

## IHT planning with the private residence

Synopsis: When it is appropriate and when it is not to do IHT planning with an individual’s main residence.

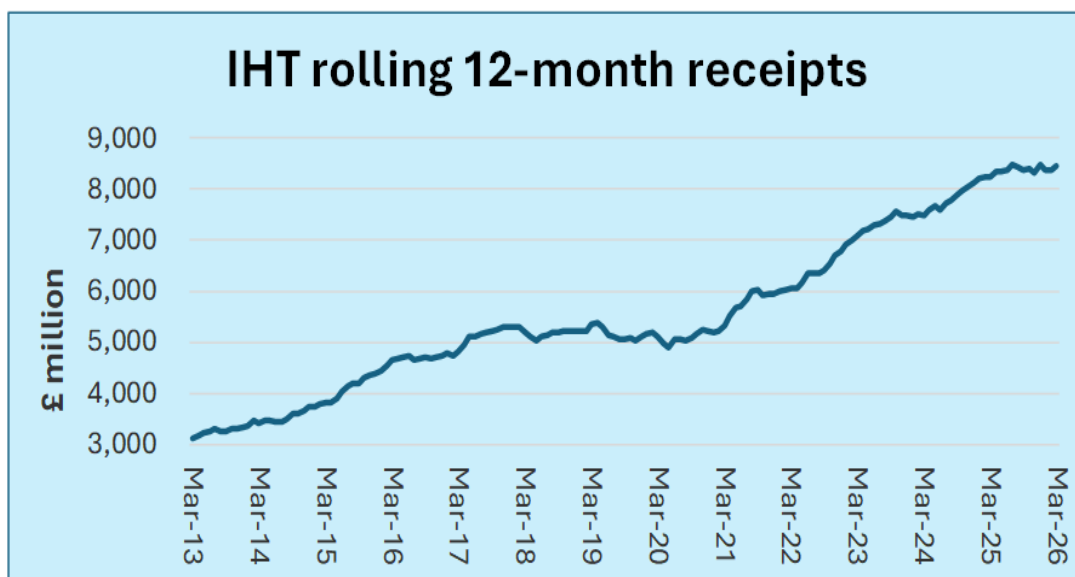
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Steady increases in the value of residential property in general, and the private residence in particular, as well as the freezing of the nil rate band since April 2009 mean that more people than ever are in the inheritance tax (IHT) net.

The introduction of the transferable nil rate band in 2007 has helped taxpayers and the introduction of the residence nil rate band (RNRB) from 6 April 2017 (please see below) has helped further. Nevertheless, HMRC [figures](#) show that, since 2006/07, IHT receipts have generally increased each year both in terms of annual revenue and as a proportion of GDP. After reaching a peak of £5.359 billion in 2018/19, IHT receipts fell in 2019/20 (to £5.122 billion). However, since then, IHT receipts have generally risen each year to £8.5 billion in 2025/26.

According to HMRC’s latest [statistics](#), IHT receipts for April 2025 to March 2026 were just under £8.5 billion, which was £216 million higher than the same period last year, of just under £8.3 billion. And, for March 2026, receipts were £755 million, which is considerably higher than the figure for receipts for March 2025 of £671.

HMRC says that the higher year-to-date receipts can be partially attributed to a small number of higher-value payments than usual in April and December 2025, as well as rises in asset values, and the freezing of the IHT tax-free thresholds.



The above chart contains 12-month rolling receipts since March 2013.

Receipts for the 12 months to March 2026 were £8.466 billion. This figure is higher than the equivalent figure for the 12 months to March 2025, which was £8.250 billion. It is, also, considerably higher than the figure for the 12 months to February 2026 of £8.382 billion.

According to the Office for Budget Responsibility (OBR)'s latest [Economic and fiscal outlook \(EFO\)](#) – published on 3 March 2026 - relative to its November 2025 forecast, receipts are expected to be £0.5 billion a year higher by 2030/31 (at £15 billion) driven by rising equity and house prices, a growing proportion of deaths subject to IHT, and the impact of policies announced in the October 2024 Budget.

The change announced in December 2025 to increase the allowance for 100% agricultural and business property relief from £1 million to £2.5 million when it is introduced in April 2026 has reduced forecast receipts by £0.1 billion in the medium term.

