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Trust tax changes target gifts with reservation

Inheritance Tax (IHT) law has always tried to make 'gifts with reservation' ineffective.

A gift with reservation is an arrangement in which a person gifts an asset out of their estate, but retains an interest in it after the gift, for example retaining the right to live in a house gifted to one's children.

The law has never been comprehensive enough to ensure that the anti-avoidance law was one hundred per cent effective.

In the last budget, Chancellor Gordon Brown came up with a new approach designed to fill the Treasury's coffers at the expense of people who have used such arrangements to mitigate IHT. He has introduced an income tax charge in cases where valuable assets are transferred out of an estate (thus removing them from the estate for IHT purposes) but use of them is retained by the donor.

The new tax regime works similarly to that applicable when a company allows an employee use of a valuable asset. The value of the 'benefit' must be calculated and the income tax charge will be based on that value as if it was income. No charge to tax will arise where

the value of the benefit is below £2,500 p.a.

The bombshell for those who have used such schemes in the past is that the

law will apply for all such assets transferred into an avoidance scheme from 18 March 1986, so it will catch pre-existing arrangements, some of many years' standing.

The practical effect of this legislation is that some people who have used this type of trust in the past will wish to change their arrangements and those considering them will want to consider the impact of this legislation.

Although the Government is clearly seeking to increase its tax take from trusts, they remain a highly effective way of mitigating taxes, when used properly.

Contact us for advice on all IHT, trust and tax matters.



ACT NOW

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Funding the third age: residential care



Although the UK has a National Health Service, not all costs connected with one's declining years are to be paid out of the public purse.

For anyone with assets exceeding £19,500, nursing home fees are not normally met by the state (in this case the local authority) but by the resident themselves. With the fees for many nursing homes running in excess of £30,000 a year, this can eat away at the

assets of the average family very quickly.

Intelligent estate planning and the use of trusts can be an effective way of safeguarding one's assets. Arrangements involving trusts can also reduce one's estate for Inheritance Tax purposes.

However, it is necessary to take appropriate steps well in advance of going to live in a nursing home. Local authorities are quick to challenge any arrangements they consider have been made with a view to avoiding payment of nursing home fees.

Contact us for advice on all estate planning and similar matters.

In Brief

Speedier probate on the way

Changes are afoot which are intended to reduce the time it takes for probate of a will to be granted and which will allow probate queries to be dealt with by telephone and e-mail.

Other simplifications include allowing the granting of probate based on a signed statement rather than a sworn oath and the ability to pay the necessary fees by credit or debit card.

FSA to review investment projections

The Financial Services Authority has announced it is to undertake a comprehensive review of the way financial projections are presented to prospective buyers of investment products by financial services firms.

Check your savings accounts!

With interest rates rising, now is a good time to check the rates you are getting on your savings

accounts. Financial institutions often reduce rates with little notice - almost any account that is more than a couple of years old is unlikely to be the best place for your savings now.

Taxes on trustees up

The rate of income tax payable by accumulation and maintenance trusts and discretionary trusts was increased from 6 April 2004 from 34 per cent to 40 per cent on income generally and from 25 per cent to 32.5 per cent on dividend income.

From 6 April 2005, a new basic rate will apply to the first £500 of the income of trusts. Trusts for the vulnerable will be able to make use of the beneficiary's individual personal allowance and starting and basic rate bands rather than commencing to pay tax at the trust rate. This latter change is to be confirmed in 2005 but is intended to be backdated to 6 April 2004.

Government backs living wills

The new Mental Capacity Bill currently before Parliament will give people a clear legal right to draw up a 'living will'.

A living will is a document in which a person stipulates in what circumstances they want medical treatment to be withdrawn in the event that they can no longer make their wishes known. It is made when its author is of sound mind and is then held until it may be needed. The courts do already recognise living wills but the Bill seeks to

replace case law with a statutory framework. The proposals will give greater certainty that the wishes of the individual will be respected and should also provide greater protection for the medical staff involved.

The law against euthanasia (mercy killing) will not be changed - it will continue to be unlawful.

If you would like to discuss making a living will, please contact us.