



DEEDS OF VARIATION

Anyone who receives an inheritance is, of course, entitled to refuse it. However, they are also entitled to ask for it to be re-directed either wholly or partly to one or more other people or charities. Taking this a stage further, if all the beneficiaries of an estate agree they can effectively re-write the entire Will of the deceased. The document required to make such changes is known as a "Deed of Variation".

The Inheritance Tax rules state that if a Deed of Variation is made within two years after a death it is treated as if the new beneficiaries had been named in the deceased's Will. In other words, the re-directed inheritance is treated as having come from the estate and not as a personal gift from the original beneficiary. The significance of this is that the original beneficiary can give away an inheritance, or part of it, without it counting against them for tax purposes, even if they die within seven years afterwards. This is a major loophole in the Inheritance Tax rules and in 1989 the current chancellor Nigel Lawson stated in his budget speech that he intended to close it, but this was never carried through.

The tax rules for Deeds of Variation offer the opportunity for a beneficiary to pass an inheritance down their family (or elsewhere) rather than letting it be added to their own assets which might be taxable on their death. Another aspect is that any money redirected to a charity in this way reduces the taxable value of the original estate, as charities are tax-exempt. For example, this means that if the sole beneficiary of a taxable estate redirects £1,000 to a charity it only costs him or her £600, because the 40% Inheritance Tax can be reclaimed.

Having said of all the above, our advice to clients making Wills is not to rely on the possibility of the beneficiaries being able to save tax by making Deeds of Variation, as a future Budget might well change the rules. Instead, a Will should be drawn up to be as tax-effective as possible from the outset.