The OBR says that frozen tax thresholds and rising wealth across generations drive growth in IHT receipts. Changes to the IHT regime announced since the October 2024 Budget, including taxing inherited pension pots and introducing changes to agricultural and business property reliefs, account for around 14% of total revenue by the end of the forecast. It adds that the behavioural responses to these measures and the tax base for inheritable pension wealth are particularly uncertain, adding further uncertainty to the forecast.

The November 2025 EFO forecast the following IHT receipts for the current tax year and future tax years: £8.7 billion for 2025/26; £9.5 billion for 2026/27; £11.1 billion for 2027/28; £12.6 billion for 2028/29; £13.5 billion for 2029/30; and £14.5 billion for the following year, 2030/31.

It is clear that there will continue to be a high demand for planning with the main residence - particularly where it represents a significant part of the estate, and where there is a strong desire by the homeowner to maximise the amounts received by their beneficiaries.

Of course, if the home is taken out of the IHT net through planning, this will have a significant impact on the IHT receipts and the Government has therefore put in place legislation which makes effective lifetime planning with the family home very difficult so that IHT revenue can be maintained.

And note that the RNRB will not help people whose estate exceeds £2.35 million (£2.7 million on the second death).

### **Why you need to know**

You need to know when it is appropriate and when it is not to do IHT planning with an individual's main residence and be aware of any pitfalls in doing so.

## **Fundamentals**

As for all IHT planning, the options for planning with the main residence are...

- Planning through lifetime gifts;
- Planning through the will; and/or
- Provision through life insurance.

However, before we can move on to consider the specific options for planning in relation to the main residence, it is necessary to have an understanding of the fundamental legal and taxation issues that need to be understood:

### **Lifetime gifts**

#### **Gift with reservation (GWR) rules**

The IHT GWR rules apply to prevent a person from making a lifetime gift that is effective for IHT purposes if they continue to enjoy any benefit from the gift. So, in the context of a gift of a house, if the former owner continues to occupy the house rent free this will, in general, be a GWR. This means that the value of the property continues to form part of the taxable estate of the donor for IHT purposes.

#### **Pre-owned asset tax (POAT)**

Over the years, many schemes have evolved designed to circumvent the GWR rules. In order to reduce the appeal of such schemes, the income tax POAT rules were introduced by Finance Act 2004 and effective from 6 April 2005 POAT is an income tax levied since 6 April 2005 on the value of benefits still enjoyed in respect of assets which you gave away. However, the GWR rules are applied before the POAT rules. This means that for most transactions, continued use by the donor is likely to be caught by the GWR rather than the POAT rules. The POAT rules will also not apply where specific legislative exemptions from the GWR rules exist.

#### **Capital gains tax (CGT)**

While a gift of a chargeable asset will usually be ill-advised if the asset is standing at a significant gain and there is a chance that the donor will not survive the seven-year potentially exempt transfer (PET) period; the disposal of a private residence during a person's lifetime – either by sale or gift – will not normally give rise to CGT because of principal private residence relief.

### **Dispositions on death**

#### **Ownership**

Most married couples/civil partners own their house as joint tenants. This means that on the first death the survivor automatically inherits the whole house.

Where individuals would like to leave their share of the house to someone other than the other joint owner on first death, the house will need to be owned as tenants in common. A tenancy in common can be created quite simply by one owner informing the other by letter of the new form of ownership followed by the giving of notice to the Land Registry. A joint tenancy cannot be severed by will, although a deed of variation can be used to achieve the same result.

### **Transferable nil rate band**

The introduction of the transferable nil rate band has largely removed the need for will planning with the main residence on the death of the first of the couple to die. However, as we will see below there may still be situations where it is beneficial.

### **RNRB**

Finance Act (2) 2015 introduced the RNRB for IHT when a home is passed on death to lineal descendants of the deceased on or after 6 April 2017. The maximum amount of the band had been increasing in stages from £100,000 in 2017/18 up to £175,000 in 2020/21 and any unused RNRB will be transferable to a spouse or civil partner.

For many estates, this may eliminate the need for planning with the main residence altogether, although the additional allowance will be withdrawn by £1 for every £2 that the value of the estate exceeds the taper threshold which has been set at £2 million. However, the RNRB and the taper threshold are now frozen at £175,000 and £2 million until the end of 2030/31.

What is important for will planners is that the RNRB will only be available when a "qualifying residential interest" (an interest in property that has at some time during the period of ownership been occupied by the deceased as a residence) is 'closely inherited' (that is, inherited by lineal descendants or their spouses/civil partners).

