



# Hewitsons Private Wealth

LEGAL UPDATE

Absolute Client Focus

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## The cost of death continues to rise...



[Carolyn Bagley](#)  
Partner

The price of obtaining a death certificate in England and Wales will nearly triple from 16 February 2019. Costs of registering a death will rise from £4 to £11. Although, the cost of obtaining a birth or marriage certificate has also increased, obtaining death certificates could now have a serious financial impact for bereaved relatives.

Death certificates are essential to prove to different authorities the death of a loved one, for example death certificates are needed to prove a death to a life assurance company or send to banks, building societies and investment firms.

On average, at least 10 death certificates are required. Bereaved relatives therefore incur an immediate charge on the death of a loved one. This is mitigated where using a solicitor to administer the estate as in most cases the solicitor can draw up a special form of document which certifies that we have seen the original death certificate, and this is acceptable in place of an original by most organisations.

This takes effect just before the proposed increase in the probate court disbursement, which in itself will be adding up to £6,000 to the cost of administering an estate.

Should you wish for Hewitsons to assist in the administration of the estate of a relative or friend, please contact one of our Solicitors below.

- [Rachel Hawkins](#) on 01604 463165 or [click here](#) to email Rachel.
- [Francesca Rossi](#) on 020 7400 5037 or [click here](#) to email Francesca
- [Carolyn Bagley](#) on 01908 247015 or [click here](#) to email Carolyn.
- [Alexandra Howard](#) on 01223 447422 or [click here](#) to email Alexandra.

### Are you eligible for an LPA refund?



[Tobias Gleed-Owen](#)  
Solicitor

An LPA is an important document that gives someone you trust the power to make health decisions on your behalf when you are no longer able to do so, or to make financial decisions at any time you find that helpful. There are two types of LPA known as a Property and Financial Affairs LPA or a Health and Welfare LPA. The application fee for the registration of each LPA is currently set at £82. However, that fee in the recent past was higher than permitted by statute, once actual costs were ascertained.

Clients can now therefore receive a refund of part of their application fee where the LPA was registered between 1 April 2013 and 31 March 2017, as we have previously reported.

The application for a refund can be made by the donor or by an LPA attorney, although not by your solicitor. The refund must be paid to the donor's bank account. Clients can expect to receive up to £54 plus accrued interest for each LPA registered between 2013 and 2017.

Solicitors for the Elderly (SFE) report that only 200,000 people out of the 1.8 million people eligible for a refund have so far made a claim. To apply for a refund visit: <http://gov.uk/power-of-attorney-refund>.

It takes approximately 10 minutes to complete the online application. You would simply need the donor's bank details and a copy of the LPA. Application can even be made where the donor has since died. If you need help or more information about making a claim, please contact Refunds Helpline on 0300 456 0300 or email [poarefunds@justice.gsi.gov.uk](mailto:poarefunds@justice.gsi.gov.uk).

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

- [Alexandra Svennevik](#) on 01604 463342 or [click here](#) to email Alexandra.
- [Francesca Rossi](#) on 020 7400 5037 or [click here](#) to email Francesca
- [Carolyn Bagley](#) on 01908 247015 or [click here](#) to email Carolyn.
- [Tobias Gleed-Owen](#) on 01223 532718 or [click here](#) to email Tobias.

## French Social Surcharges: further refunds available – but act quickly



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

French social surcharges are levied on most types of income, on top of Income Tax. Social surcharges which are paid in arrears and are calculated based on the income declared in the tax return. Prior to 2012, social surcharges were only levied on residents; however for the last few years, UK residents have had to pay social surcharges on capital gains made on selling a French property and on rental income from French property.

In February 2015, the European Court of Justice ruled that social surcharges paid by French residents working outside of France, and non-French residents were discriminatory and a threat to free movement of workers within the EU. For such income, the taxpayer should be subject to the social security rules of the competent member state.

The French Social Security Act 2019 confirms that exemption from French Social surcharges applies to French investment income and capital gains of taxpayers who can provide that they are covered by the Social Security of another EEA country, such as the UK. The new exemption will apply retrospectively to investment income received since 1 January 2018. The exemption only applies to gains made on the sale of French assets from 1 January 2019. Where the 2019 Act applies, a rate reduction from 17.2% to 7.5% applies which is certainly good news.

