

WHAT IS THE RESIDENTIAL NIL RATE BAND?

The Residential Nil Rate Band (RNRB) is one of the most cack-handed bits of legislation we have seen in many a year. The following notes are our attempt at explaining the requirements to obtain the benefit, however, the legislation will more than likely change further in the coming years so please take this as a guide only.

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1. BACKGROUND

At the 2007 Party Conference it was announced that the Conservatives would increase the inheritance tax (IHT) threshold from £325,000 to £1,000,000. The idea was very popular and is credited (in part at least) for Gordon Brown delaying calling an election.

When the Conservatives came to power in May 2015 they had a dilemma, on the one hand IHT was generating good revenues to a country desperate for cash (the IHT for Jan to April 2015 was £1.62bn) and on the other hand the main people who vote (pensioners) wanted them to make good their promises.

The result is the RNRB which plays lip service to the promise whilst ensuring few will benefit!

2. THE BASICS

If you meet all the caveats listed in this note, then if you die after 2021/2022 on the second death of a married couple (Civil Partnerships work as well) you can leave:

	Husband	Wife	Total
IHT Nil Rate Band	£325,000	£325,000	£650,000
RNRB	£175,000	£175,000	£350,000
Total	£500,000	£500,000	£1,000,000

Hey presto, the promise has been kept!

3. TIMESCALES

To benefit from the new allowance the last spouse must die after 6th April 2017, after which time the allowance will provide:

Tax Year	Spouse 1	Spouse 2	Maximum
2017/18	£100,000	£100,000	£200,000
2018/19	£125,000	£125,000	£250,000
2019/20	£150,000	£150,000	£300,000
2020/21	£175,000	£175,000	£350,000
2021/22	£175,000	£175,000	£350,000

4. TERMS AND CONDITIONS

The extent of restrictions is significant:

4.1 Only Close Relatives May Inherit

These are defined as children or grandchildren. The definition of children includes step children and adopted children and also foster children.

Where a close relative has a spouse who has not remarried they can inherit as well.

If the whole of the property is not gifted to direct descendants then the allowance is apportioned pro rata.

4.2 The Gift Must Be Specific

In other words, if you leave your estate to a discretionary trust no RNRB is available albeit that the beneficiaries of the trust are close relatives. On the other hand, ownership as joint tenants or a life interest trust should still allow the allowance to be given.

The home **does not** have to be mentioned specifically in the deceased's will. It can be inherited as part of the residue of the estate.

The home does not have to pass in specie to the close relatives, the personal representatives can sell the property and send the sale proceeds on.

4.3 The Value Is The Net Value

If you have a home income plan or a home reversion plan, or you are in a care home and the Local Authority are charging the fees against the ultimate sale value of your home, you have to deduct the liability.

4.4 The Property Must Be

- Included in the deceased's estate
- Have been lived in by the deceased (does not have to be your main residence)

Therefore, let property which was never been lived in by the deceased does not apply, however, the property could be your Spanish holiday home.

It does not have to be your main residence but if, for instance, the property has been let out and you have never lived there it does not count towards RNRB.

The property must be included in the deceased's estate.

5. TAPER OF BENEFIT

Once your estate on death is more than £2 million the relief drops by 50% for each pound of value above same. Once the allowance is in force the tapering will look as follows:

Estate On Death	Allowance
£2,000,000	£175,000
£2,025,000	£162,500
£2,050,000	£150,000
£2,075,000	£137,500
£2,100,000	£125,000
£2,125,000	£112,500
£2,150,000	£100,000
£2,175,000	£87,500
£2,200,000	£75,000
£2,225,000	£62,500
£2,250,000	£50,000
£2,275,000	£37,500
£2,300,000	£25,000
£2,325,000	£12,500
£2,350,000	-

5.1 The Taper Limit Applies to The Value On Date Of Death

If your estate on the day before you die is worth £2,500,000 and you gift £501,000 to the children and it is cleared before you die then you get your allowance regardless of the fact that the gift will fall back into your estate and be taxable.

6. TRANSFERABLE RNRB

Like the transferrable nil rate band (NRB) a person dying after 6th April 2017 can claim relief for their dead spouse whenever that person dies **whether or not** the previously deceased spouse had an interest in a residential property when they died.

Whilst there is no requirement for the first to die to have an interest in a property, the value of the survivor's property must be over £350,000 (2021/2022 tax year) for the full allowances to be used up. Likewise for many (i.e. with joint estates over £2 million) using the RNRB on first death will make sense.

