
Briefing Note

Residence nil-rate band for inheritance tax

From 6 April 2017 an inheritance tax relief has been available, known as the residence nil-rate band (RNRB). The RNRB is in addition to the existing inheritance tax nil-rate band (the value of an estate which is not subject to inheritance tax) which has been frozen at £325,000 for each individual until 5 April 2021.

The RNRB applies when a 'qualifying residential interest' is passed to descendants on death occurring on or after 6 April 2017. The maximum amount of the relief has been fixed for tax years until 2020/21 as follows (with increases from 2021/22 being in line with the consumer prices index (CPI)):

- £125,000 for 2018/19
- £150,000 for 2019/20
- £175,000 for 2020/21

The amount of the relief available is the lower of the value of the residence (net of any mortgage) or the above noted RNRB for the relevant year. There is a tapered withdrawal of the RNRB for estates with in excess of £2m at the rate of the £1 for every £2 above the £2m threshold.

What is a 'qualifying residential interest'?

This is a dwelling-house which has been the deceased's residence at some point during the period in which their estate included an interest in that property. The value of the property may be owned by the deceased or might also form part of the deceased's estate as a consequence of the deceased being a beneficiary of a trust and occupying the property as such. The RNRB is not restricted to a main residence and the deceased's executors can choose which property to select if there is more than one, provided the deceased had occupied each property at some point. The property must still be owned as at the date of death even if it was not being used as a residence at that time, subject to the downsizing rules explained below.

Who should the property be left to in order to benefit from the RNRB?

The property must be 'closely inherited', which means that on death it must be left to:

1. direct or lineal descendants – e.g. children, grandchildren, great-grandchildren etc. This includes stepchildren, adopted children and foster children; or
2. spouses and civil partners of the above lineal descendants and widows/widowers/surviving civil partners of predeceasing lineal descendants who have not remarried at the time of the deceased's death.

The property is 'inherited' if it is left by a will, passes on intestacy, passes by survivorship (in terms of the title deeds) or passes into an interest in possession trust for lineal descendants or their spouses.

This provision of the trust in which the property is settled on death is important and any existing trust provisions in a will should be reviewed to check whether the RNRB would be available or not. A review of existing interest in possession trusts is also recommended.

If the above conditions are not met at the deceased's death, it might be possible for the deceased's executors to vary the terms of the will after the death in order to get the benefit of the RNRB but ideally wills should be reviewed during lifetime.

How is the RNRB applied?

The RNRB is only available against tax on the deceased's estate at the date of their death and cannot be set against tax on gifts made within seven years prior to death. The RNRB reduces the overall tax due on death. It is not specifically applied to reduce the tax due on the residence in question.

What if an estate is valued in excess of £2m?

As mentioned previously, there is tapered withdrawal of the RNRB for estates worth in excess of £2m. The taper applies at a rate of £1 for every £2 above the £2m threshold. In 2018/19, estates exceeding £2.25m will not benefit from the RNRB. The £2m threshold will rise in line with CPI from 2021/22 onwards. The value of the deceased person's estate includes their interest in a qualifying interest in possession trust but does not include the value of any gifts made by the deceased in the seven years prior to their death. The value of the estate is calculated before inheritance tax exemptions and reliefs (such as the spouse exemption of agricultural and business property relief) are applied.

What happens to the RNRB if it is unused on 6 April 2017 or after the death of the first of a married couple to die?

On the death of the second spouse, his or her executors can make a claim for the first spouse's unused RNRB even where the first spouse died prior to the introduction of the RNRB. There are a number of conditions to be met in order for the RNRB to be transferred, the most important of which is that the second spouse's estate must qualify for RNRB in its own right.

Is the RNRB lost if a property is sold and the owner moves into a smaller property or residential care?

The legislation allows for the RNRB to apply on death to proceeds of the sale of a residence disposed of on or after 8 July 2015. This ensures that those who wish to downsize or sell and not purchase a replacement property are not discouraged from doing so. Under the downsizing rules, an individual can leave funds or assets equivalent to the value of the sale proceeds of a residence (or their replacement residence plus the balance of the sale proceeds of their original residence) to lineal descendants or their spouses and receive the benefit of the RNRB. It is important to keep good records of disposals of properties after 8 July 2015 in order to benefit from these downsizing provisions.

This note is intended as a brief summary of the taxation and legal position of the residence nil-rate band for inheritance tax. Information provided in this document and any opinions expressed are for general use and not personal to your circumstances, nor are they intended to provide specific legal or financial advice. No responsibility can be accepted for any action taken in reliance of this note and specialist advice should be taken in every case. Turcan Connell would be happy to provide such advice. All information provided is based on our understanding of current legislation which is subject to change. Taxation is based on individual circumstances and is subject to change.

©Turcan Connell April 2019

EDINBURGH Princes Exchange, 1 Earl Grey Street, Edinburgh, EH3 9EE T 0131 228 8111 F 0131 228 8118 DX 723300 Edinburgh 43
GLASGOW 180 St Vincent Street, Glasgow, G2 5SG T 0141 441 2111
LONDON 12 Stanhope Gate, London, W1K 1AW T 020 7491 8811