

The inheritance tax residence nil rate band (RNRB) is now in force. What is it, and how does it affect you and your family?

**Inheritance tax saving**

In this tax year (2017/2018) if you comply with the necessary requirements the RNRB will save an individual up to £40,000 of inheritance tax and a married couple (or a couple in a civil partnership) up to £80,000.

To qualify for the RNRB, on your death you must leave a residential property which you have occupied at some point to your “lineal descendants”. Lineal descendants are your children and grandchildren and their spouses and civil partners and include adopted, foster and step-children. It also includes the spouse or civil partner, or surviving spouse or civil partner (who has not re-married), of lineal descendants.

The RNRB is transferable between married couples so if the allowance is not used on the first death (perhaps because the family home is left to the surviving spouse) the executors of the second spouse to die can claim a double allowance.

The RNRB will increase by £25,000 a year until 2020/21 when it will be fully in force and will amount to £175,000 for an individual or £350,000 for a couple, saving inheritance tax of £70,000 and £140,000 respectively.

The combined nil rate bands could be worth as much as £1 million by 2021.

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| **Tax year**  | **RNRB** | **Main nil rate band** | **Combined nil rate bands for both spouses or civil partners** |
| Before 2017-18 | £100,000 (can be carried forward for surviving spouse or civil partner's use) | £325,000 | £850,000 |
| 2017-18 | £100,000 | £325,000 | £850,000 |
| 2018-19 | £125,000 | £325,000 | £900,000 |
| 2019-20 | £150,000 | £325,000 | £950,000 |
| 2020-21 | £175,000 | £325,000 | £1,000,000 |

**What if I sell my home?**

Under government proposals the RNRB will still be available where you have sold your home and downsized to a less valuable property, or even if you no longer own a property, provided that you sold your home on or after 8 July 2015 and at least part of your estate is inherited by a qualifying beneficiary.

**What if I move out of my home?**

The RNRB will apply if you own a property that is no longer your residence when you die (for example, because you have moved into a care home), provided that it was your residence at some time during your period of ownership.

**Downsizing**

In most cases the RNRB will still be available where a sale or downsizing means that equity unlocked in a property might otherwise be ‘lost’ from the allowance. Providing certain conditions are met the estate will still benefit from the maximum RNRB as if the individual had died while owning the original property. The downsizing addition is calculated in percentage terms with the percentage of RNRB lost owing to the sale of the property then added to the person’s residential nil rate band and any unused allowance from a deceased spouse or civil partner brought forward.

**What if I have given my home to my children already?**

Even if you have already given away your home to your children, if you still benefit from the property in some way without paying for it, for example, you continue to occupy it even though it has been given away or if you are co-occupying with your children after having transferred it to them, it may still be possible to claim the RNRB on your death.

**What if my children do not want my home after I die?**

It does not matter whether the qualifying beneficiaries who inherit your home want to keep it. The RNRB will still be available even if they sell your home immediately after your death.

**What if I have more than one home?**

If you own more than one property that is (or has previously been) your residence when you die, your executors must choose which one will benefit from the RNRB.

**Reduction of RNRB for larger estates**

If your estate is above £2 million then the allowance will taper away by £1 for every £2 in excess of £2 million. Therefore the RNRB will become worthless once an estate exceeds £2.35 million when the allowance is fully in force (assuming the deceased cannot carry forward any allowance from a previously deceased spouse or civil partner).

It is important to note that the £2 million threshold is calculated taking into account all the assets in your estate not just those liable to inheritance tax. Individuals who own valuable business or agricultural property could find in many cases that they cannot claim the allowance. In those circumstances, a well drafted Will and appropriate estate planning can help to maximise the amount to which you would be entitled.

**Unmarried couples**

The RNRB can be claimed by each person in an unmarried couple. However, if the family home is left to the survivor of the couple it cannot be claimed on the first death and the unused allowance cannot be transferred to the surviving partner. This means that in those circumstances unmarried couples can claim only one allowance achieving a tax saving of half that of married couples. This can be overcome by making a Will leaving a sufficient share of the family home to trusts for the children on the first death so ensuring that an allowance can be claimed on each death.

**Trusts in Wills**

If the qualifying residential interest is left to a disabled person’s trust for a lineal descendant, the RNRB can be claimed whatever the type of the disabled person’s trust. Legacies of qualifying residential interests to discretionary trusts are not closely inherited within the terms of the legislation, even if all the potential beneficiaries of the trust are lineal descendants.

However, if an appointment out of a discretionary trust is made within two years of the deceased’s death, this is read back to the date of death for IHT purposes (s.144 IHTA 1984). This means that, under the current law, if your Will incorporates a discretionary trust of residue on the second death (or on your death if you are single), an appointment out of part or all of the qualifying residential interest to a lineal descendant (or a life interest trust for their benefit) within two years of death should enable the RNRB to be claimed retrospectively. The rest of your estate would then continue to benefit from the flexibility of the discretionary trust and the fact that it can be used as a tax planning vehicle for future generations.

For more information about Wills and Inheritance Tax please contact one of our experts in our offices in **Bingley, Ilkley and Bradford**:-

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