Lineal descendants include children, grandchildren and remoter issue, adopted children, step children and foster children.

Whilst the introduction of the RNRB will have reduced the number of estates liable to IHT, a client's IHT bill can still increase substantially as a consequence of fairly modest asset growth as long as the nil rate band and RNRB remain frozen. This emphasises the importance of planning and ensuring that clients have considered the impact of the frozen bands on their estate.

### **Planning**

Options for planning will typically be through lifetime gifts, through the will or by making provision for the liability through life insurance. We consider each of these options in turn as they apply to planning with the main residence.

### **(a) Lifetime gifts**

As mentioned above, to make an IHT-effective gift of the main residence, it is necessary to ensure that the arrangement does not come within GWR rules or the POAT provisions. An additional question to consider now is the availability of the RNRB following any gift. We will consider this in each of the following typical scenarios.

#### ***(i) Continued occupation for full consideration***

In other words, a gift of the property to e.g. children with continued occupation by the donor(s) as tenant(s). A full market rent must be paid to ensure GWR is avoided.

Pros...

- Rent paid out of capital diminishes the donor's estate without it being a gift for IHT purposes; while rent paid out of income which would otherwise be accumulating in the estate prevents the IHT position from worsening;
- The IHT eventually saved will be 40% of the value of the property gifted plus a further 40% on the rent; while the income tax cost to the recipient will be on the rent alone and will be determined by the rate of tax paid by the recipient.

Cons...

- Where the donor pays the rent out of after-tax income there is an element of double taxation as the rent is then taxable again in the hands of the recipient;
- The donor will usually need to have sufficient surplus income to make the payments;
- CGT principal private residence relief will not be available to the new owner when the property is eventually sold.

Availability of the RNRB...

The lifetime gift itself (PET) obviously cannot qualify for the RNRB as this can only apply to the estate on death.

However, Finance Act 2016 compensates those who have disposed of their only residence prior to death (and so lost out on RNRB) with an 'additional' RNRB in certain cases.

Generally speaking, the 'addition' will be available provided...

- the disposal is made on or after 8 July 2015;

- death occurs no earlier than 6 April 2017; and
- assets of equivalent value to the 'lost' RNRB are 'closely inherited' (please see above) on death.

**(ii) Gift with shared occupation**

This would typically involve a gift of, say, a 50% interest in a property to a person (such as a son/daughter) with subsequent joint occupation by donor and donee with each paying their proportionate share of the outgoings.

Pros...

- It is a 'natural' arrangement for close families who live together and plan to continue doing so in the future.
- No rent will be required from the recipient.

Cons...

- It is important that the donor does not enjoy a benefit by paying less than their proportionate share of the outgoings;
- A GWR will arise if the donee ceases to occupy unless a commercial rent is paid from that point on.

Availability of the RNRB...

Provided that the retained share is of sufficient value to utilise the RNRB, there will be no adverse consequences for such planning. Where the value of the retained share is significantly below the RNRB then the same considerations as outlined in (i) above will apply.

Where property which has been gifted during lifetime remains in the donor's estate as property subject to a reservation, that property is capable of qualifying for the RNRB. (Section 8J(6) IHTA 1984 inserted into IHTA 1984 by Finance (No.2) Act 2015) The RNRB will be available in such cases where the original gift was an outright gift made to lineal descendants (or their spouses/civil partners) as in such cases the property is deemed to be inherited by the donee(s). A gift to a trust would not qualify for this treatment.

**(iii) "Trading down"**

Selling the home, buying a less expensive house and giving away the cash released is a safe method of IHT planning. Of course, this would not be acceptable to someone who wanted to remain in their current home.

### Availability of the RNRB...

Finance Act 2016 contains legislation designed to compensate those who have downsized to a smaller property prior to death (and have consequently lost the benefit of all or part of the RNRB) with 'additional' RNRB.

To qualify for the downsizing addition in these circumstances, assets of equivalent value to any 'lost' RNRB must be closely inherited on death. Where the surplus equity is invested (for example to provide the clients with income in retirement) and remains in the estate the 'additional' RNRB will therefore be available (provided the estate is 'closely inherited').

