



Hewitsons' Private Wealth LEGAL UPDATE

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Shareholders' Wills - Problems?



[Carolyn Bagley](#)
Partner

Legal & General's 'State of the Nation's SMEs' report has revealed that over half of Britain's small business owners have not left any instructions regarding shares in their Will. This can cause difficulties if the shareholder dies, with only 26% of shareholders reporting that they would buy the shares following the death of a fellow shareholder.

What happens to the companies and the families of the other shareholders?

Out of the shareholders who were interviewed, 21% incorrectly believed that the beneficiaries under their Wills would inherit their shares and be able to take an active role in the business. However, many companies' Articles of Association include pre-emption rights which restrict the transfer of shares. This could stop chosen beneficiaries being able to participate in the running of the business.

For advice on dealing with shares under your Will please contact Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn. or if you would like advice in relation to your company's Articles of Association please contact Neil Harpham on 01604 463301 or [click here](#) to email Neil.

HMRC Toughen Up on Offshore Tax Affairs Using Insider Information



[Eric Wardle](#)
Chartered Accountant

A new OECD rule from 30 September 2016 means HMRC is now receiving information from over 100 jurisdictions about offshore assets and income. HMRC are investigating whether the right amount of tax has been paid in relation to these offshore affairs.

HMRC is giving those who have not paid the correct tax on any offshore assets or income the opportunity to voluntarily disclose this information now. The UK International Tax Compliance (Client Notification) Regulations came into force on 30 September 2016 and placed an obligation on all practitioners to notify their clients. Some of our clients may have already received a letter from us in relation to this, or may receive one shortly, although we cannot of course identify all clients who may be affected.

Those who do not voluntarily disclose any relevant information are subject to higher penalties and criminal prosecution and "naming and shaming". For more information, please see our website article [here](#).

If you have income or assets abroad and think you may not have realised that you needed to report the income to HMRC in the past, and now need help to do this, then please contact Eric Wardle on 01604 463110 or [click here](#) to email Eric.

Deathbed Gift of House Fails



[Hauke Harrack](#)
Solicitor

Ellen Exler died aged 91 without making a Will. She was a widower and her estate was divided equally between her two brothers and two nieces. One of her brothers, Stephen Keeling, had arranged for her to be moved to a nursing home four days before her death. Mrs Exler had lived in her home since 1980 and objected to this move.

Stephen had regularly visited and cared for his sister, and after her death he claimed that she had made a verbal gift of her house to him. He claimed that his sister had known her death was imminent and had intended to make a binding deathbed gift. Mrs Exler's other brother, Frank Keeling, and the two nieces challenged Stephen Keeling's claim. Nobody had witnessed Mrs Exler's verbal gift. The judge held that the alleged conversation where Mrs Exler made the deathbed gift had never happened.

If you would like to reward someone in particular, then including this in your Will could avoid any disputes after your death. If you would like advice on Wills, please contact Hauke Harrack on 01604 463131 or [click here](#) to email Hauke.

Inheritance Tax Exceeds £5 Billion



[Elaine Morgan](#)
Senior Tax & Trust Manager

HMRC reported that it received £5.1 billion in Inheritance Tax in the year ending May 2017, which was a 9% increase from the previous year. However, we think part of this increase in Inheritance Tax may be due to the intended probate court fees increase, which has now been postponed. Many Executors submitted the application for a Grant of Probate earlier than normal so that they would not have to pay the increased probate fees, which brought forward the Inheritance Tax payment (which has to be paid pre-Grant).

The Queen's Speech announced that there will be a Summer Finance Bill. This will include some of the policies dropped by the Conservative government. It is not known yet whether this will include the proposed probate fee increase. Probate fees were set to increase from a flat rate of £155, up to £20,000 for those estates valued at over £2 million. It is also not known whether the Summer Finance Bill will also include the nom-dom taxation reforms in relation to inheritance tax for overseas property held in offshore structures.

For advice, please contact Elaine Morgan on 01604 463120 or [click here](#) to email Elaine.

Legal Battle Over Audrey Hepburn's Memorabilia Ends



[Francesca Rossi](#)
Associate

Audrey Hepburn's sons have ended a two year legal battle over her memorabilia. She made a Will stating that her possessions should be split equally between her two sons, but without giving any specific guidance as to which son should receive which items. Her two sons, Sean Ferrer and Luca Dotti, have finally agreed to sell the possessions and split the profits equally between them.

Many clients choose to leave a flexible gift of their personal possessions. This avoids the need to change their Will every time they wish to include a new item or if they change their mind, and is also more private than listing which items should pass to which person. If there is a risk that your heirs may disagree who should receive what, then your personal possessions can be dealt with by a separate Letter of Wishes specifying key sentimental or valuable items.

If your heirs do disagree, then you can provide that your executors (not the heirs you think may disagree!) can sell your items and split the profits between the heirs. It may be worth reviewing your Will and any wishes in respect of your personal items to avoid the need for this. For advice please contact Francesca Rossi on 020 7400 5037 or [click here](#) to email Francesca.

Charitable Legacies at £900 Million - Due to New Tax Benefit on Legacies?



[Antonia Cooper](#)
Senior Solicitor

Charitable donations made in Wills increased by 16% last year to £880 million, and is predicted to exceed £900 million next year.

Part of the increase may be due to an extra tax relief the government introduced for those who leave charitable legacies. HMRC introduced a discounted rate of Inheritance Tax of 36% for estates where over 10% of the value of the taxable estate is left to charity. (There is a loophole that reduces this to just 4% which for a married couple dying in 2017 with £1.1 million can mean the necessary legacy is effectively around £10,000. In 2021 that drops to £4,000.) Each individual has an Inheritance Tax free threshold of £325,000, subject to any gifts made during their lifetime, and a Residence Nil Rate Band of £100,000 may also be available. Everything exceeding any thresholds available is normally taxed at 40%.

The new RNRB will decrease the taxable estate and so decrease the amount which people need to leave to charity to benefit from the lower Inheritance Tax rate. As a result, charitable legacies may decrease in future years! Certain categories of gifts are exempt from Inheritance Tax, including gifts made to charities. For advice, please contact Antonia Cooper on 01604 463314 or [click here](#) to email Antonia.

This Bulletin is produced by Hewitsons for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area. Advice should be sought from a solicitor in the Private Client Team at Hewitsons in respect of any information contained in this Update that affects any matter with which you may be concerned.

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