Left High and Dry

Inheritance Tax Advice from Louis Letourneau.
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The death of a partner is hard enough to cope with, without agro from the taxman on top of it. But as Louis Letourneau finds, gay people, are not only facing huge bills for inheritance tax when a partner dies – they can also lose their homes.

It was Benjamin Franklin who said that nothing is certain except death and taxes - and they're also the two subjects that people least want to think about! However, the combination of the two is something that gay people can't afford to ignore. Sadly, it's all too common for people to put off thinking about them until it's too late.

The problem, pure and simple, is that the tax system discriminates against some-sex couples (and unmarried straight couples, too). If a man dies and leaves everything to his wife, then even if he is a billionaire, his estate won't pay a penny in inheritance tax (IHT). But if he leaves his estate to his gay partner, everything over £250,000 will be taxed at 40 per cent. You may have read recently in the press about how Trevor Bentham, Nigel Hawthorne's long-term partner, is facing a six-figure bill for inheritance tax on money left to him by the actor. That could never happen to a married couple.

Gordon Brown normally increases the inheritance tax exemption, currently £250,000, in the Budget each year to take account of inflation but, with property prices increasing well above the rate of inflation, especially in London and the South-East, more and more ordinary people are going to find that their homes alone, never mind their other possessions, are going to land their nearest and dearest with a huge tax bill when they die.

And that can lead to a really cruel situation. If your home is your only substantial asset and there is a large inheritance tax bill for your partner to pay - but no money to pay it with - he may have to sell the house in order to pay the taxman. I was at a meeting not so long ago where several elderly men spoke of their anguish when they found that not only had they lost their life partners, but they were also going to lose the homes that they had shared for decades.

So what can you do?

The first and most important thing is to make a will - and to keep it up to date. If you die without one ('intestate') your estate passes according to a rigid set of rules. If you don't have a spouse or children, your possessions will automatically go your nearest blood relatives alive at the time of your death, - your parents, brothers or sisters, aunts or uncles, or even the second cousin in Adelaide you never knew you had - anyone, in fact, except your partner.

The only exception to the rules of intestacy is jointly-owned property. If you and your partner are 'joint tenants' (not 'tenants in common') and one of you dies, the other will automatically inherit the deceased's share, whether or not the deceased made a will.

There will still, however, be inheritance tax to pay on the property if the total value of the estate exceeds £250,000.

The next thing to do is talk to a financial adviser about ways of minimising your potential inheritance tax liability. A good adviser will review the situation thoroughly and make recommendations that take account of all your circumstances, including your age, state of health and attitude to sharing your wealth with your partner. To take a simple example, if one partner is worth £400,000 and the other's assets total £100,000, it would make sense to equalise the estates by the richer one passing £150,000 to the other, bringing both within the tax exemption. Under current legislation, a lifetime gift of cash will escape tax altogether provided the donor lives for seven years after making the gift.

If your affairs are complex, it may be sensible to look at trust structures. If, after all possible planning has been done, you still have a large potential tax bill, it would be possible to arrange life assurance to meet it when the time comes.

There may also be some tidying up to do - have any existing life assurance policies been written under trust, so that they do not form part of your estate and are not subject to inheritance tax? Have you nominated your partner (and/or others) to receive the lump sum due on your death from your personal pension or your employer's pension scheme? This, too, will bypass your estate and not be liable to inheritance tax. Taking action now can save problems in the future.

Hopefully, we will get full equality soon, including recognition of our relationships. Most people agree that the situation is unfair and change is bound to come. Like Section 28, the current tax and intestacy laws send the message that our families are only 'pre- tend' families and are not to be taken seriously.

In the meantime, however, we have to pay more attention than do straight people to these matters, in order to ensure that our loved ones are protected. The law as it stands won't do it for us.

Louis Letourneau , MA is an experienced independent financial adviser (IFA), specialist in financial planning and wealth management. He founded Rainbow Finance in 1995 and has consistently challenged financial companies and Government on their attitudes to gays, lesbians and same sex couples and was instrumental in the Inland Revenue to changing its guidance notes to recognise unmarried couples in pension benefits. His work has also resulted in life insurance companies starting to relax the discriminatory underwriting criteria toward gay men and people leaving with HIV. He was a founder of the Rainbow Research Project which surveys and educates private pension schemes in how they recognise unmarried couples on death benefits. He was also a founder member of the Stonewall Immigration Group (which campaigned for Immigration rights for same-sex couples, achieving a significant victory in April 1997) and helped set up the gaypartners.org initiative with gay.com in early 2001, campaigning for same-sex partnership rights. He speaks regularly on national and local radio.

For further advice on **Pensions**, **Life Assurance**, **Investments** and **Tax** contact Isis Financial Planners:

Freephone Number: 08000 1960 69
or email us on postbox@gayfinance.info
website: www.gayfinance.info and www.isis-financial-planners.co.uk

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