

Giving Away Your Home

For a variety of reasons many people wish to transfer their home from their name into that of another. It is important that the implications of transferring your home are fully understood, so the advantages can be weighed against the disadvantages and you make the appropriate decision for you.

Responsibility for the home

Although you may give your home away, you may agree to be responsible for the buildings insurance and general maintenance. You might be quite happy with the responsibility, but what may seem straight forward in the early stages could cause problems later on if you cannot financially afford to continue these payments. To prevent any future problems, discuss and establish who is to pay for all major outgoings of the property. Although it is your home, if you no longer own it, you could be asked to pay rent by the owner(s). They may even sell the property and you could have no home.

Divorce/bankruptcy

If the person(s) you have transferred your home to, were to become divorced or bankrupt, their ex-spouse or Trustee in Bankruptcy could have a claim on your home and you could end up homeless. Consider if this is likely, and ask questions to see if there is a real risk. Similar problems can arise if the person to whom you transfer your property dies before you do.

Death

Once your home has been transferred out of your name, it will not form part of your estate when you die and will not be disposed of in your Will. This may save on probate court fees and administrative costs to your estate when you die. It may however be added to the value of your estate for Inheritance Tax purposes. The person(s) to whom you transfer your home will need to make provision for your occupancy within their own Will.

Inheritance tax

Inheritance Tax may be payable on your death on assets, including savings, investments and property over £312,000 (2008/09 tax year), increasing to £325,000 for 2009/10 tax year ('the nil rate band'). Tax is payable on the amount over this figure at 40%. This figure is reviewed annually in the Budget. If you have made gifts of money or assets away in your lifetime over £3,000 and within 7 years of your death, the value of these gifts may be added to whatever other assets you own when you die, to determine the tax payable. There are complicated tax implications if you

transfer your home and still live in the property when your assets, including the value of your home are worth over the nil rate band.

If your estate is likely to be taxable, it is important for you to receive tax planning advice before transferring your home.

Capital gains tax

If you own your home and live there, no capital gains tax is payable when you transfer the ownership, on any gain made on the original purchase or acquisition price. The person(s) you transfer your home to will acquire it at the current market value. There may be tax payable by them when they eventually dispose of the property and they should obtain independent legal advice on the implications.

Means tested state benefits

If you are in receipt of means tested state benefits, such as income support and you give away an asset such as your home, which appears to the Department of Works and Pensions (DWP), that you did so with the intention to reduce your assets, so as to qualify for certain benefits, they may assess you as if you still own the asset. Similar rules apply to financial help, which may be available from local authorities, for example if you need to move into a care home.

If at a later date, you apply for financial assistance from the DWP or local authority, depending on how much time has passed since the transfer and the reason for the transfer, the value of the asset may be ignored when assessing your entitlement to financial support.

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