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In this Issue

- HMRC investigates a quarter of all taxable estates
- Deputy can make gifts out of protected person's surplus income and estate
- Parents seek to reverse property purchase that triggered IHT
- Protecting the vulnerable from fraud
- Court of Appeal considers effectiveness of standstill agreements in claims under the Inheritance Act 1975

HMRC investigates a quarter of all taxable estates



Carolyn Bagley
Partner

HMRC opened investigations into almost one in four of the 22,000 estates on which IHT was due in the 2018-2019 tax year, according to a freedom of information request submitted by wealth advisors Quilter. Some 5,537 IHT returns were investigated in the tax year. The number of investigations has grown by 7.8% following the introduction of the (far from simple) Residence Nil Rate Band.

Gordon Andrews, tax and financial planning expert at Quilter, said that "Over the past number of years politicians have been keen to show they are cracking down on tax-dodgers and IHT is one of the departments that HMRC has been throwing its resources at".

He added "More often than not, people aren't deliberately trying to defraud HMRC and given the current complexity of the IHT system it's really no surprise if things go awry ... this is absurd at best and perverse at worst as it is essentially penalising people for appropriate tax planning."

This shows how important it is to seek advice from a specialist who will know what HMRC are likely to see as triggers and how to pre-empt questions as far as possible to avoid, or mitigate, the costs involved in any investigation.

For specialist advice on Inheritance Tax 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.
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- Kelly Wardell on 01223 461155 or [click here](#) to email Kelly.

Deputy can make gifts out of protected person's surplus income and estate



Rachel Hawkins
Senior Solicitor

F was appointed as Deputy for his brother, M, who had become mentally incapable. M, has an estate of over £17 million, and investment income of £123,000 a year. As M's care is being paid for by the NHS, his annual expenditure is only £16,000, so his estate can easily cover that for the remainder of his life.

F applied to the Court of Protection for permission to give away some of the estate now, to avoid Inheritance Tax (IHT). F proposed to give away £1.2million of M's estate to his four siblings, paid out of the estate's accumulated, and separately marked, surplus income. He also asked to pay a further £790,000 to M's charitable beneficiaries, but this to be paid out of the estate capital. M had made a series of gifts to those charities before he lost capacity.

F's application was partially opposed by the Official Solicitor. She urged that the proposed £1.2million one-off gift should instead be split 60-40 between M's siblings and the charities, and subsequent annual gifts of his surplus income should be distributed in the same way. This would avoid the erosion of M's capital without court oversight.

The Court of Protection accepted the Official Solicitor's argument that it was not clear what M would have done had he retained capacity, but also noted that the family gifts fall within the Deputy's automatic authority (because the gift would be of a reasonable value not affecting the person's ability to meet their living expenses). Therefore, they approved F's application to make the substantial gifts.

For more information on making an LPA, if you don't yet have this protection in place, please contact one of our team below or view our guidance sheet on [LPAs here](#).

- Rachel Hawkins on 01604 463165 or [click here](#) to email Rachel.
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Parents seek to reverse property purchase that triggered IHT



Francesca Rossi
Associate

The High Court is attempting to disentangle a complex family trust case. In *Rogge v Rogge* wealthy parents put millions into a trust for their young son who became severely disabled as a result of a Polo accident. As trustees they spent £15 million on buying and improving a country house in Hampshire to make it suitable for them to live in to care for their son.

They later discovered that the transfers could lead to heavy IHT charges in the future. They are applying to have the transfers set aside on the grounds of trustee mistake, not having realised that:

- the gift with reservation of benefit rules would apply (keeping the £15million in their taxable estates) because they had gifted the money but then they shared use of the property; and
- a 40% IHT charge would arise on the death of their son,
- There were several other tax mistakes.

Sometimes taxpayers must simply suffer the consequences of their mistakes, or might be able to sue their advisors, depending on the scope of the advice. However, in other, limited, instances it is possible for the court to reverse the steps and help the family avoid the tax – which is what will happen in this, rather sad, situation.

The importance of seeking professional legal advice was highlighted by the case. Seeking the relevant advice is likely to have prevented the misunderstanding that occurred.

For specialist advice on Trusts please contact one of our team below.

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- Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.
- Francesca Rossi on 020 7400 5037 or [click here](#) to email Francesca.
- Catherine Ball on 01604 463337 or [click here](#) to email Catherine.

Protecting the vulnerable from fraud.



Tobias Gleed-Owen
Senior Solicitor

Two new reports on different aspects of financial vulnerability have recently been released.

One report by Demos considers fraud and the vulnerable and how to protect them. It makes 23 recommendations on how to protect the vulnerable from financial abuse.

Recommendations include:

- A register of people with active Lasting Powers of Attorney, or under Court of Protection Deputyship Orders.
- Attorneys being required to submit an annual financial set of accounts, in line with Deputies.

The second report "A Little Help from My Friends" looks at tools to support financial decision-making for people with mental health problems. The report looks at the potential benefits of enabling third party access (for instance via powers of attorney).

Both reports highlight the importance of having a Lasting Power of Attorney in place where a vulnerable individual is concerned. The importance of appointing an attorney whom you trust is always the most important point to consider.

For more information on making an LPA, if you don't yet have this protection in place, please contact one of our team below.

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Court of Appeal considers effectiveness of standstill agreements in claims under the Inheritance Act 1975



The recent case of *Cowan v Foreman* considers the effectiveness of standstill agreements (agreements between the lawyers to defer the claim until after the legal deadline) in claims under the Inheritance Act 1975.

To read Lucinda's full article please [click here](#).

Lucinda Brown
Partner



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