



# Private Client Law Bulletin

## TAX UPDATE

### Capital Gains Tax and Principal Private Residence Relief

Practitioners will recall that the Revenue recently changed the rules relating to Principle Private Residence (PPR) relief where there are held-over gains on a property asset. This presented problems over accepted tax planning techniques, where an investment property was gifted into a discretionary trust and then became the PPR of a beneficiary of the trust. Under the old rules, the entire Capital Gains Tax liability (under certain circumstances) could be washed out, including the held-over gain. The only saving measure in the Finance Act was to revoke the hold-over election thus crystallising an immediate Capital Gains Tax charge on the held-over gain but banking future gains made by the trust by virtue of PPR. The legislation did not fix any specific time limit for the revocation. Some practitioners took the view that they would 'wait and see' and would consider prior to any sale whether or not to revoke the earlier election.

The Revenue have now clarified their view that the time limit relating to these situations is 5 years and 10 months from the end of the tax year in which the gift of the property was made. For example, if a hold-over election for a gift was made in the tax year ending 5th April 2000, the last date it can be revoked is 31st January 2006, or your options are lost!

### Pre-owned Assets Tax

The final provisions have been published and POT is upon us. The final provisions included / confirmed the following:

1. The valuation date for a tax year is 6th April.
2. The 'prescribed rate' for chattels and intangibles is the official rate of interest – currently 5%
3. Land and chattels only have to be valued every 5 years. The first valuation to be made is when an asset becomes chargeable under schedule 15 and that valuation will be used in the 4 succeeding years. In year 5, a fresh valuation will be made which will apply for the next 4 years and so on. If no charge arises in the 5th year, no valuation is needed until the next tax year (if any) when a tax charge arises and a fresh set of 5 year valuations will start from then. Valuations will be carried forward without adjustment (for example indexation against asset price inflation)

An exemption will be provided where the whole, or a part, of a taxpayer's interest in a property/asset was sold by them at arms length (this exemption covers a part sale even if not at arm's length so long as it was made before 7/3/05 and was on arm's length terms). This exemption will cover disposals even if they are made for a consideration other than money or readily realisable assets.

**If you would like an informal chat or require any specific advice in connection with the material contained in this bulletin, or on any other Private Client issues, please contact the Liverpool office on 0151 600 3451 or the Manchester office on 0161 836 8800.**

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