If, however, the surplus is gifted, for example to children, during lifetime or invested in an IHT planning arrangement, such as a discounted gift trust or loan trust, the clients may lose out unless they have other assets remaining in their estate (equivalent to the difference between the value of the new property and the value of the old one) that can be left to lineal descendants – or to a qualifying trust - upon their death.

Of course, if both properties were valued in excess of the RNRB (or two RNRBs in the case of married clients or clients in a civil partnership) no RNRB will be lost.

#### ***(iv) Equity release and IHT planning***

Those clients who wish to remain in their current property without the complications inherent in 'giving it away but remaining in occupation'; may wish to consider equity release to allow them to undertake IHT planning with the "released" funds.

Typically, the method of equity release chosen is a lifetime mortgage with interest rolled-up, or a RIO mortgage. This will constitute a debt on the property which reduces the taxable value of the property on death (thereby reducing IHT)). There will usually be a provision that the total outstanding debt cannot cause "negative equity" to arise.

RIO mortgages are similar in structure to interest-only mortgages, with the borrowers paying just the interest on the loan every month with no minimum or maximum age limit. In a similar manner to a lifetime mortgage, the loan is repaid on the sale of the property or on death. However, this type of mortgage has no set end date.

Estate planning options for the released funds will range from an outright gift to a gift into an IHT planning arrangement such as a discounted gift trust and/or a loan trust depending on the client's requirements for control and access.

Pros...

- Easier to plan with cash: possible to retain access/control or generate an “income” stream;
- House remains in ownership of donor (so no adverse CGT implications);
- Debt diminishes value of property (and so overall taxable estate on death) provided that the loan is not retained in the estate or invested in property – such as business property – that qualifies for relief from IHT.

Cons...

- Debt (increased by interest) diminishes amount available to recipients on homeowner’s death (although hopefully compensated by growth on trust investment);
- The debt could result in the property being sold on death and not left to family;
- Need to carefully weigh up cost/benefits dependent on strategy adopted.

Availability of the RNRB...

- With the lifetime mortgage scheme, the estate would continue to include a ‘qualifying residential interest’ (reduced by the value of the mortgage), and the release of equity would not therefore affect the availability of the RNRB even if the equity released was subsequently gifted.

**(b) Planning on death via the will**

Most married couples/civil partners who jointly own property will own as joint tenants which means that on first death the deceased’s interest passes automatically to the survivor free of IHT (by virtue of the spouse/civil partner exemption).

Until the introduction of the transferable nil rate band (from 9 October 2007) in many cases the IHT nil rate band of the first to die was lost if all assets passed to a surviving spouse/civil partner on first death.

Now, any portion of the nil rate band not used on first death can be claimed when the surviving spouse or civil partner dies. This has taken away, for most married couples and civil partnerships, the need for (often complex) arrangements designed to make use of both nil rate bands and this position has been enhanced by the introduction of the additional RNRB from 6 April 2017.

There will, of course, still be some couples where, perhaps for practical reasons, it will be desirable to gift the nil rate band on the first death. In addition, those whose spouse or civil partner has died and have remarried/entered a new civil partnership

may be entitled to more than one nil rate band and, in such cases, a gift of the nil rate band on first death could still produce substantial IHT savings.

For these individuals, provided the property is owned on, or changed to, a tenancy in common basis, there are many options. It will, however, be important to remember that the RNRB will generally only be available where the deceased's interest in a qualifying residence (i.e. one that has at some point been occupied as the main residence) is "closely inherited" (please see above).

Consequently, if the deceased's interest in the residence is left to some other type of trust (e.g. a discretionary trust), the deceased's RNRB will be lost.

***(i) Outright gift of deceased's share on first death to adult children***

Here each of the couple makes a provision in their will to leave their share of the private residence to their adult children on the first death. After the first death, the home is then owned partly by the children and partly by the surviving spouse/civil partner.

Pros...

- Use of nil rate band of first to die (e.g. to take advantage of multiple nil rate bands in second/subsequent marriage situations) may be ancillary to asset protection benefits (for example where the survivor enters into residential care at a future date). The RNRB will be available.

Cons...

- The new joint owner could try to force a sale of the property against the wishes of the surviving spouse/civil partner – for example if there was a breakdown in relations or if a third party takes an interest in the property, for example, on divorce, death or bankruptcy of one or more of the children;
- No CGT main residence relief will be available in respect of a non-occupying owner's share.

***(ii) Conditional gift to children***

As above but the gift is subject to a provision which prohibits a sale of the property during the survivor's lifetime or without their permission.

