

### GUIDANCE SHEET

## Inheritance Tax Transfer of nil rate band

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### Guidance

1. It is possible for spouses and civil partners to transfer their nil-rate band allowances so that any part of the nil-rate band that was not used when the first spouse or civil partner died can be transferred to the individual's surviving spouse or civil partner for use on their death.

### Commencement

2. The transferable allowance is available to all survivors of a marriage or civil partnership who die on or after 9th October 2007, no matter when the first partner died.
3. The claim to transfer unused nil-rate band must be made by the accountable persons when the surviving spouse or civil partner dies and not when the first spouse or civil partner dies. So if you are dealing with the estate of the first spouse or civil partner to die, there is nothing you need do now in terms of making a claim. However you will need to record the proportion of the nil-rate band that goes unused and keep records in order to support a claim when the surviving spouse or civil partner dies.
4. If you are dealing with the estate of the surviving spouse or civil partner, you can make a claim to transfer the unused nil-rate band from the estate of the first

spouse or civil partner to die. To make a claim, you will need to fill in a claim form, which is available from the HMRC.

5. The form will ask for information about the estate of the first spouse or civil partner to die that is necessary to calculate the amount of the nil-rate band that was unused. You can then calculate the extent to which the nil-rate band available to the survivor may be increased and use that revised nil-rate band to calculate the inheritance tax payable on the survivor's estate.
6. You should send the form to HMRC, together with the documents requested (for example, the death certificate of the first spouse or civil partner to die, a copy of their Will and the marriage certificate) at the same time as you send form IHT400 for the estate of the survivor to HMRC.

### How the transfer will work

7. Where a valid claim to transfer unused nil-rate band is made, the nil-rate band that is available when the surviving spouse or civil partner dies will be increased by the proportion of the nil-rate band unused on the first death. For example, if on the first death the chargeable estate is £150,000 and the nil-rate band is £300,000, 50% of the nil-rate band would be unused. If the nil-rate band when

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the survivor dies is £325,000, then that would be increased by 50% to £487,500.

8. The amount of the nil-rate band that can be transferred does not depend on the value of the first spouse or civil partner's estate. Whatever proportion of the nil-rate band is unused on the first death is available for transfer to the survivor.
9. It is important to remember that even if all the assets passing under the Will are left to the surviving spouse or civil partner, there may be other components of the aggregate chargeable 'estate' on death for IHT purposes (such as assets in trust, or gifts to other people made within 7 years of death). If present, these may use up some or all of the nil-rate band in the normal way, and so reduce the amount of unused nil-rate band that may be available for transfer.
10. The rules apply in the same way whether the first spouse or civil partner to die leaves a Will or dies intestate.
11. The rules allow unused nil-rate band to be transferred from more than one deceased spouse or civil partner, up to a limit of one additional nil-rate band. So if someone has survived more than one spouse or civil partner, then on their death the accountable persons may be able to claim additional nil-rate band from more

than one of the relevant estates. A separate claim form should be completed for each spouse or civil partner who died before the deceased. However the total additional nil-rate band accumulated for this purpose is limited to a maximum of the amount of the nil-rate band in force at the relevant time. Below are some examples showing how the scheme works.

### Existing Wills

12. The new rules will not change the effect of existing Wills. So people who have, for example, a nil-rate band trust written into their Will do not have to take any action as a result of this measure. But if someone wants to change their Will to take account of the new rules, that change can usually be made by a Codicil, rather than having to rewrite the Will.
13. Where someone dies with a nil-rate band discretionary trust in their Will, an appointment of the trust assets in favour of the surviving spouse or civil partner (before the second anniversary of the death, but not within the three months immediately following the death) would normally be treated for IHT purposes as if the assets had simply been left to the surviving spouse or civil partner outright. Ending the trust in this way would mean that the nil-rate

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band was not used on the first death, and so the amount available for eventual transfer to the surviving spouse or civil partner would be increased accordingly.