



The Society of Will Writers

Transferable NRB - Facts and Opportunity

2-Day Introductory Course

23rd-24th April
28th-29th May
25th-26th June
16th-17th July
20th-21st August
24th-25th Sept
22nd-23rd October
26th-27th Nov

Advanced Instruction Course

2nd May
20th June

LPA Course



Got a story you would like to share?

Our aim is to provide relevant information to you, our Members, if you would like to contribute to our newsletter or share your comments please [contact us](#).

We will all be aware of the impact of Alistair Darling's change to the treatment of the Nil Rate Band between married couples and civil partners. We have all seen the headlines talking about the 'joint allowance' of £624,000 available from 6 April.

Now that the dust has settled a little and we start to look at the practicalities of the situation it is clear that all is not as simple or straightforward as the headlines suggest.

Indeed, anyone charged with the responsibility of being an executor and in a position to submit a claim may find themselves in a difficult position. Therein lies an opportunity for all Will writers.....read on.

Firstly, lets get one thing clear. The benefit of any unused nil rate band from a deceased spouse/civil partner is not automatic - it must be claimed. This value of the claim may be as high as £124,800 of course - and more in years to come.

Therein lies the first concern. The Revenue is being asked to forego a substantial sum of tax. That makes the correct completion of the documentation (Form 216) extremely important. It is fair to say that we can expect the Revenue to look at each claim quite closely given the sums involved. It will be to their considerable benefit of course to disallow a claim.

Okay, you may say, 'it's just a claim form' - and you would be correct. But have a look at it; consider the position of the executor who has to sign the document to say that the answers to the questions are all correct. The form is available on-line:

<http://www.hmrc.gov.uk/cto/iht216.pdf>

Consider the questions that the executor has to answer - accurately. Take question 4 for example. What lifetime gifts did the deceased make in the 7 years prior to death? Now it is possible that the former spouse may have died 10

years ago - the executor needs to be able to go back 17 years to be answer the question - how does he or she do that? After all, the person who may have been best placed to help (i.e. the surviving spouse/civil partner) has just died.

Now we get to the opportunity - the opportunity to provide a valuable service to your clients, and of course, charge a fee for it. Quite simply, the time to get all of the information together, to get a written statement from the surviving partner, is when they are still alive.

What better can an executor hope for than all of the documents required, plus a statement signed by the surviving spouse confirming the information needed to complete the claim? They can then sign the claim with a high degree of confidence that, if the Revenue do decide to query or challenge the claim, they have some evidence to support them.

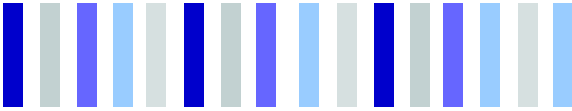
To summarise therefore, you have an opportunity. In your client bank you will have individuals who have been widowed. Now is the time to go and see them and offer them the opportunity to be certain that their heirs will benefit from Mr Darlings dalliance. How much you charge is up to you!

Against that background, we can begin to understand the responsibility on the shoulders of the executor and why the inclusion of a professional executor such as the SWW Trust Corporation is vital.



SWW Trust Corporation

Professional Executor and Trustee Services



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Further information is
 available at:
www.willwriters.com

April 2008

S	Mo	Tu	W	Th	Fri	Sa
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101 years of British Summer Time

Events Calendar

- 16th April - Midlands Regional Meeting
- 16th April - Herts & Beds Regional Meeting
- 23rd–24th April - 2-day Introductory Course, Lincoln

Midlands Regional Meeting

16th April 2008—Bulkington Village
 Centre Warwickshire. CV12.

Speaker is Rob Rowe - a course director from STEP who is going to give us a sample of their training and introduce STEP to us and talk about the courses available for anyone wishing to take external examinations. Contact Heather on hmperson@hotmail.com or Tel 02476370454 for further details of this meeting and to be added to their data base for information as it arrives for future meetings.

Ogden v Trustees of the R.H.S. Griffiths 2003 Settlement

A case involving a significant exercise and clarification of the High Court's equitable jurisdiction to set aside a transaction on the grounds of mistake. In this case the High Court set aside as voidable a transfer of some £2.6 million made by a transferor less than 3 years before his death and at a time when he was unaware that he had lung cancer. If the transfer had not been set aside it would have given rise to a liability for over £1 million in inheritance tax.

The deceased and his wife took planning advice to mitigate

inheritance tax and, as a result, transferred assets to newly created trusts.

The executors applied to have the transfers set aside and the issue was whether the transfers were made under a *mistake*. It would have to be shown that the deceased would have acted differently had he known of his condition. With regard to a transfer made in the February of 2004 it was decided that, had the deceased known about his health, he would have known it was unlikely he would survive 3 years, let alone seven and would not have acted in the way he did to make the transfers. The court held it was unjust that a substantial amount of IHT should be incurred in those circumstances.



Herts & Beds Regional Group

Good news!

Ian Lees has stepped in as regional chairperson and the first meeting will take place on 16th April at County Constitutional Club, 29 Redgiment Road, St Albans AL1 3AG at 10:00am.

If you wish to attend please contact: ian@ianleesassetmanagement.com

Your Director General, Brian McMillan, will be there for the launch.