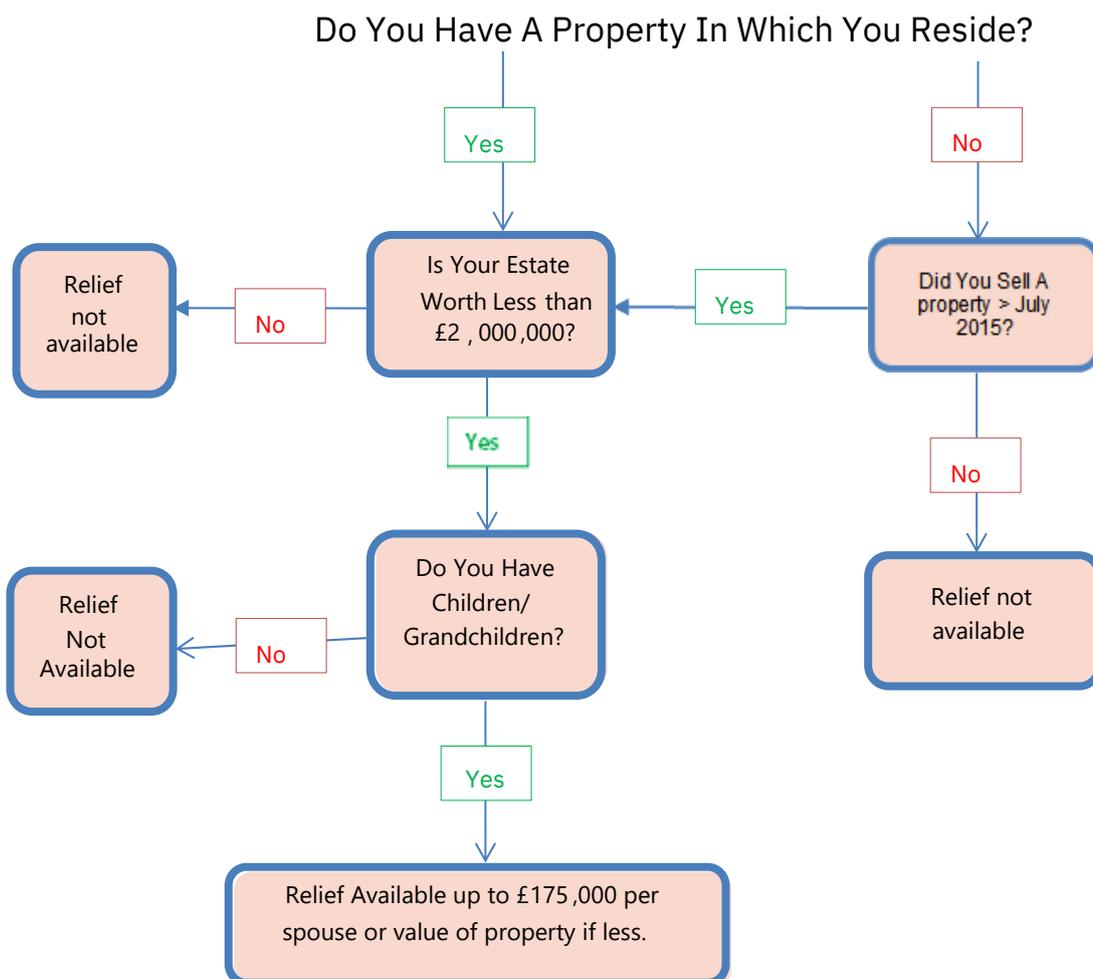
7. DOWNSIZING RELIEF

Someone somewhere worked out that this new rule would cause the housing market to stagnate whilst thousands of people waited to die so they provided relief for those who sell their property or downsize.

Where the taxpayer downsizes post 8th July 2015 and / or the property is sold (or given away) because the tax payer moves into care then it still counts towards the RNRB.

The provision of this relief is anything but simple, with a 5 step process to arriving at the end result. However, it does point to the requirement for attorney's and clients to keep excellent records of property sales as they get older.

8. SIMPLIFIED FLOW CHART



9. SUMMARY

HMRC issued some helpful guidance notes in November 2016 which can be found [here](#).

The complexity of this allowance is so preposterous that there will be numerous mistakes in claiming same. This also heralds a different approach for those in residential care. For instance, if you have chosen the Local Authority deferred payment scheme you may now be better off to sell the house and use the proceeds. Likewise a property sale may be a better bet than a deferred interest mortgage to cover nursing home fees.

Another planning option is for couples to “trade up” if they cannot use the allowance and have estates of sufficient size.

Please note that whilst every effort is made to ensure that the information contained within this explanation is correct, these notes are by necessity brief and of a generalised nature. Clients should seek specific personalised advice prior to undertaking any arrangement. These notes are named [04.2021 What Is The Residential Nil Rate Band](#) and were last updated in April 2021. Whilst we have done our best to ensure facts are current to this date laws and options are changing constantly so always check before action.

E.&.O.E.