Don’t throw away that Will

Where a spouse or partner has already died, and their Estate has been dealt with it can be important to retain a copy of their Will.

If the spouse or partner left all of part of their own Estate to their surviving spouse or civil partner they are deemed not to have used their full Inheritance Tax Allowance – potentially up to £325,000 (2021-22) less any payments to other beneficiaries or Charities that might compromise that allowance. That ‘unused’ proportion of their Nil Rate Band Allowance can be inherited by the surviving spouse or civil partner at the rate that applies when they die themselves. So, potentially the transferable allowance might be greater than £325,000 in time. It could mean that if the entire Estate is left to the spouse or civil partner that the survivor need not be concerned with Inheritance Tax implications until the value of their own Estate passes £650,000.

This transferable allowance would be claimed by the Executors of the Estate when the survivor dies, and they would need to have the Will that related to the first to die.

This same principle applies in relation to a further Inheritance Tax Allowance – the Residence Nil Rate Band Allowance relating to the equity in the family home that is passed down the direct line of descendants. Potentially where an Estate does not exceed £2m then the additional transferable Residence Nil Rate Band Allowance could be as much as £175,000 provided that was equivalent to the first deceased’s equity in the home.

It can mean that where the first to die leaves everything to their spouse or civil partner and their home was worth £350,000 or more that the survivor’s Estate if below £1m would not incur any Inheritance Tax. That is provided no gifts needed to be added back into the calculation of the Estate value that would push part of that Estate into Inheritance Tax at 40%.

So, if you think this applies in your circumstances or might do in the future then do bear this point in mind.

For more insights and detail visit https://www.gov.uk/guidance/inheritance-tax-transfer-of-threshold