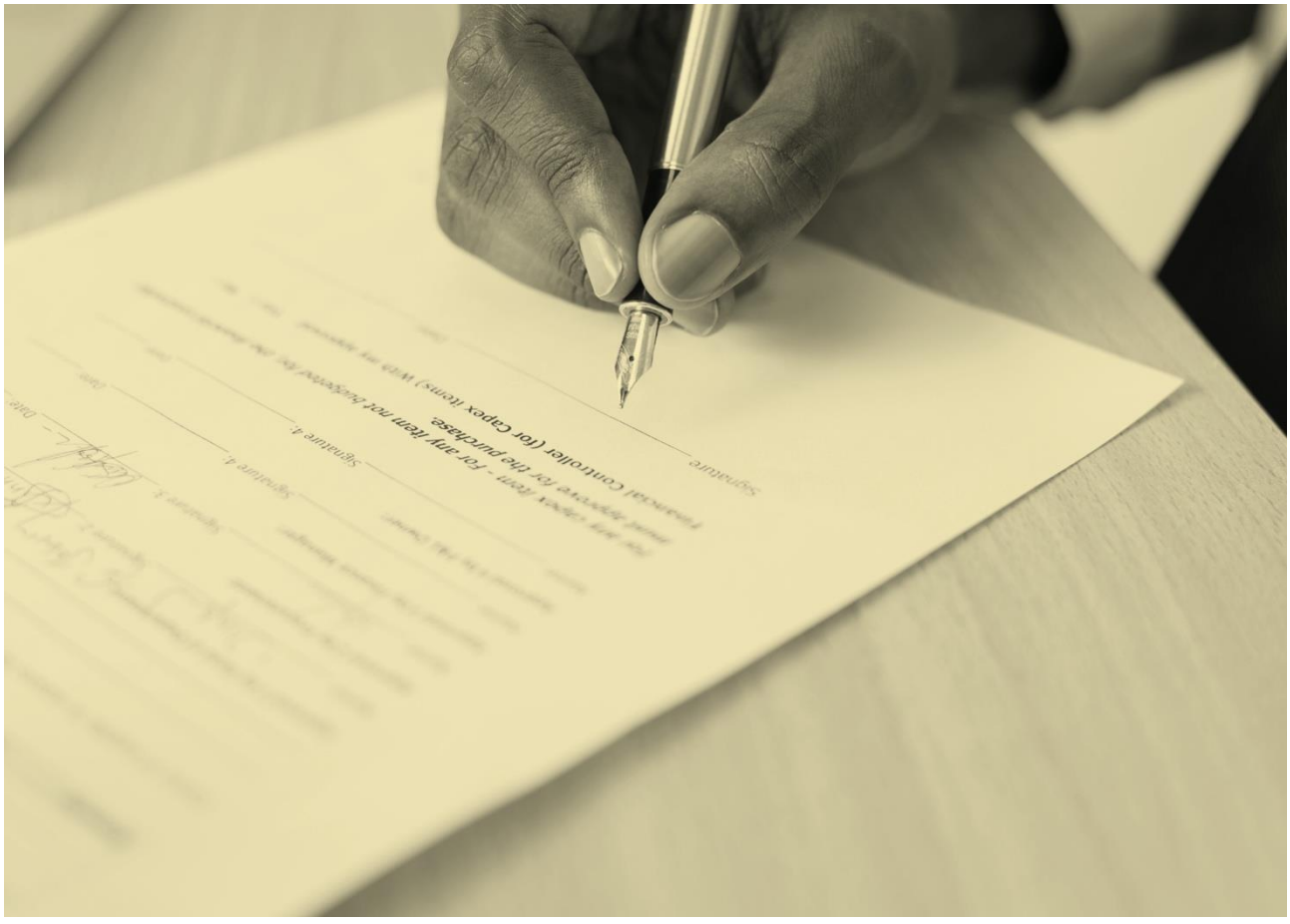
Stewardship

Active generosity

Legacy giving:

Making charitable gifts in your Will



This Briefing Paper and others like it are provided free of charge and help a great many churches and charities. Their development involves many hours of dedicated professional expertise both from within and outside of Stewardship. They are provided at our own cost as part of our mission to equip you.

If you find the material in this Briefing Paper to be of value, we would invite you to respond in the following ways:

- Subscribe to receive our email bulletins at our website, **stewardship.org.uk**; and
- Tell others in your church or charity about our resources.

