

## CORREN TROEN

PRESS

## Can you afford to die in the UK?

By Elizabeth Kristensen | Photo: Corren Troen

**Inheritance tax (IHT) is a tax charged on your estate. Your "estate" is everything you own at the time of your death less any debts. It is also sometimes payable on assets you may have given away during your lifetime. Not all estates are liable for inheritance tax. It only applies if the taxable value of your estate is above £325,000. This is known as the nil rate band and anything above this amount is taxed at 40%.**

Where spouses (husband, wife or civil partner) are concerned, the full impact of IHT will often not be an issue until the second party dies. This is because under English law, where assets pass between spouses who are both UK domiciled, either during their lifetime or when the first dies, no IHT is payable at all. This is known as the spouse exemption.

What many married couples do not realise is that when one of you is domiciled in the UK and the other is not, the spouse exemption is restricted. This restriction applies where a UK domiciled spouse makes a gift or transfer to their non-domiciled spouse. In this case, only £55,000 is free of inheritance tax, in addition to the nil rate band of £325,000 mentioned above. Therefore a total of £380,000 can be transferred to a non-dom spouse without incurring IHT.

The reason for the restriction is to prevent a UK domiciled spouse transferring all their assets to their non-dom spouse who could then place the assets offshore, or move them back to the country in which they are domiciled. This would of course mean they were no longer taxable in the UK. There is, however, no restriction in the opposite direction – so transfers from the non-dom spouse to the UK domiciled spouse benefit from the full spouse exemption and are therefore tax free. Clearly the UK tax authorities have no interest in making a restriction on transfers in this direction as it brings more assets within their reach. It is interesting to note that where the non-

dom spouse is a European citizen, this is actually unlawful discrimination under EU law.

This restriction is something that will affect many married couples living in the UK, and at Corren Troen we see many clients in this position. Indeed, it is something that affects me personally, as I am UK domiciled and married to a Dane – so if my non-dom husband makes a transfer to me, it is free of IHT, but any transfers I make to him are subject to the limit of £380,000.

Married couples with different domiciles should therefore think carefully about inheritance tax planning if they intend to remain in the UK for the foreseeable future. Carefully planned gifts, placing property within an offshore trust and including a trust within your Will, are just some of the ways you can help to reduce the amount of inheritance tax payable.

If you would like further information and advice on any of these tax planning options, or in relation to Wills and estate planning in general, then please contact Elizabeth Kristensen at Corren Troen.