Pros...

- Security of tenure for the survivor. The transferable nil rate band (including the RNRB subject to usual conditions) available on second death.

Cons...

- HMRC would treat the survivor as having a life interest (IPDI) in the deceased's share of the property counteracting any use of the nil rate band (including the RNRB) on first death.

***(iii) Gift of deceased's interest to discretionary trust in will***

Instead of passing to the children, the interest of the first to die passes to a discretionary trust created by the deceased's will under which the survivor is a potential beneficiary.

Pros...

- The surviving spouse/civil partner continues in occupation. The trustees control the decision over whether to enforce a sale of the property and are unlikely to do so where it would be to the detriment of the surviving spouse/civil partner.

Cons...

- If the surviving spouse/civil partner continues to occupy the property and the trust does not receive a full market rent in respect of its share of the property, then in some (albeit limited) circumstances, it could be argued that the survivor has an IPDI in the trust's share of the property. This would mean that the whole of the value of the property would be included in the taxable estate of the widow/widower on the second death and no IHT saving would arise.
- If the surviving spouse/civil partner is not treated as having an IPDI in the trust's share of the property, the RNRB of the first to die will not be available (contrast where the survivor is treated as having an IPDI in the trust's share of the property – in this situation it should be possible to claim the deceased's RNRB on second death under the transferable nil rate band rules – please see (ii) above).

***(iv) Provision of a cash legacy equal to the value of the deceased's interest in the property satisfied with a debt or charge on the principal residence***

Wills are drafted so that on first death a cash legacy equivalent to the value of the nil rate band passes to a discretionary trust, while the deceased's share of the property passes to the surviving spouse/civil partner. In practice, the gift to the trust is satisfied by a charge placed on the property by the executors (or an IOU given by the surviving spouse/civil partner).

Pros...

- The spouse/civil partner owns the house outright (subject to the debt/IOU) which means security of tenure; continued availability of CGT main

residence relief and the ability to claim the deceased's additional RNRB on second death under the transferable nil rate band rules;

- The debt reduces the value of the house on second death thereby reducing the estate;
- No RNRB on the first death but RNRB can be claimed on 2<sup>nd</sup> death (value of property reduced by the debt/charge) under the transferable nil rate band rules.

Cons...

- Stamp duty land tax may arise unless the "charge" route is used;
- Trustees must be seen to be active and exercising discretions to avoid trust being treated as a 'sham';
- Specialist legal advice is absolutely essential to ensure that all necessary formalities are complied with.

### **(c) Making provision for the liability through life insurance**

Given the "preventative" power of the GWR and POAT legislation and the potential complications of planning via the will, many clients, once they have had the planning position in connection with property explained to them, will choose the relatively simple and straightforward route of providing for the liability through joint lives last survivor life insurance held in trust for the benefit of the children/grandchildren.

There are a number of benefits in effecting life assurance in trust to meet any prospective IHT liability...

- Guaranteed tax-free sum assured payable on death once first premium paid (subject to any review clauses) - ensuring there is no need to sell the home to meet the tax;
- Speed of payment provided there is a surviving trustee to make the claim;
- Premium payments are gifts and represent an excellent way of using the annual exemption and/or normal expenditure out of income exemption;
- Use of a discretionary trust means that changing circumstances can be catered for;
- Children can take over premium payments (after the first) if the premiums cause an unacceptable reduction in the net spendable income of the house owners;

- “Virtually” immune from HMRC challenge.

### **Comment**

Giving a property or share in it in a way that is acceptable (to the donor/donee) and effective for IHT, is likely to be difficult during the owner’s lifetime and largely unnecessary on the death of the first of the couple to die, following the introduction of the transferable nil rate band and the RNRB in April 2017, except where the value of the estate is in excess of £2 million.

Where IHT planning on death is deemed worthwhile for tax reasons (perhaps in a second or subsequent marriage scenario), care will need to be exercised to ensure that the surviving spouse/civil partner is not treated as acquiring an IPDI in the share of the property left by the deceased and that any RNRB is not wasted.

Given the difficulty in planning options, if IHT is still an issue for house owners who do not wish to complicate their lives, then...

- consider other assets for planning; and
- promote the provision for the liability through life assurance (joint lives last survivor for married couples/civil partners) in trust to those who will suffer because of the payment of the IHT.

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