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# Hewitsons Private Wealth

LEGAL UPDATE

January 2020

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## New Capital Gains Tax Rules for Sales of Residential Property

Currently, capital gains arising on the sale of residential property in the UK must be reported on your annual tax return and submitted in the following tax year, either by 31 October (for paper returns) or 31 January (for electronic returns). In both cases, Capital Gains Tax (CGT) does not need to be paid until 31 January after the end of the tax year in which the gains arose.

However, from 6 April 2020, CGT on residential property not covered by Principal Private Residence relief (PPR) (which broadly covers your main home) must be reported by you online and also paid within just thirty days of completion! This new requirement is very strict and has even resulted in HMRC introducing a new Residential Property Return form for this purpose. Not to mention penalties and interest…

A property which is wholly covered by PPR is exempt from reporting requirements. However, this protection may not apply if, for example, you have owned another home at the same time, or let it out at any point, or not moved in promptly. So take care!

If you are selling residential property in the UK after 5 April 2020 which is not your main residence and need help meeting the new CGT reporting requirements, please contact one of the Tax and Trust team below.

- Eric Wardle on 01604 463110 or click here to email Eric.
- Elaine Morgan on 01604 463120 or click here to email Elaine.
- Alan Taylor on 01223 532740 or click here to email Alan.

- Alexia Simon on 01604 463128 or click here to email Alexia.

## Opposite-Sex Couples Entering into Civil Partnerships – Beware re Wills

Since 31 December 2019, opposite-sex couples have been able to enter into civil partnerships (CP) in England and Wales. Scotland and Northern Ireland are expected to follow suit soon.

If you enter into a CP, any Will made previously is automatically void and your estate would pass under the state's intestacy rules. This can lead to unwelcome results! Careful thought should go into your new Will, as being in a CP will allow you to benefit from certain Inheritance Tax (IHT) exemptions not previously available to you as an unmarried couple. These Wills can be worded to allow them to be made before the event, in order to simplify life and provide maximum protection.

Some married couples may, on principle, want to dissolve their marriage and enter into a CP. These couples need to take particular care over the timing of new Wills.

If you would like help with the preparation of a new Will to take these tax advantages into account, please contact one of our team below.

- Carolyn Bagley on 01908 247015 or click here to email Carolyn.
- Francesca Rossi on 020 7400 5037 or click here to email Francesca.
- Kerri Woodrow on 01604 463350 or click here to email Kerri.
- Elizabeth Herbert on 01223 447495 or click here to email Elizabeth.

## Haven't Made a Will? Changes to Who Inherits Your Estate

If you have not made a Will and die unexpectedly, your estate would be subject to the intestacy rules. These set out who will inherit your assets. If you leave a surviving spouse/CP and no children, your spouse/CP will inherit the whole of your estate. If you leave children but no surviving spouse/CP, your entire estate would be divided equally between them.

However, the position is more complex if you leave a surviving spouse/CP *and* children. From 6 February 2020, your spouse/CP will now receive £270,000 of your estate (increased from £250,000) and the remainder will then be split equally between them and your children.

Whilst this increase is good news for spouses/CPs, it may still leave some widows and widowers struggling. The increase also has adverse implications for children, and there are many other people (particularly unmarried partners) who will still not inherit anything at all under the intestacy rules, even if you would want them to. This may lead to them losing out, or it may lead to costly litigation – or both.

To read more about this statutory increase and the importance of making a valid Will, please click here.

## Spouse Granted Interim Payments from Husband's Estate Pending 1975 Act Claim

When Sarah Weisz's husband died, his Will gave her only his share in their matrimonial home, and that was subject to a mortgage. The rest of his multi-million pound estate went to his three adult children from a previous relationship. Mrs Weisz therefore made a claim under the Inheritance (Provision for Family and Dependants) Act 1975 for lack of reasonable financial provision under the Will.

Pending the outcome of Mrs Weisz's claim, the High Court has granted her interim payments of £5,200 a month from the estate to cover her living expenses and lifestyle, consisting of house maintenance, holidays, hobbies, and clothing. This is because the Court considered that, at the time of making the application, she was in need of immediate financial assistance. Furthermore, she has also been given a lump sum of £55,578 to cover her legal fees in bringing the claim.

If you have not been adequately provided for under a Will, or if you want to minimise the risk of a claim being made against your estate, please contact Tiffany Benson on 01604 463340 or click here to email Tiffany.

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## Extending the IHT Marriage Exemption to Siblings?

Under current IHT laws, most (not all!) married couples and civil partners can pass their entire estate to each other when they die without having to pay any IHT. This prevents what would otherwise be a hefty tax bill being paid to HMRC and depleting the resources available for the survivor.

However, there are no similar IHT exemptions for people who have not married/entered into a CP and instead are sharing a home with their siblings. This can mean that on the death of one sibling, their elderly sibling may be forced to sell the home they once shared to pay IHT, because most of their estate is tied up in the property. This has resulted in a Private Bill being introduced to the House of Lords, which suggests extending the IHT marriage exemption to adult siblings – provided they have lived together for seven years and the survivor is at least thirty years old (to reduce house sharing being used solely to avoid IHT). This would have significant benefits for the surviving siblings.

The first reading took place on 14 January 2020 and the date of the second reading is yet to be announced. Keep checking our website and subscribing to our HTML to keep up to date with the progression of this Bill.