If this resource has been of particular help and significance to your church or charity, you may consider making a financial gift to Stewardship in appreciation. Please feel under no obligation, but should you wish to do so, you can make a one-off donation at **stewardship.org.uk/partners/20021569**.

Stewardship
1 Lamb's Passage, London EC1Y 8AB

020 8502 5600
enquiries@stewardship.org.uk
stewardship.org.uk

Contents

About Stewardship

Stewardship is here to help the Christian community in the UK to give and receive.

We help over 40,000 people to give generously and sacrificially to support the causes they love, and connect them in to a growing community of 4,000 churches, 6,000 charities and 2,800 individual partners creating positive change, and being responsible stewards, in Jesus' name.

For more than a century we have actively served those pioneering Christian mission. Together, we are driven by our desire that the wider world will encounter Jesus through the generosity of his people and the transformational work of the causes they support.

We call this **Active Generosity**.

1 Introduction

Leaving a charitable gift under your Will offers an opportunity to make a substantial donation to a cause you care about. A legacy might be an expression of thanks to God for an organisation which has played a significant role in your life or in the lives of your family. This may be the church where you or your children were nurtured; it may be the evangelistic organisation that first introduced you to Jesus; it may be an organisation overseas that you have supported during your life and want to continue to benefit after your death.

With the economic pressures of today, exceptional lifetime giving is out of reach for many. However, you may hold wealth in less realisable assets, such as a business or your own home. A legacy from these assets may represent your best opportunity to make a more substantial gift.

Legacies are also an important source of income for the charity sector. In 2020, around 14% of Wills admitted to probate in England & Wales included one or more charitable gifts and total charitable legacy income was estimated at more than £3.36bn.[1]

This paper is split into five parts:

1. The first explores Biblical and ethical considerations in estate planning.
2. The second presents recommendations when making and changing your Will.
3. The third looks at practical and legal matters you need to consider in drawing up a Will.
4. The fourth section considers the tax planning opportunities afforded by making charitable gifts in your Will.
5. The final section explains the advantages of leaving a charitable legacy to your Stewardship Giving Account.

[1] https://smeeandford.com/whitepaper/post?pitem=smee-ford-legacy-trends-report-2021 (accessed 29 November 2021)

2 Biblical, ethical and practical considerations

2.1 Will power

For many, the starting and indeed the ending point when writing a Will is to provide for their surviving family. For Christians, this provision for family is both important and Biblical. 1 Timothy 5:8 states that:

> "If anyone does not provide for his relatives, he has denied the faith and is worse than an unbeliever."

As Jesus was dying on the cross, he commended his mother Mary to the care of his disciple John (John 19:26-27). So family is important, but is that where the Christian's responsibility stops? Perhaps more than most, Christians are aware of their mortality and the very act of making a Will should be considered as an act of spiritual significance in the light of that mortality. Jesus' teaching about storing up treasures on earth really hits home at the point of death (Matt 6:19-21). However, in making a Will, what earthly treasures we do have can continue to bless others, perhaps even for generations to come.

We are called to exercise Godly stewardship over all our resources, and that includes our estate. Indeed, it is likely that the distribution of our estate will be the largest single financial decision we ever make and it is therefore important that God is honoured in the decisions that we reach. Without making a Will, you cannot be sure that your estate will be distributed in the way in which you would want.

2.2 Will it do?

According to research by Canada Life, only 44% of UK adults have written a Will.[2]

Even if you have written a Will, it is essential to keep it under review as your circumstances and priorities change. What may be relevant today can have an unseen consequence later. For example, if you were to leave all of your estate to a single named individual or charity and at some point between the date of the Will and the date of death, that individual died or the charity ceased to exist, the Will may be ineffective (as the only bequest has failed) and your estate would instead pass under the intestacy rules. Wills can be quite inflexible. It is not possible to say "that is not what I meant" from beyond the grave!

Solicitors usually recommend that you review your Will at least every five years and also on the occasion of any major life event, such as marriage, divorce, death of an Executor or family member or the birth of a child or grandchild. Unless a Will is made in contemplation of marriage, and states this within the Will, it will become invalid following marriage.

[2] https://www.canadalife.co.uk/our-company/news/will-writing-surge-driven-by-pandemic/ (accessed 29 November 2021)

When children are young, it is understandable that the focus of your Will is likely to centre on providing for their future education and well being (including the appointment of a guardian in the event that there is a family tragedy). However, as children grow up and (hopefully) become financially independent, you may consider legacies for other family members and charities, as well as children.

2.3 Will I be in time?

Recognising that the unexpected does happen (whether through illness or accident), it is never too early for an adult to make a Will. If a person permanently loses their mental capacity, it will be too late to make a valid Will without involving the courts.

