

Realising the Benefits of a Nil Rate Band Trust when a Client Dies

When a client dies, the full benefit of Trust planning can be realised by the family and Beneficiaries. Probate solicitors often advise clients to close Trusts (because many solicitors have little Trust experience, or do not know how to maintain Trusts economically). This will result in clients losing the protective and generational benefits. It may be beneficial to remind the Trustees of the benefits of a Nil Rate Band (NRB) Trust:

- Protection of the NRB value for a surviving spouse.
- Families may avoid the unnecessary payment of significant amounts of inheritance tax (IHT) for future generations, specifically benefiting their own children, grandchildren, nephews and nieces. Benefits equating to £40,000 for every £100,000 directed through the framework is achievable.
- Protection of Trust assets down the generations.
- Potential protection of the inherited assets from third-party claims e.g. second marriages and care-fee assessment.

Actions required after a client dies

1) Contact Solidus

Email support@solidustrusts.co.uk to advise us of a client death.

Let us know if details of the 'Assisted Probate Service' provided by our sister company Advisor Trusts and Probate Services Ltd ("ATPS") is required. Alternatively, for complex estates, the Executors may wish to engage for full Probate services.

To retrieve any documents stored with us we will need an authority letter signed by the Executors along with a copy of the death certificate.

2) Probate

To complete probate you will need to follow a four-stage process.

Stage one. The valuation phase - if you are using the ATPS Assisted Probate Service you will benefit from support and guidance when you and the client assemble estate valuations. This is cost effective for the client and enables fees to be minimised.

Stage two. The application phase – as part of the Assisted Probate Service drafts of the estate's financial documents (IHT205/400) will be provided. Once approved, you will receive finalised documents together with an oath, for the Executors to sign and swear to.

Stage three. The grant phase - ATPS will arrange the submission of the IHT forms to HMRC and deal with any queries raised by HMRC, obtaining approval to proceed with the Grant of Probate. Once the IHT release is obtained, Our probate partner will apply to the Probate Office for the actual Grant of Probate.

Stage four. The fulfilment phase - Once the Grant of Probate is issued, the Executors will then accumulate any cash sums, and you will then encash any required investments or transfer them as required. The funding of the NRB can then be agreed with the client.

3) Trustee Bank Account

In most circumstances a Trustee Bank Account will not be required where NRB fulfilment is required. Executors often have the powers to transfer part or all of the NRB to the surviving spouse in the form of an IOU or property can be used to fund the NRB.

4) Realising the Benefits of a Nil Rate Band Trust

The Trustees will have to make a decision on how to fund the NRB, the possible approaches include;

- If the client has sufficient equity in one or more properties they can fund the NRB sum with these assets. This is popular with clients who seek maximum protection of their estate and where IHT may be a factor for the surviving spouse.
- An alternative option for clients is to simply have an “IOU” granted by the Trustees for the full sum. This is popular where clients are not concerned with IHT on the death of the surviving spouse and who require maximum flexibility of their inheritance.
- For clients who have insufficient equity in property to fund the NRB sum they can use the share of property and make the difference up with the value of liquid assets. These assets can be transferred to the surviving spouse and an “IOU” can be granted by the Trustees, which is repayable on the death of the surviving spouse and is usually interest free.

Specific consideration to longer-term RNRB planning is essential.

With this in mind you can shape the transfer of assets.

- Transfer and register property
- Encash investments that may not be transferable
- Encash or transfer shares

5) Instructing Solidus

We require details of the desired transfers to the NRB Trustees. Care must be taken at this stage to ensure any required Residence Nil Rate Band planning is also fully considered. We need to know the value of the available NRB and a copy of the IHT forms or estate accounts are also required.

Please instruct Solidus using the 'Nil Rate Band Fulfilment' application form which is available on the Knowledge and Resource Centre of the website.