2m taper threshold will deny many RNRB**
 - So how can to maximise RNRB?
- **Pension Death Benefit (PDB) tax changes in 2015/17**
 - ties in with RNRB planning
- **Re-think solutions for clients**
 - Any estate planning pre-2015 needs review

1.2 Estate Planning: Legal, tax and financial planning

- **Estate planning brings together 3 disciplines:**
 - **legal** – especially wills and trusts
 - **tax planning** – IHT, CGT, Income Tax, SDLT etc.
 - **financial planning**
- **Essential for lawyers and tax advisers to work with FPs/IFAs**
 - For the long term benefit of clients and mutual benefit
- **Combining legal, tax planning and financial planning solutions**

2.1 RNRB key basics: Major new IHT Relief

New relief for Inheritance Tax (IHT) from 2017/18

- Where deceased owned a home; and
- Left sufficient of value estate to direct descendants;
- Estate value not over £2m;
- Does not need to be specific gift;
- Spouses can carry forward unused RNRB to second spouse's estate;
- Real traps for wills

2.2 RNRB key basics: Spouses can leave target £1m

- **RNRB phased in from April 2017 to 2020/21**
 - £125K in 18/19
 - £175K in 20/21
- **In 2020/21 – reach the magic £1m for spouses**
 - RNRB £175K plus
 - NRB £325K
 - TOTAL £500K each
 - **Married couple £1 million free of IHT**
- **Price: The NRB will be frozen for 12 years to 2020/21.**

2.3 RNRB key basics: owned residences

- **Where deceased owned a home**
 - Has to have been **occupied as a residence** at some time
 - No need to be main residence
- **Includes interests in homes held by life interest trust**
 - Provided the value of the trust is aggregated with personal estate
- **Only one property may qualify**
 - Can be 2 interests in the property – including trust interest
- **Downsizing addition if property was sold before death on/after 8 July 2015**
- **Keep an eye on the value of equity in the property!**

2.4 RNRB key basics – direct descendants

- **Sufficient estate must be left to children and remoter descendants for the property interest to qualify as “closely inherited”**
 - **Remoter descendants is widely defined**
 - includes step-children
 - spouses and widows of descendants - if they do not remarry
 - **Can be closely inherited through some forms of trust:**
 - Qualifying interest in possession trusts
 - Not relevant property trusts
 - **Can vary estate or trust within 2 years of death to achieve result**
 - Deed of variation
 - Deed rearranging trust

2.5 RNRB key basics – No need for specific gift of home

- **Property can qualify as part of residue but HMRC treat property as inherited as per shares of residuary estate**
 - For example residuary estate split 3 ways between deceased's son, daughter and deceased's brother.
 - Property valued at £450K so $1/3 = £150K$
 - 1 share does not qualify,
 - Only $2/3$ of the property value qualifies for RNRB:
 - £300K so if $20/21$ £50K of RNRB is wasted.
- **Cannot put will right through appropriations.**
- **Wills should be reviewed in light of the introduction of the RNRB.**

2.6 RNRB key basics: Tapered withdrawal estates over £2m.

- **If estate exceeds £2 million – the “taper threshold”**
 - Lose £1 for every £2 over limit
 - No RNRB if estate over:
 - £2.25m or £2.5m if double RNRB in 2018/19
 - £2.35m or £2.7m if double RNRB by 2020/21
- **Estate value includes**
 - Assets caught for IHT on death;
 - Trust interests aggregated with the estate for IHT on death;
 - Gifts with reservation of benefit; and
 - Assets that qualify for APR/BPR (relief is not applied).
- **Estate value does not include**
 - Chargeable transfers made before death.

2.7 RNRB basics: Spouse's Brought-forward allowance

- **Brought-forward allowance**
 - If “unused” by first spouse’s estate, RNRB can be used on the second death
- **Subject to restriction**
 - Tapered withdrawal if 1st spouse’s estate over £2m.
- **Available even if first spouse died before 6 April 2017**
- **Planning issue - “use” RNRB on 1st death?**

2.8 RNRB key basics: Traps re. grand-children & stepchildren

- **Grandchildren: what gifts in will qualify for RNRB?**
 - **main options:**
 - Outright gift, bare trust (no age contingency) or IPDI
 - **age contingency will not qualify:**
 - Appoint out absolutely or on IPDI trusts - to claim RNRB
- **Stepchildren: who are included?**
 - Children of spouse or former spouse
 - Not children of unmarried partner
- **Many wills may need to be reviewed**

2.9 RNRB key basics: Traps re wills for unmarried couples

- **If surviving unmarried partner is given the right to live in the home,**
 - no RNRB on first death and no spouse exemption
- **And on second death a share in the home to pass to deceased partner's children**
 - **not gifts to stepchildren**
 - So no RNRB when capital goes to those children
 - The only RNRB available on 2nd partner's death is on the gift to his/her own children
- **Perhaps gift ½ share to IPDI for children of first to die**
 - Trustees need overriding power of appointment and clear Letter of Wishes
 - Must have an independent Trustee to ensure all interests are protected

3.1 Planning to maximise benefits of RNRB: Pensions

- **Estates exceeding £2 million start to lose the RNRB**
 - Consider:
 - Might a £1m estate now increase over £2m by death?
 - Could a £5m estate be drawn down to £2m by death?
- **Pension fund does not count towards £2m**
 - If financial position allows, why not leave the pension untouched or reduce the drawdown?
 - Death benefits passed down more tax effectively; and
 - Better chance of preserving RNRB.
- **Clients should take advice on RNRB & Pension Death Benefit changes before they start to draw on their pension.**

3.2 Re-thinking use of assets

- **Can other cash & investments be drawn down to replace pension?**
 - Spending capital that would otherwise be taxed at 40% on death
- **Major change for clients who do not like spending capital**
 - Use cash flow modelling
 - Use annual CGT exemptions to draw down investments;
 - Keep ISAs to last but remember that they suffer IHT on death

4. Spouses: Problems with pre RNRB Will planning

- **Spouses: what is planned in wills on 1st death?**
- **Typical planning pre-RNRB:**
 - **All left by 1st spouse to surviving spouse or an IPDI trust:**
 - Spouse exemption
 - Transferable NRB available on second death
 - Transferable RNRB available on second death
 - **Problem: capital-bunching on 2nd death – own name or IPDI trust**
 - Combined value may be more likely over £2m threshold
 - May lose both RNRBs on 2nd death
 - **Risk that capital passed to 2nd spouse is “caught” twice**
 - 1st spouse’s estate over £2m
 - 2nd estate including assets from 1st now over limit

5.1 Lifetime gifts to reduce estate below £2m threshold

- **What can be done if little time available, e.g. death bed situation?**
- **Gifts can bring capital below £2m threshold:**
 - Gifts, whenever made, are not taken into account in estate value for £2m calculation
 - Does not matter for RNRB if the individual dies within 7 years of gift
 - Could perhaps be the termination of a life interest
- **Death bed planning to reduce estate below £2m**
 - Risk of challenge due to capacity issues
 - Attorneys can not make gifts without Court of Protection approval

5.2 Asset protection & securing gifts?

- **Many parents concerned about a child's relationship**
- **Investec report Jan 2017:**
 - 1 in 3 parents unwilling to provide financial help to married children, due to concerns about children's spouses.
- **Consider use of a trust**
 - enables protection of capital and different people to benefit; and
 - clients can still retain control.

Encourage clients to protect capital on gifts e.g. using trusts and pre-nups etc.

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