2.4 Will that be all?

Don't forget that not all types of assets pass under your Will. For example, if you co-own a property as a 'joint tenant', that property will pass to the surviving co-owner(s) regardless of what your Will says. If you do wish for your share of joint property to pass under your Will, you should ask your solicitor to arrange for the property to be held as 'tenants in common'. This is usually a straightforward process. If you're part of a pension or life assurance scheme, do check with the scheme provider whether you can make a 'nomination' as to who should receive the benefits in the event of your death.

In addition to making a Will, it is wise to consider making a 'Lasting Power of Attorney' ('LPA'). An LPA permits the attorneys you have appointed to make decisions on your behalf in the event that you no longer have mental capacity to make a decision for yourself. You can make an LPA in respect of your health and welfare and/or your property and financial affairs. For more information about the different types of LPA and how to make them, see **www.gov.uk/power-of-attorney** and **www.gov.uk/power-of-attorney/register**. An LPA ceases to be valid on death, so your Will will be implemented by your Executors and not by your LPA attorneys.

2.5 Will it make a difference?

Jesus told the parable of the rich man who built bigger and bigger barns to store his wealth, seemingly oblivious to the fact that one day his own life would be called in and the provisions would be worthless. This parable can be understood on different levels, but one must be that it is our responsibility to live our lives as good stewards of that which is entrusted to us. Had the man either distributed his wealth during his lifetime or made a legacy gift, all would not have been lost.

In the letters to the Corinthians Paul urges us to plan our giving; to put aside early that which we plan to give so that there might be no last minute begrudges or ill prepared response to the call of God. Planned giving does not only apply to our regular income, but extends to the whole of our wealth for the whole of our life.

A legacy speaks not about how we have died, but much more about how we have lived. What were our priorities? What were the things that mattered to us? The range of available opportunities is huge and your choices say much about your life.

3 Making and changing your Will

3.1 Will writing

For most people, the completion of a Will is not difficult, but will require a little thought and guidance. There are legal formalities that must be followed in preparing and executing (signing) a Will, if problems and potentially expensive challenges are to be avoided. So even though ready-made Wills can be purchased cheaply, we would strongly recommend that you use a suitably experienced solicitor or qualified Will writer.

To save time and money, before visiting a solicitor you should have:

- An understanding of what your assets are and also what your liabilities might be (e.g. mortgage, credit cards, bank loans etc.) Remember to include your home, if you own it, as well as your small possessions. For example, there may be objects that only have sentimental value that you would like a specific member of your family to inherit. Equally, you may want to give individual valuables to specific people.
- Decided on who your Executors will be. These are people that will carry out the instructions that are contained in your Will. Often a close friend or relative from a younger generation is selected to carry out this role, perhaps in association with a more experienced professional.
- Decided on how you want your estate to be distributed. A typical Will sets out specific legacies to named people and charities first, and then leaves what remains (the 'residue') in one of more shares to other named people or charities. The specific legacies will usually be fixed in amount but the amount of the residue will only be ascertained once all the remaining assets in the estate have been realised and the funeral etc. costs and debts due from your estate have been deducted.

Armed with the above information, for most people, the construction of a Will is quite straightforward and not too costly. Your solicitor is likely to have a standard template to work from. Once written, the original should be stored securely (possibly with the solicitor that drafted it) with a copy retained for your own records. Remember to tell your Executor where it is!

3.2 Making subsequent changes

As noted above, you should keep your Will under regular review. Should you wish to make any subsequent changes, there are specific laws governing how this is done. Therefore, you should, once again, use the services of a solicitor or Will writer.

If your Will leaves a legacy to Stewardship, you can amend your wishes as to the use of your legacy simply by letting us know and without the trouble and expense of amending your Will. See Section 6 below for more information.

4 Legal considerations

4.1 Beware of pitfalls!

Challenges to Wills and estates are on the increase and there are plenty of pitfalls to avoid to make sure that your Will can be administered smoothly and efficiently.

There are a number of reasons why a Will can be declared invalid and many disputes arise for just this reason. For a Will to be legally valid, it must be:

- Made by a person aged 18 or over;
- Made voluntarily;
- Made by a person of sound mind;
- In writing;
- Signed by the person making the Will in the presence of two independent witnesses; and
- Signed by the two witnesses, in the presence of the person making the Will.

