Newsletter

January 2007

Normally my newsletter highlights investment performance and returns but the start of 2007 sees a number of legislative and other changes which you should be aware of, therefore these now take pride of place.

Enduring Powers of Attorney

A new Mental Capacity Act 2005 comes into force on April 1st and this will lead to the end of Enduring Powers of Attorney (EPA). These were a straightforward method of ensuring that in the event of mental, physical or other incapacity your nearest and dearest could look after your affairs, particularly financial, without the cost and complexity of applying to the Court of Protection.

EPAs will be replaced by Lasting Powers of Attorney, as introduced by the Mental Capacity Act, which will be more complicated to set up and also implement. A key difference is that, unlike now, the LPA would have to be registered at a Court (for which a fee is going to be charged) before it can be used. The whole process will be more complex and of course more expensive!

If you do not have, or wish to update your, Enduring Power of Attorney, you should do it now.

IHT on Pension Funds

Ever since the Inheritance Tax Act 1984 it has been accepted that if a policyholder died before they had taken their pension, the fund would pass to their beneficiaries free of IHT. They were treated as discretionary trusts, as amended by the Finance Acts of 2004 and 2006.

However, there have been occasions recently where a member has died after their normal retirement age and the Capital Taxes Office (CTO) has requested clarification of their medical history. If their life expectancy was seriously impaired, the onus of responsibility falls with the executors to prove that action taken on pensions was specifically taken for retirement purposes rather than capital tax reduction. This is dangerous territory and the comments on dealing with the CTO below should be considered.

There was more nasty news in the Pre-Budget report on 7th December. Much pension planning has been carried out over the last few years in the anticipation that there were compelling alternatives to purchasing an annuity at the age of 75.

It appeared that there would be attractive options for passing the residue to the pension funds of your children. In the Budget last March, the rules were changed such that there would be a tax charge.

If that wasn't bad enough the proposals in the Pre-Budget report indicated that the tax charge would end up being as much as 82%. This is an unjustified and swingeing tax charge against the very people who do not have the benefit of the large secure final salary pension schemes enjoyed by public service employees. Further, the endless changes to legislation make it impossible for professional advisers to guide their clients on important planning matters.

Higher Rate Tax Relief on Pensions

Are the days of higher rate tax on pension contributions numbered? The House of Commons Work and Pensions Committee recently described 'pensions tax relief as costly, poorly focussed and not well understood'

The response from the Treasury was 'changing the structure of tax relief on pension contributions, for example by abolishing higher rate tax relief would not be simple.'

Every few years, the rumour does the rounds that the higher rate tax relief will go. It makes sense to assume it might not last forever.

Changes at the Capital Taxes Office

The CTO are responsible for Inheritance Tax matters and the name is going to be changed to HMRC Inheritance Tax. The increase in IHT paid by estates has grown fourfold since 1997 and has become an integral part of tax collection.

The CTO (a three letter abbreviation is much easier to refer to) is becoming much more assertive in its quest for tax. One typical example is the new declaration relating to personal chattels, where a semi complete inventory of all the deceased's goods must be made with statements of value, and whether they have been sold.

For more information on any of these stories, please feel free to contact us on:

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