



Hewitsons Private Wealth LEGAL UPDATE

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Sole Director's Executors Forced to Court (to save Company)



Carolyn Bagley
Partner

Mr Pilling was the sole director and shareholder of his company, Lancashire Cleaning Services Limited. Mr Pilling died unexpectedly and his executors hoped to appoint a director to take control of the company.

However, the company's Articles of Association did not include a provision allowing Mr Pilling's executors to appoint a replacement director on his death. The company's bank account was then frozen, meaning the employees and creditors could not be paid. There was a potential buyer, but the executors had no power to make any decisions about the company. The company nearly failed, at great loss to the family and to the employees.

An emergency application was made to the High Court, which used its statutory power to rectify the register of members, allowing the shares to be transferred into the executors' names. However, this great expense, and the near failure of the company, could have been avoided.

Sole director/shareholder companies need to ensure that their Articles of Association allow executors to deal with the company's affairs. They also need to ensure they have an appropriate Will in place to appoint such executors and keep the business afloat.

If you think your own company may be at risk, please initially contact Carolyn Bagley on 01908 247015 or [click here](#) to

email Carolyn.

Homemade Will Interpreted by the Court



Ciara Wanstall
Solicitor

Veljko Aleksic died in 2014 leaving an estate worth £2 million, but only a handwritten Will, which lacked clarity as to who inherited.

Mr Aleksic, of Montenegro originally, lived in England for decades and was a British citizen. However, he never became fluent in English and didn't use a solicitor. His handwritten will was littered with mistakes. No executor was appointed; someone was stated 'to be in charge' but this wording was ineffective. He left most of his estate to the Serbian Orthodox Church without specifying which one and a cash legacy of £10,000 was left to 'Brit. Cancer Research'; there is no such organisation. Very expensive court interpretation was therefore required.

Friends, charities, church authorities and a forensic document examiner helped interpret what he meant. This was highly complicated and the Court ruled the majority of the estate should go to a Serbian Orthodox Church in London, with the cash legacy being divided amongst numerous British cancer research charities.

While the Court took a pragmatic approach, decisions were made based on probability and it is unlikely Mr Aleksic's estate was distributed completely in line with his wishes. A significant amount of money was spent in legal fees; it would have been far more cost effective if Mr Aleksic had sought legal advice during his lifetime, which, as this case demonstrates, is very important. Wills should be drafted properly to avoid uncertainty and minimise the risk of estates being distributed incorrectly. Incidentally the most famous Will to cause huge court costs and family disagreement was one which left "All to Mother". Simple? His wife was called "Mother" by him – and so was his mother.

If you have not made your Will yet (or it wasn't made by a qualified solicitor and needs replacing!) please contact Ciara Wanstall on 01604 463101 or [click here](#) to email Ciara.

New Criminal Offences Help HMRC Tackle Off-Shore Tax Evasion

New offences came into force this October which relate to offshore income, assets and activities. They target individuals who have income or gains outside of the UK and (deliberately or not) fail to comply with UK income tax or capital gains tax responsibilities.

The offences apply if a taxpayer fails to notify HMRC of their liability to income or capital gains tax, or fails to file a return, or files an inaccurate return. They apply where the underpaid or



Eric Wardle
Chartered Accountant

under-reported tax for the 2017/18 or later tax years is over £25,000. Lesser omissions do not escape penalty, just jail.

However, the offences can only be committed after 6 October 2018 for the offence of failing to notify HMRC, after 6 April 2020 for failing to file a return, and after 31 January 2020 for making an inaccurate return. There's still time to save yourself!

If you have income or assets abroad and need advice please contact Eric Wardle on 01604 463110 or [click here](#) to email Eric.

HMRC Penalties for Late Filing of Deceased's Income Tax Returns



Elaine Morgan
Senior Tax & Trust Manager

The Institute of Chartered Accountants in England and Wales (ICAEW) has reported cases in which HMRC has penalised personal representatives for filing the deceased's self-assessment tax returns after the deadline, even though the returns could not have been filed any earlier because Grant of Probate had not been obtained.

Grant of Probate is a document issued by the Court to prove the executor of a Will (the personal representative) is legally authorised to deal with the deceased person's estate. The Grant allows the personal representative to do things like close the deceased's bank accounts, sell his property, pay off his debts (including tax) and distribute his estate in line with his wishes.

Previously, HMRC has allowed a delay while a Grant is obtained. It is therefore interesting that HMRC seems to have adopted a more aggressive approach in some cases. It's possible they were cases where no-one knew how to apply for a deferral.

If you need advice about tax please contact Elaine Morgan on 01604 463120 or [click here](#) to email Elaine.

Succession – Half of us Fail to Prepare



Rachel Hawkins
Senior Solicitor

Research from Brewin Dolphin shows half of UK citizens have never discussed inheritance with their families.

47% of UK adults have never discussed inheritance matters and 26% do not even consider it a priority, due to "being too young to die". Life events, such as health scares, prompt around half of us to discuss succession planning, but over a third feel uncomfortable discussing their legacy.

These figures are disconcerting. While it is a sensitive topic, we all need to plan for the future earlier on, not only for ourselves but for our families. Simple steps which can save a great deal of trouble later on include writing a Will, planning for later life care by preparing Lasting Powers of Attorney, and planning how to pass on wealth tax-efficiently. Inheritance tax raised £4.9 billion in the last financial year; part of the increase was due to lack of planning!

If you haven't got round to planning yet, or simply don't know where to start, help is at hand. If you would like to write a Will, prepare an LPA or need tax planning advice please contact Rachel Hawkins on 01604 463165 or [click here](#) to email Rachel.

Winter Coats Appeal

On Friday 1st December Hewitsons will be hosting a winter coats collection at Elgin House in aid of two charities. The first charity will be a collection for adult's coats and these will go to The Hope Centre. A charity that provides practical support, such as food and clothing, to people in extreme poverty. We are also asking for outgrown children's coats which will be donated to the charity Home-Start. Home-Start is one of the leading family support charities in the UK.

The firm will be collecting coats at the Northampton Office from 11:30am - 5:00pm. We will also be providing mulled wine and mince pies throughout the day.

If you are able to donate an old coat, thank you in advance for your support and for helping those in need this year. Please contact events@hewitsons.com for more information on this appeal.



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