Unpacking some of these a little:

4.2 Witnessing the Will

This is perhaps the most important point from a practical point of view because it is so easy to get this wrong, especially with a home spun Will. Not only do you need to sign and witness your Will formally to make it legal. You must:

- Sign it in the presence of two witnesses – both need to be present with you at the same time[3]
- Get your two witnesses to sign your Will in your presence, after you've signed it
- Make sure your witnesses are aged 18 or over.

The witnesses will normally 'attest' in the text of the witness section of the Will itself that they have witnessed the Will in your presence and in the presence of each other.

You cannot leave your witnesses (or their married or civil partners) anything in your Will. Your spouse or civil partner cannot witness your Will.

4.3 Made voluntarily

The person making the Will (the 'testator') must make their decisions voluntarily. They should not, for example, be put under undue influence by anyone. Persuasion is legitimate, but overbearing pressure is not. If there is undue influence, the Courts can set aside a Will. This

[3] During the Covid-19 pandemic, temporary changes were made to the Wills Act 1837 to permit video witnessing of wills. As at 27 January 2022, these provisions were due to expire on 31 January 2024. Detailed guidance is available in a Law Society Practice Note at https://www.lawsociety.org.uk/en/topics/private-client/video-witnessing-wills (accessed 27 January 2022).

issue is particularly relevant where the testator is elderly and vulnerable, especially if they are revising or rewriting a previous Will.

4.4 Made by a person of sound mind

Again, this issue is particularly relevant with elderly testators, especially where they are revising or rewriting a previous Will. If there is any question over soundness of mind, or any other likelihood of the Will being subsequently disputed, it may pay to adopt what the courts have termed the “golden but tactless” rule: for the testator to obtain a medical report of their mental capacity at the time of writing their Will.

4.5 Certainty (in interpretation)

If you write your own Will, you will undoubtedly know what you intend. However, it is all too easy for ‘home spun’ wording to be found to be ambiguous, or not to have anticipated future events that make interpretation difficult, ambiguous or invalid. To take a simple example, if you were to write “I give all to my children ...” and after having signed your Will, you have more children, does your bequest relate solely to the children living at the date the Will was signed, or does it include all of your children?

Lawyers are trained in drafting legal documents that can stand the test of time and that will avoid potential ambiguities. And, by having your Will professionally drafted, you can always discuss anticipated changes in circumstances with your solicitor.

4.6 Making changes to your Will

You cannot simply amend your Will after it’s been signed and witnessed. The only way you can change a Will is by making an official alteration called a codicil. The codicil must be signed and witnessed in the same manner as the Will itself.

There’s no limit on how many codicils you can add to a Will. You could use a codicil, for example, to add a legacy for a new grandchild.

As mentioned above, solicitors usually recommend that you review your Will at least every five years and also on the occasion of any major life event, such as marriage, divorce, death of a family member or Executor or the birth of a child or grandchild. Unless a Will is made in contemplation of marriage, and states this within the Will, it will become invalid following marriage.

4.7 Making a new Will

For major changes you should make a new Will.

Your new Will should explain that it revokes (officially cancels) all previous Wills and codicils. You should securely destroy your old Will by burning it or shredding it.

5 Inheritance Tax considerations

5.1 Inheritance Tax – how it is calculated

Set out below are some of the main tax provisions which relate to charitable legacies and Inheritance Tax. This is not intended to be a comprehensive technical briefing, but rather to provide a framework of understanding to assist you in considering a charitable legacy. We recommend that you seek professional advice for your own circumstances.

For Inheritance Tax purposes, your estate includes:

- All your assets (property, bank accounts, home contents, personal belongings, etc), whether or not they pass under your Will;
- Assets held in certain types of trust for your benefit;
- An amount for gifts made by you in the seven years prior to your death (on this, see 'Lifetime gifts', below); and
- Certain property that you have 'given away' but retained a right to benefit from ('gifts with reservation of benefit').

Nil rate band and transferable nil rate band

Only estates with a value above the 'Inheritance Tax threshold' (also known as the 'nil rate band') will pay Inheritance Tax. For the 2021/2022 tax year until the 2025/2026 tax year, the Inheritance Tax threshold is set at £325,000 per estate. For married couples and those in a registered civil partnership, this threshold can effectively be doubled on the second death to up to £650,000, as any unused threshold from the first partner's death can be transferred to the surviving partner.

Residence nil rate band and transferable residence nil rate band

An additional Inheritance Tax free amount called the 'residence nil rate band' ('RNRB') may apply where a person leaves their home to their **direct** descendants. For the 2021/2022 tax year until the 2025/2026 tax year, the residence nil rate band is set at a maximum of £175,000 per estate. So, both spouses or civil partners are entitled to their own RNRB and any RNRB unused on the first partner's death can be transferred to the surviving partner.

