

# VIEWPOINT

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# Is it better to gift a property or leave it in your will?

Before passing away, Maggie gifted her house worth more than £700,000 to her son Bruce but still remained living there, paying a token amount of rent. Nine years later, following Maggie's death, Bruce was surprised to be landed with an inheritance tax bill for the property.

## What did Maggie do wrong?

Maggie knew if she died within seven years of gifting Bruce her house that he may well end up paying inheritance tax on it. She also knew enough to pay Bruce rent after gifting him the property. However, the amount she paid was well below the market rate and this is where she fell foul of inheritance tax laws. By only paying a token amount of rent, the house remained part of Maggie's estate and Bruce was hit with a hefty inheritance tax bill.

## How to decide whether to gift a property or leave it in your will?

There are no easy answers to this. There are a lot of complicated tax rules to consider and the best approach will depend on your individual circumstances. Whatever the situation, it's an important decision and one best made as a family. We've looked at the pros and cons of both to give you an idea of the kind of things you'll need to consider.

## Leaving a property in your will

The first thing to do is find out the residence nil rate band (RNRB) allowance for the property in question. If, like Maggie, you're leaving your main home to a child or grandchild, they'll benefit from an extra £175,000 tax-free allowance on top of the standard £325,000. This means you could leave an estate worth up to £500,000 and there'll be no inheritance tax to pay. And if you and your spouse are leaving a joint estate, that doubles to £1m.

Maggie's husband Bill died in 2019 and the executors of the estate can also claim Bill's residence Nil Rate Band. This means that the £675,000 can be claimed as an amount where no inheritance tax is applied, meaning this £675,000 remains inheritance tax free.

The benefits of leaving a property in your will are that you'll retain control of it, it isn't generally at risk from anyone else's divorce, death, or bankruptcy and, currently, there's no capital gains tax to pay for the beneficiary.

Working with a professional financial planner, it would have been possible for Bill to leave 'assets to the value of the Nil Rate Band' and have what is called a 'Will Trust' written into the will. As this is a specialist area, it is important to discuss with a professional and consider the options.

## Gifting a property

If, as in Maggie's case, the property is worth more than the RNRB, you may want to consider passing full ownership to a child. You then need to move out or, as Bruce found out to his cost, pay rent at the going market rate.

There are many reasons people choose to gift a property: to minimise inheritance tax; to provide financial help to loved ones sooner rather than later; or to avoid care home fees. If you're considering it for the latter reason, you should be aware that anti-avoidance rules are designed to stop people doing this.

If you gift a property, you'll lose control of it. But once the transfer of ownership takes place, so begins the seven year countdown for removing the property from inheritance tax liability.

## Right sizing

Another option for improving your quality of life into old age and helping the kids out at the same time is right sizing. In other words, selling the family home and buying somewhere that is easier to manage and better suits your needs as you get older. This option generally releases equity, which can be used to give loved ones a financial boost while you're still alive. Alternatively, you could investigate a lifetime mortgage as an option for releasing money to gift away now.

## Insuring against inheritance tax

Another possibility Maggie could have considered is taking out whole of life insurance. This would have provided a tax-free lump sum on death to cover Bruce's inheritance tax bill. Writing the policy into trust would have ensured any payout wasn't included as part of Maggie's estate.

However, policies can be expensive and HMRC would have treated the premiums as a lifetime gift if Maggie paid them herself. Bearing this in mind and considering Bruce would have been the person to benefit from the insurance cover, it would have made sense for him to pay the premiums if he was keen to go down this road.

## Key takeaways:

- When deciding whether to gift a property or leave it in your will, you need to focus on what you're trying to achieve.
- The benefits of leaving a property in your will are that you'll retain control it for the rest of your life, it isn't generally at risk from anyone else's divorce, death or bankruptcy and, currently, there's no capital gains tax to pay for the person who inherits it.
- Gifting a property can be used to minimise inheritance tax and allow you to provide financial support to loved ones before your death.
- Right sizing may improve your quality of life and release equity.
- It's possible to insure against inheritance tax but it can be expensive so it may be more appropriate for beneficiaries to pay the premiums.
- Professional advice can help you and your loved ones understand the various implications of the different options and allow you to make informed decisions.

## The importance of professional advice

As you can see, estate planning is far from straightforward so it makes sense to work with a financial adviser who can look into different scenarios and help you and your loved ones make informed decisions.

## Get in touch

If you'd like help to create a financial plan to structure your assets to be more tax-efficient before your death, we can help. Please get in touch to arrange a time to chat.

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Past performance is not a reliable indicator of future performance and should not be relied upon.

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