



deeds of variation

Deeds of Variations are one of those very rare occasions when you can benefit from hindsight and, in certain circumstances, allow the beneficiaries of a deceased's estate to re-write the distribution of the estate so that it passes to the 'right' beneficiary and/or in the most Inheritance Tax efficient way.

when can a variation be made?

The variation must be made within two years of the death to be effective for Inheritance Tax and Capital Gains Tax. All beneficiaries who are being affected by the variation must consent. A child under 18 years cannot consent and an order of the court would be required to reduce the entitlement of a child.

uses of deeds of variation

save Tax

- Keep outside Inheritance Tax estate but still benefit

skipping a generation

- A beneficiary may not need the property bequested to him. A Deed of Variation would allow him to pass it on to his intended beneficiaries without it forming part of his estate for Inheritance Tax.

to use the inheritance tax reliefs

- Agricultural Property Relief and Business Property Relief are often wasted by leaving assets benefiting from those reliefs to beneficiaries who are exempt from Inheritance Tax anyway (usually the spouse). The Will can be varied to maximise the effectiveness of those reliefs.

joint property

Any property held jointly as joint tenants passes automatically to the survivor of the joint owners by operation of law, no matter what the Will says. However, a joint tenancy can be severed retrospectively by Deed of Variation and the assets redirected.

tax consequents of a deed of variation

- **inheritance tax**

For Inheritance Tax purposes, the variation will be treated as though it had been made by the deceased and not as if it were a lifetime gift by the beneficiary. Thus, the beneficiary will not use his own Inheritance Tax exemptions or nil rate band in redirecting his inheritance.



- **capital gains tax**

Where a beneficiary redirects his inheritance to someone else, he can elect for Capital Gains Tax purposes that the gift will be treated as if the deceased had made it.

- **income tax**

There is no such election option for income tax. Thus, if a person redirects his inheritance into a trust, he will be treated as the Settlor of that trust for income tax purposes. Deeds of Variation are ineffective for income tax purposes.

get in touch

To find out more about what we can do for you please contact:

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