Where an estate is valued at £2 million or more the available RNRB is tapered down by £1 for every £2 that the estate exceeds £2 million. Therefore, between 2021/22 and 2025/26, there is no RNRB for estates valued at £2.35 million or above.

Where the estate of the first spouse to die is worth more than £2 million, this will also reduce the amount of their RNRB that can be transferred to their surviving spouse or civil partner.

The residence nil rate band rules are complex and will not be considered further in this paper. Please see **www.gov.uk/guidance/inheritance-tax-residence-nil-rate-band** for more information.

Exempt gifts

There are a number of exemptions from Inheritance Tax. The main exemptions are for gifts to a spouse or civil partner, and gifts to charity which are considered in Section 5.2.

Rate of tax

Inheritance Tax is payable at a rate of 40% on the amount which exceeds any available nil rate bands and residence nil rate bands. However, this rate can be reduced to 36% if a minimum level of charitable gifts is made in the Will (for which, see below).

Gifts made during one's lifetime

Gifts made during a donor's lifetime can affect the Inheritance Tax calculation on death. Lifetime gifts may be totally exempt from Inheritance Tax, 'potentially exempt' or chargeable at the time of the lifetime gift. Both potentially exempt and chargeable gifts need to be taken into account when calculating the tax on death.

For Inheritance Tax purposes, gifts made more than seven years prior to the date of death do not affect the value of the estate on death.

Lifetime gifts to charity, gifts that in total are within the Inheritance Tax annual exemption of £3,000 and those that qualify as 'normal expenditure' out of the donor's income are ignored even if they are made within seven years of death. For further details, see **www.gov.uk/inheritance-tax/gifts**.

Unless otherwise exempted other gifts within the seven-year period will be taken into account in the tax calculation on death as they will reduce the amount of available nil rate band or transferable nil rate band. This is relevant when calculating the charitable gift required to qualify for the reduced rate of Inheritance Tax (Section 5.3 below).

5.2 Exemption for charitable gifts

If you leave a gift or gifts to a charity[4] in your Will, the value of those gifts is exempt from Inheritance Tax. This is achieved by deducting the value of the gift(s) from the value of your estate.

Example 1a

Your estate for Inheritance Tax purposes comprises your home, worth £600,000, bank and building society savings worth £10,000 plus other assets totalling £15,000. In your Will, you give £325,000 to your nephews and nieces and the remaining £300,000 to charity. Your estate will not pay any Inheritance Tax. This is because the charitable gift is exempt. Therefore, the

[4] In this context, 'charity' means a 'charity' as defined for tax purposes. In practice all UK charities should be capable of qualifying as can some EU charities or those established in Norway, Iceland or Liechtenstein. A testator should check that the charity or charities that they intend to benefit do indeed qualify as 'tax charities' before relying on this exemption.

chargeable estate is only £325,000 (£600,000 + £10,000 + £15,000 less £300,000) which is within the nil rate band.

Example 1b

In the above example, rather than give £300,000 to charity, you give £20,000 to charity and the remainder to your nephews and nieces. The chargeable estate is now £625,000 less the £20,000 exempt gift = £605,000. Of this, £325,000 is within the nil rate band and is 'charged' tax at 0%. The remaining £280,000 is liable to tax at 40%, giving rise to an Inheritance Tax liability of £112,000! This will usually be payable from the residue of the estate assets, prior to distribution to the residuary beneficiaries.

5.3 Reduced 36% rate of Inheritance Tax if you tithe your estate to charity

If 10% of a person's estate is given to charity, not only will that gift be exempt, but any taxable part of the estate that remains, after the exempt amount is deducted, will be taxed at the lower rate of 36% (a 10% discount to the 'normal' rate of 40%).

But 10% of what figure? Put simply, the test is 10% of the 'Baseline Amount'. The steps below explain how the calculation works.

In the examples below, the calculation may appear to be relatively straightforward. However, it is inadvisable to rely on a clause that simply says that 10% of the Baseline Amount is to go to a charity or charities. If a formulaic approach is to be adopted, we recommend that you, or your solicitor refer to all of: the model clauses, notes, drafting notes and alternative clauses published by the Society of Trust and Estate Practitioners and available at **www.gov.uk/hmrc-internal-manuals/inheritance-tax-manual/ihtm45008**. More comprehensive guidance on how the extended charities relief works and HMRC's Inheritance Tax reduced rate calculator can be found at **www.gov.uk/inheritance-tax-reduced-rate-calculator**.

