

Deeds of Variation

What are they and what are the benefits?



Introduction

A Deed of Variation is a legal document that allows a beneficiary to redirect all or part of their inheritance from an estate to another person, such as their children, other family members, a charity, or into a trust.

It enables the inheritance to be treated as though the deceased had originally made the gift in that way effectively changing how the estate is distributed after death.

A Deed of Variation gives you, as the beneficiary, the control over where the inheritance goes.

Why a Deed of Variation?

A Deed of Variation can be used to:

- Benefit someone who is not included in the Will or under intestacy rules.
- Reduce the overall tax paid on the estate by utilising inheritance tax (IHT) allowances or exemptions.
- Reduce future inheritance tax (IHT) on the beneficiary's own estate.
- Enable financial and tax-efficient planning for the beneficiary and for next generation.
- Protect assets against future risks e.g. divorce by placing into a trust.

How It Works

A Deed of Variation allows a beneficiary to alter their own entitlement under the Will or intestacy of a deceased's estate.

- It is a formal document that must be signed by the beneficiary varying their entitlement
- If the variation is for tax purposes it must be completed **within 2 years of the date of death**.
- The deed must clearly set out the new distribution, which may cover all or part of the entitlement, apply to any assets, and direct them to one or more new beneficiaries.
- You cannot typically vary a gift that you have **already received or given away**.

Limitations

While a Deed of Variation can be a powerful planning tool there are some restrictions:

- Beneficiaries under the age of 18 cannot consent to a variation and nobody can consent for them.
- A variation cannot be made by someone lacking mental capacity without a Court of Protection order.
- Each inherited gift can only be varied once, and it cannot be undone.
- Individuals on means-tested benefits cannot give up inheritance to preserve their benefits.
- A variation **cannot** be used to shelter assets from creditors or avoid paying debts.
- It only affects the inheritance and cannot change appointments such as executors.

Example scenarios of when to use a Deed of Variation

Spouse Exemption to Reduce IHT

Mr A dies without a Will and is survived by spouse and adult children. Under intestacy rules, part of his estate will pass to his children. The portion inherited by the children will be subject to IHT.

However, the children agree to enter into a **Deed of Variation** redirecting their entitlement, so the entire estate passes to their mother.

- Spouse exemption will apply meaning no **inheritance tax** will be payable on Mr A's death.
- Mrs A can then undertake her own financial planning during lifetime to manage and potentially reduce IHT exposure of her estate on death.

Passing Wealth Directly to the Next Generation

Mr B is due to inherit from his parents' estate. However, his own estate is already subject to IHT, so receiving the inheritance would further increase the IHT liability payable on his death. As he does not require the funds, he would prefer the inheritance to pass directly to his children. He has two options for achieving this:

- Mr B could take the inheritance and subsequently gift it to his children. The gift would be treated as a Potentially Exempt Transfer (PET) and would remain within his estate for IHT purposes for seven years. If he died during that time, the gift could become liable to IHT.
- Alternatively, Mr B can enter into a **Deed of Variation** redirecting his entitlement under the Will so that the inheritance passes directly to his children. As a result, the inheritance never forms part of Mr B's estate and does not increase the IHT liability on his death.

Passing Wealth to the Next Generation via a Trust

Mr C is also due to inherit from his parents' estate and, like Mr B, already has an estate subject to IHT. He would like his children to benefit but is reluctant to make a substantial outright gift. He wishes to protect the funds for the future, retain flexibility over when distributions are made and potentially benefit from the inheritance himself.

- Mr C enters into a **Deed of Variation** to redirect his inheritance into a family trust.
- Mr C and his children are named as beneficiaries of the trust and can benefit from the funds at the trustees' discretion.
- As the assets pass directly from the parents' estate into the trust, they do not form part of the beneficiaries' estates for future IHT purposes.

- This structure provides long-term control, asset protection and flexible tax-planning opportunities for the family.
- Depending on the value settled into the trust, ten-yearly IHT charges may arise, although these are generally significantly lower than a 40% death rate charge.

Increasing a Charity Gift to Reduce IHT

A Will leaves 4% of the net taxable estate to charity, with IHT charged at 40%. By increasing the charitable gift to 10%, the IHT rate drops to 36%. Because of the estate size, the beneficiaries' overall entitlement remains the same if the charity's share is increased to 10%. Therefore, all beneficiaries agree to enter into a Deed of Variation.

- The charity receives a larger gift.
- The other beneficiaries **receive the same amount**, as the reduced tax rate offsets the increased charitable donation.

Summary

A Deed of Variation can be a powerful post-death planning tool. It allows beneficiaries to redirect their entitlement in a tax-efficient manner, whether to mitigate Inheritance Tax, provide for the next generation, introduce asset protection through a trust, or correct outcomes that do not reflect the family's wishes.

Deed of Variation can create significant flexibility and long-term planning opportunities without triggering the tax consequences that might otherwise arise from making lifetime gifts.

If you are administering an estate or have recently inherited and want to see if a Deed of Variation could benefit you or your family, we are happy to have a chat discuss your circumstances and advise on whether a variation is appropriate.

Wills & LPAs

Expert advice, helping you make choices with confidence and peace of mind.

Probate

Guiding executors through the process of managing someone's estate with clarity, and care.

Trusts

Protect your assets and look after your beneficiaries with clear, credible guidance.

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