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The rise of "predatory marriages"



Tiffany Benson
Associate

A predatory marriage is the practice of marrying an elderly person solely for the purpose of gaining access to their estate upon their death.

The mental capacity test for entering a marriage is low, creating a legal loophole. This legal loophole enables an elderly person to be exploited, usually by a younger person who gains the trust of an elderly person and a marriage takes place.

A marriage automatically invalidates a Will, which means that any previous Will carefully prepared by that person, prior to the marriage, will no longer apply. Instead their estate would be distributed under the rules of intestacy, meaning that the estate would pass to the surviving spouse.

This unfortunately occurred in the case of Joan Blass (a 91 year old woman suffering from dementia). A man 23 years her junior who described himself as her carer moved into her home and married her. This marriage revoked her Will, which meant her children who were originally due to inherit under the Will, no longer did.

For more information on creating or disputing a Will please

contact Tiffany Benson on 01604 463340 or [click here](#) to email Tiffany.

Court of Protection: LPA found to be invalid after donor lost capacity



Rachel Hawkins
Senior Solicitor

In April 2016 a person (known as BGO) executed Lasting Powers of Attorney (LPAs) for health and welfare and for property and affairs. The Office of the Public Guardian (OPG) registered these documents on 21st June 2016.

Sometime later one of the financial institutions to which the registered property and affairs LPA was sent, noticed that BGO's signature on the instrument had been witnessed by one of the attorneys, which is contrary to the legal requirements for the signing of LPAs.

On 31 January 2018 her attorney drew this to the attention of the OPG. By then BGO lacked capacity to make new LPAs.

The England and Wales Court of Protection ordered the cancellation of the LPAs holding them not to be valid. The Court will now have to appoint a deputy to manage BGO's property and affairs.

This case highlights the importance of taking legal advice when making LPAs, so the legal formalities are complied with.

For more information on creating a Lasting Power of Attorney please contact Rachel Hawkins on 01604 463165 or [click here](#) to email Rachel.

Inheritance Tax: effective tax rate halves for high value estates



Hauke Harrack
Senior Solicitor

Estates worth £10m or more paid an average of 10% Inheritance Tax (IHT) to the exchequer in the 2015-16 tax year compared with an average 20% IHT paid by estates worth £2m-£3m, according to data released by HMRC following a freedom of information request by asset manager Canada Life.

Neil Jones from Canada Life says the difference in the net tax rates paid by estates is 'often about a willingness to plan'.

A report from the Office for Tax Simplification says that although less than 5% of people pay IHT, executors have to fill in IHT forms for half of all deaths, so it has been recommended that the government digitise and simplify the necessary administration.

The Resolution Foundation think tank has been campaigning for a radical shakeup of the IHT system to make it fairer for those inheriting smaller sums. Its research director, Laura Gardiner, said the findings showed that "inheritance tax is no longer fit for purpose".

For more information on Inheritance Tax advice please contact Hauke Harrack on 01604 463131 or [click here](#) to email Hauke.

Receipts of gift aid relief may have to be reported



Chris Knight
Partner

All charities may soon be required to publicly report the amount of gift aid relief they receive, HM Treasury's Exchequer Secretary has announced. In a speech at the Charity Tax Group conference, Robert Jenrick said tax transparency was vital to maintain public trust in the reliefs granted to charities. The measure is prompted by tax avoidance scandals like the Cup Trust affair, exposed in 2013.

The Cup Trust, is a charity which participated in a large-scale tax avoidance scheme that earned its founder £2 million in fees.

The decision is a reminder of the standards expected of charity trustees and demonstrates the Commission's wide range of regulatory powers and its willingness to use a number of them in combination to deal with a given matter, particularly where complicated and/or untested tax arrangements are involved.

For more information on charities, please contact Chris Knight on 01604 463103 or [click here](#) to email Chris.

Taxpayers escape penalties in another non-resident CGT case



Eric Wardle
Chartered Accountant

A married couple have won their appeal against £1,600 of late filing penalties imposed under the rules, introduced in April 2015, requiring non-residents who dispose of UK property to report their capital gains tax (CGT) liability within 30 days of the sale.

When looking at the case the tribunal considered what constituted a reasonable excuse for failure occasioning a penalty. The Judge concluded that, "the normal rule that ignorance of the law is no excuse applies. While I recognise that the reality is that even just the statutory tax laws applicable in this country run to 1,000s of pages and no one can know it all (and I certainly do not), ignorance of the law is not a 'reasonable excuse' for failing to comply with it."

The Kirsopps were aware of the potential CGT liability, but when they phoned HMRC to enquire, they were told to report the sale on a self-assessment return. The tribunal accepted that they could not have been expected to realise an additional return would be required

For more information on tax advice, please contact Eric Wardle on 01604 463110 or [click here](#) to email Eric.



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