In its simplest form, the relief works as follows:

Step 1: Add up the estate assets then deduct any debts, liabilities, reliefs and exemptions (including the charities' exemption) that apply.

Step 2: Deduct the available nil rate band and, if applicable, any available transferable nil rate band from a deceased spouse or civil partner. If the deceased made lifetime gifts, then the standard value of these nil rate bands may be reduced. Do not deduct any residence nil rate band or transferable residence nil rate band.

This is the 'chargeable estate'. If this figure is nil or negative, stop here: there is no Inheritance Tax to pay!

Step 3: Add back in the value of the donation to charity – this result is the 'baseline amount'.

Step 4: Divide the baseline amount by 10.

Step 5: Work out whether the charitable donation is more than the result in step 4.

This calculation assumes that all assets in your estate are owned solely by you. If you have assets within your estate which are held in trust for you or are held jointly with another person (such as a property owned as 'joint tenants' rather than 'tenants in common'), you will also need to consider the 'settled property component' and 'survivorship component' of your estate and whether you should empower your Executors to merge these components in order to qualify for the reduced rate on your whole estate. This is a complex area and you should take professional advice.

Example 2

As for example 1a above, your estate for Inheritance Tax purposes comprises your home, worth £600,000, bank and building society savings worth £10,000 plus other assets totalling £15,000. The total estate is therefore £625,000. There are debts, funeral and testamentary expenses in the estate totalling £7,500.

Example 2a

In your *draft* Will, you give £325,000 to your four nephews and nieces (i.e. £81,250 each), with the remainder of the estate (the 'residue') being divided

equally between 14 other relatives and one charity. The Will directs that all gifts will bear their own tax[5]. What is the Inheritance Tax calculation?

Steps 1 & 2: The estate assets come to £625,000. Debts, liabilities, etc. come to £7,500. The charity will receive £19,500 calculated as follows:

			Estate	Step 1 & 2 calculation
		£	£	£
Gross estate			625,000	625,000
Less:	Nephews/nieces' legacies	325,000		
	Estate debts	7,500		7,500
		332,500	332,500	
Residue of estate			292,500	
Gifts to 14 relatives	£292,500 divided by	273,000		19,500
Gift to charity	15 (each)	19,500	292,500	
Inheritance Tax nil rate band ('threshold')[6]				325,000
Step 1-2 result:				**£273,000**

Inheritance tax is due on £273,000, subject to any further reliefs.

Step 3: Add back the charity donation to the above result:

'Baseline amount' (£273,000 + £19,500) (or, the 'net estate') **£292,500**

Step 4: Calculate the required amount to meet the 10% test:

Divide the 'baseline amount' by 10 **£29,250**

Step 5: Compare charitable gift (£19,500) with Step 4 result (£29,250)

Conclusion: The amount of the charitable gift does not meet the requirement that at least 10% of the net estate is given to charity.

Inheritance tax is therefore payable at 40% on £273,000. That is, tax of **£109,200**.

[5] If a Will provides for legacies to be free of tax and a charitable (or other tax exempt) gift forms part of the estate at death, a 'grossing-up' calculation may be necessary which will increase the Inheritance Tax due on the estate overall. The calculations are very complex and professional advice will be needed.
[6] As for example 1b, it is assumed that there is no amount to be transferred to you from a former spouse.

Example 2b

Having consulted the family solicitor, Alec Smart, you are advised to consider changing your draft Will so that the gifts from residue are amended to give £29,510 to the charity with the remaining share of residue being shared equally among your 14 relatives. The calculations now proceed as follows:

Steps 1 & 2: The estate assets come to £625,000. Debts, liabilities, etc. come to £7,500. The charity will receive £29,510 with the remaining estate calculated as follows:

			Estate	Step 1 & 2 calculation
		£	£	£
Gross estate			625,000	625,000
Less:	Nephews/nieces' legacies	325,000		
	Estate debts	7,500		7,500
		332,500	332,500	
Residue of estate			292,500	
Gift to charity		29,510		29,510
Gifts to 14 relatives	(£18,785 each)	262,990		
		292,500	292,500	
Inheritance Tax nil rate band ('threshold')				325,000
Step 1-2 result:				**£262,990**

Inheritance tax is due on £262,990 subject to any further reliefs.

