

SINGLE PERSONS WILL

This is for a single person with an estate of any value. Inheritance Tax is payable at 40% on the value of the estate exceeding £312,000.

This type of will includes:

Sections which are optional are marked with an *

- Revokes former wills
- Appoints your executors (persons who deal with your estate on your death)
- Gives cash gifts on your death to whom you wish *
- Gives possessions on your death to whom you wish *
- Gives to your executors the rest of your property including possessions and money not otherwise gifted to sell and to divide into portions and pay, after payment of debts and testamentary expenses, absolutely or conditionally (on attaining the age of 18 years) to a beneficiary, your children or others
- Gives power to your executors to invest generally for the benefit of your beneficiaries under 18 years and to advance to them money from their share for their maintenance
- Gives power to your executors to give possessions to a beneficiary as part of any gift instead of money
- Gives funeral and burial or cremation directions *
- Gives directions for signing and witnessing the will to make it a legal will.

MARRIED PERSONS MIRROR FORM WILLS

These **mirror form wills are for Husband and Wife or Civil Partners**. Gifts between husband and wife or Civil Partners are exempt from Inheritance Tax. On the death of the surviving Spouse or Civil Partner a claim for the transfer of unused Nil rate band of up to £312,000 allowance for Inheritance Tax purposes has to be made to transfer the unused Nil rate band to benefit the estate of the surviving Spouses or Civil Partners so allowing an exemption from inheritance tax of up to £624,000 on the joint estates.

There are two wills which mirror each other include clauses that:-

(Sections which are optional are marked with an *)

- Revokes former wills
- Appoints Husband or Wife or Civil Partner as your executor if they survive you and gives all your property to your surviving Husband or Wife or Civil Partner
- If your Husband or Wife or Civil Partner does not survive appoints other executors and gives cash gifts and possessions to whom you wish*
- If your Husband or Wife or Civil Partner does not survive you gives the rest of your property to your executors to sell pay your debts and testamentary expenses and divide and pay to whom you wish absolutely or conditionally (on attaining the age of 18 years) to a beneficiary, your children or others.
- If any of your children does not survive you their share goes to the other children or others who do survive you
- Gives power to your executors to invest generally for the benefit of your beneficiaries under 18 years and to advance to them money from their share for their maintenance

- Gives power to your executors to give possessions to a beneficiary as part of any gift instead of money
- Gives funeral and burial or cremation directions *
- Appoints Guardians for your children under the age of 18 years*
- Gives directions for signing and witnessing the will to make it legal.

MARRIED PERSONS DISCRETIONARY TRUST WILLS

Nil Rate Band Discretionary Trust and Spouse Exemption Trust of Residue

These are **wills for Husband and Wife or Civil Partners** where the joint estate exceeds £624,000 (particularly where the main asset is the home that they live in).

There are two wills which both include sections which do the following:- (Sections are optional that are marked with an *)

- **Revoke** former wills
- **Appoints** your executors and trustees
- **Gives assets** to your executor/trustees **on discretionary trusts up to the Nil Rate Band limit** for Inheritance Tax purposes, (£312,000) for the benefit of your Nil Rate Band Beneficiaries (see next paragraph).
- **Creates a trust with potential beneficiaries** of husband or wife or Civil Partner surviving you, children or grandchildren and the husband or wife or Civil Partner may be a trustee
- **Gives power to your executors to invest** generally for the benefit of your beneficiaries and to advance to them or their trustees all or any part of the trust fund and to retain property in its existing form. (for instance the home)
- **Gives power for trustees** to instead of paying the nil rate fund out in cash **accept a charge** on property of the surviving Husband or Wife or Civil Partner or a promissory note from them and lend money to the surviving Husband or Wife or Civil Partner
- The trustees may regard without obligation the surviving Husband or Wife or Civil Partner as the **primary beneficiary**
- **Gives the rest of your property** to your executors **to sell** pay your debts and testamentary expenses and **divide and pay the income** to the surviving Husband or Wife or Civil Partner for life and **capital to children** remoter issue or others, in equal shares, with power to advance capital during the life of the Husband or Wife/ Civil Partner to all residuary beneficiaries. These advancements are potentially exempt for Inheritance Tax purposes (7 year rule)
- **If the Husband or Wife or Civil Partner does not survive you divides and pays** the rest of your property after payment of debts and testamentary expenses at the discretion of your Trustees **to the beneficiaries**, your children or others

- Gives power to your executors/trustees to give possessions to a beneficiary as part of any gift instead of money
- Gives **funeral** and burial or cremation **directions** *
- **Appoints Guardians** for any children under the age of 18 years*
- Gives directions for signing and witnessing the will to make it legal.

NOTE: From the 9th October 2007 a surviving Husband or wife or Civil Partners estate, may utilize the **unused Nil Rate Band allowance for Inheritance Tax** purposes from the estate of the Husband or Wife or Civil Partner who dies first. There is no tax on estates passing between Husband and Wife or Civil Partners but property passing to third parties (such as children) above the nil rate band is taxed at 40%. If no gift of any amount up to the Nil Rate Band allowance (£312,000) has been made to a third party (such as children) in the estate of the Husband or Wife or Civil Partner first to die, then the unused Nil Rate Band allowance on the estate of the first spouse to die can be claimed on the estate of the of the deceased surviving spouse. The joint Nil Rate Band allowance can be as much as £624,000 (reduced pro rata by the gifts made to third parties in the first will) on the estate of the of the deceased surviving Husband or Wife or Civil Partner

These wills disposes of up to the nil rate band free of tax to trustees for the benefit of third parties (such as children) as an alternative to a Nil rate band transfer of allowance being claimed by the estate of the deceased surviving Husband or wife or Civil Partner. A potential saving of Inheritance Tax on the death of the surviving Husband or Wife, or Civil Partners, of up to £124,800.00 on joint estates of a Husband and Wife, or Civil Partners is available as an **alternative using these wills but control is kept on the assets put into the Nil Rate Band Trust by the Trustees, thus not leaving the saving of tax at the whim of the government.**

If there is sufficient money available without depriving the husband/ wife or civil partner, then **the children or grandchildren can be preferred so as to remove the nil rate band value of assets from the joint estates** of the husband and wife/civil Partners to effect a full saving for Inheritance Tax purposes under these wills or if advanced to the husband or wife/ civil partner **an IOU obtained from them for the benefit of the Trustees of the Nil Rate Band Beneficiaries** such as the children/grandchildren.

There is also a **gift of the rest of your property** to your executors to sell pay your debts and testamentary expenses and divide and pay the **income to the surviving Husband or Wife or Civil Partner for life** and **capital to children** remoter issue or others with **power to advance capital during the life of the Husband or Wife/ Civil Partner** to all or any of the residuary beneficiaries. **These advancements are potentially exempt* for Inheritance Tax purposes allowing** the possible further saving of Inheritance Tax. *(Seven year rule)

Action to be taken on completing the wills

Property held in joint names of Husband or Wife, or Civil Partner, such as the home, must have the joint tenancy severed. This is done by the joint tenants signing the form with the will and if the home is registered at the Land Registry, filing the form (**notice of severance**) at the Land Registry. If the home is not registered then the notice of severance must be attached to the conveyance or assurance to the Husband and Wife, or Civil Partners.

If you are married, or registered civil partners you may be able to reduce the amount of Inheritance Tax payable by as much as £124,800.00 on your joint estates by the above wills and a further £124,800.00 by the Spouse Exemption Trust of Residue.