It's possible there could be a further challenge in respect of refunds for earlier years, but France isn't facilitating that.

With the Brexit deadline approaching, a lack of a mutual agreement on Social Security means that all French income received or French capital gains made after Brexit Day may become subject to the French social contributions at the full rate. Therefore, all taxpayers with property in France should take immediate action. Following the European Court of Justice ruling in February 2015 and despite the French Government's appeal the following actions should be considered:

- Submit a claim for refund of the French social contributions paid on French investment/ rental income received in 2016 and 2017. The deadline to submit such claims expires respectively on 31 December 2019 and 31 December 2020. A claim can also be submitted for surcharges paid on gains made on the sales of French assets in 2018. The deadline for submission expires on 31 December 2019.
- Regarding French income received in 2018, a taxpayer should provide evidence of their contributions to the UK National Insurance and registration with the NHS. French Income Tax Returns for 2018 could be adapted to include a statement of trust, of affiliation of the taxpayer to another EU social security system.

- Any UK tax resident currently selling a French property will want to secure a signature of the final sale deed before Brexit to benefit from the reduced rate of French social contributions at 7.5%.

Should you require any assistance on the above, please contact Elaine Morgan on 01604 463120 or [click here](#) to email Elaine.

### Land used to produce wine or cider qualifies for Agriculture Property Relief (APR)



[Francesca Rossi](#)  
Associate

We are pleased to report that HMRC has updated its Inheritance Tax Manual to confirm that land used to produce grapes or apples grown for wine/cider qualify as "*food for human consumption*".

You may recall that a special relief from Inheritance Tax is afforded to land that is occupied 'for the purpose of agriculture' – known as APR. However, the definition of Agriculture had not always extended to commercially run vineyards and orchards which to the lay person would be considered agricultural.

HMRC's updated Manual extends the definition of 'food' to ensure that land used for vines and trees will also qualify for APR. The inclusion of growing grapes and apples perhaps indicates that wine and cider really do count towards your 5-a-day!

For advice on whether your land qualifies for APR, and how best to use that in your Wills, or any gifts, please contact one of our Solicitors below.

- [Antonia Cooper](#) on 01604 463314 or [click here](#) to email Antonia.
- [Francesca Rossi](#) on 020 7400 5037 or [click here](#) to email Francesca
- [Carolyn Bagley](#) on 01908 247015 or [click here](#) to email Carolyn.
- [Katherine Hague](#) on 01223 532749 or [click here](#) to email Katherine.

## Importance of Charitable Donations in Wills



[Hauke Harrack](#)  
Senior Solicitor

More than 122,000 charitable gifts were made in Wills in 2017 and charitable legacies make up a fundamental aspect of charity funding across the country. It is therefore no surprise that £3 billion a year is generated from gifts in Wills.

The HM Courts and Tribunal Service (HMCTS) recently announced that it is terminating its contract with Smee & Ford, under which the company examines Wills when they receive probate and notify charities of any legacies left to them. HMCTS are discussing with the charity sector and the Institute of Legacy Management on how best to set up a new system. The importance of notification lies mainly where estates are self-administered: it is easy for an executor inadvertently to pay less than is due to the charity and the charities in those circumstances are understandably keen to help executors ensure this doesn't happen – or where necessary to recover the loss from the executor personally.

Susan Acland-Hood the HMCTS chief executive agrees that receiving early notification of bequests left in Wills is important to charities and they hope any new arrangement will still help charities.

For clients wishing to leave a charitable legacy (which is in itself exempt from Inheritance Tax), there is a potential extra benefit in that if correctly structured such gifts can reduce the rate of IHT from 40% to 36%. Depending on the circumstances, the loss to beneficiaries can be small with the funds that would have been paid in tax being diverted to the chosen charity so that everyone wins (well, not HMRC.....).

If you wish to add or increase a charitable donation in your Will, please contact one of our Solicitors below.

- [Hauke Harrack](#) on 01604 463131 or [click here](#) to email Hauke.
- [Francesca Rossi](#) on 020 7400 5037 or [click here](#) to email Francesca
- [Carolyn Bagley](#) on 01908 247015 or [click here](#) to email Carolyn.
- [Alexandra Howard](#) on 01223 447422 or [click here](#) to email Alexandra.



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