Step 3: Add back the charity donation to the above result:

'Baseline amount' (£262,990 + £29,510) (or, the 'net estate') **£292,500**

Step 4: Calculate the required amount to meet the 10% test:

Divide the 'baseline amount' by 10 **£29,250**

Step 5: Compare charitable gift (£29,510) with Step 4 result (£29,250)

Conclusion: The amount of the charitable gift does meet the requirement that at least 10% of the net estate is given to charity.

Inheritance tax is therefore payable at 36% on £262,990. That is, tax of £94,676, **a saving of £14,524.**

So, by giving an additional £10,010 to charity, a tax saving of £14,524 has been achieved.

Of course, the result is particularly advantageous if the amount initially intended to be given to charity is just below 10%. By giving a small additional amount to charity, a 10% reduction in the inheritance tax rate can be achieved. Depending on the value of the remaining 90% of the estate, a healthy tax saving may be achievable.

5.4 Tax planning – using a Deed of Variation

It is not uncommon, especially amongst Christian families, for the deceased's Will to be legally varied after their death, using a 'Deed of Variation'. This works to effectively re-write the Will of the deceased for Inheritance Tax purposes as if they themselves had varied their Will prior to their death. A Deed of Variation may be used in order to 'tithe' one of more of the beneficiary's entitlements to charity, to bring the taxable part of the estate down in value to within the £325,000 Inheritance Tax threshold (or, nil rate band), to enable the estate to benefit from the reduced 36% rate of Inheritance Tax outlined above, or for other reasons.

For example, if a person had died with a Will which mirrored the facts in example 2a above and, if all the 14 relatives are in agreement, they can use a Deed of Variation, post death, to both increase the legacy received by the charity and to increase their 'after tax' legacy receipts. If the Variation reduces their own legacies by £715 each, with a corresponding increase in the legacy to the charity of £10,010 in total (£715 x 14), as per example 2b, the result will be an Inheritance Tax saving of £14,524. However, parties to the Deed should be clear on the impact of the variation on their individual legacies, which will depend on how the tax saving is shared between the specific legacies and the residuary beneficiaries. This will depend on the wording both of the Will and of the Deed. It should not be assumed that all beneficiaries will be better off as a result of the variation. We would always recommend that you instruct an appropriate professional advisor to prepare your Deed and explain its consequences to you.

Of course, it may be tricky getting 14 people all to agree! This is not a problem if at least some of the non-charity beneficiaries are prepared to give up part of their legacy using a Deed of Variation. For example, even if just two of the 14 relatives wanted to give another £5,005 to the charity out of their legacy share, the charitable gift from the estate still totals £10,010 as before, with the same result in terms of a tax saving to the estate. This does however, add a little complication. Subject to the precise wording of the original Will and the Deed itself, the total tax saving of £14,525 may well be shared by all beneficiaries rather than just the two entering into the Deed of Variation! So, some forethought, with the help of a solicitor, would be wise.

But the underlying message is that Deeds of Variation can be used very effectively in family situations to improve both the inheritance tax position, and the amount going to charity as a result.

Where the deceased left no Will or the Will does not cover all of the deceased's assets (an 'intestate estate') the intestacy rules determine who will inherit the estate and to what extent. A Deed of Variation can also be used in these circumstances so that the distribution of the intestate estate can be rearranged.

It's usually best to have a Deed of Variation prepared by your solicitor. The document must:

- Be made in writing within two years of the deceased's death;

- Be signed by all the beneficiaries who are giving up some or all of their entitlement under the Will - if these beneficiaries are children or lack mental capacity, you may need Court approval;
- Be signed by the Executors or administrators of the Will where the variation increases the Inheritance Tax payable (for example, the family wish to provide some legacy funds for a child in preference to a spouse).
- Clearly identify the part(s) of the estate that are being varied, and say who is to benefit from the variation; and
- Contain a statement that it is intended to take effect for Inheritance Tax and/or Capital Gains Tax purposes, along with the appropriate statutory references.

If the Deed of Variation creates or increases a charitable legacy, it will not be effective for Inheritance Tax purposes unless the Executors can show HMRC that the recipient charity or charities have been notified of the existence of the Deed. You should contact the legacy team at the recipient charity and request an acknowledgement for this purpose.

6 Leaving your legacy to Stewardship

6.1 Why leave a legacy to Stewardship?

Stewardship can make it easy for you to remember charities in your Will. Your Will can include just one gift to Stewardship, rather than separate gifts to different charities. You can then complete an 'Expression of Wishes' to let us know about your legacy and tell us how you would like it to be used.

Leaving a legacy to Stewardship offers flexibility, as you can make changes to your Expression of Wishes at any time without the trouble and expense of amending your Will. It also offers discretion: your Will becomes a public document after your death, whereas your Expression of Wishes remains private and could even request that any donations from your legacy are made anonymously.

As Stewardship is a registered charity, your estate will benefit from the inheritance tax charities exemption and potentially also from the reduced rate of inheritance tax outlined above.

6.2 How to leave a legacy to Stewardship

Ask your solicitor or Will writer to add a gift to Stewardship in your Will. This could be a proportion, a fixed amount or the residue of your estate. The following text is an appropriate form of wording:

> 'I give to Stewardship Services (UKET) Limited (also operating as Stewardship), of 1 Lamb's Passage, London EC1Y 8AB (registered office), a registered charity number 234714 and a company registered in England number 90305, [insert amount of gift or proportion here].'

Please also let us know how you would like your legacy to be used, you can complete an online Expression of Wishes here: **www.stewardship.org.uk/expression-wishes/forms**.

It is important that you do not refer to your Expression of Wishes in your Will, so that the gift to Stewardship is effective for Inheritance Tax purposes and so that you retain full flexibility to amend your Expression of Wishes whenever and however you want.

In your Expression of Wishes, you can:

- Ask us to distribute your legacy gift to your favourite causes (immediately or over a period of time);
- Appoint a friend or family member as your successor to request donations from your legacy fund to causes nominated by them; or
- Entrust your legacy to Stewardship to distribute at our discretion.

Your Expression of Wishes can also cover any gift from your pension or life assurance scheme, as well as the remaining balance of any Stewardship Giving Account, Donor Advised Fund or Philanthropy Fund you have set up during your lifetime.

6.3 Making a gift into a Stewardship account using a Deed of Variation

In the period immediately following the death of a loved one, selecting charitable beneficiaries for a Deed of Variation is not necessarily a high priority in the minds of the family members left behind. Family members may have different views on which charities should be chosen, or may wish to keep their own charitable giving private from their relatives.

For this reason, a family might consider using a Deed of Variation in order to redirect the amount given up by each family member into their own Stewardship Giving Account. The Inheritance Tax relief is secured immediately, because the gift from the estate is to Stewardship, itself a qualifying charity. But each family member can then take as much time as they need before deciding which charity or charitable causes they would like to support from their own Stewardship Giving Account.

In order to accept a gift under a Deed of Variation, we will need to see copies of the original Will and the Variation. We will provide the acknowledgement the Executors need in order to claim the Inheritance Tax exemption from HMRC.

7 Further resources

For help with leaving a legacy to Stewardship:

Stewardship
www.stewardship.org.uk/legacy-and-estate-giving
Contact our Philanthropy Services Team on philanthropy@stewardship.org.uk or **020 418 8896**

Further information about making a Will can be obtained from:

Citizens' Advice Bureau
www.citizensadvice.org.uk/family/death-and-wills/wills

Age Concern
www.ageuk.org.uk/information-advice/money-legal/legal-issues/making-a-will/

Gov.UK website
www.gov.uk/make-will

For more information on Inheritance Tax:

HMRC
www.gov.uk/inheritance-tax

Postscript for ministry leaders: Promoting legacy giving

The potential for charity giving through legacies is substantial. However, against that backdrop of this large potential, the reality is that most churches and charities do very little to tap into this vein of income.

For some charities the association with death appears to actively put off the idea of pursuing legacy funds. They are not shown prominently on websites, often buried more than a couple of 'clicks' away. Added to that, because the payback is by its nature longer term, the value of promoting this form of giving is not always seen.

For Christians who believe that this life is a prelude of what is to come, death has different connotations. Although still sad, it does not spell the finality of everything as it does for the non-Christian, and therefore churches and Christian charities should not be fearful of talking about legacy giving.

It is imperative for churches to be providing regular sound teaching on the whole area of giving and this should include legacy giving; often the largest single financial decision that we make. In addition, there could occasionally be specific teaching on legacy giving, perhaps providing more of an opportunity to explore what it means to leave a legacy gift for others.

Church and charity websites should make it easy to be able to give in this way, displaying prominently stories about legacy giving and including legacy giving as an equal partner with other forms of giving encouraged by the charity.

Rather than speaking in terms of giving to their church/charity, teaching could focus on our Biblical responsibility to steward the resources that God has entrusted to us and, as part of that, we should make a Will. Stewardship extends beyond lifetime giving to what we do with our assets at our death. Please feel free to point your givers to this Briefing Paper.

As always, the important thing is to talk about it.