



Private Client Law Bulletin

Budget Update

Whilst there were no major developments in the Budget for the private client practitioner, it is worth noting the Inheritance Tax rate reduction when leaving ten per cent of a net estate to charity. Looking at this in an uncharitable way, is there a point at which it becomes more attractive to make a charitable legacy? If it is not a taxable estate, there is no tax benefit in making a gift to charity as it won't ever actually benefit the chargeable beneficiaries – they will always lose out financially.

Obviously, much remains to be seen about how this will work in detail and it is not coming in until April next year. However, it appears from straight forward calculations that on a £1 million estate where 10% is given to charity and the rest passes to chargeable beneficiaries (say children of the deceased), the charity will receive £67,500, the taxman £218,700 and the children £713,800. Comparing this against where nothing was left to charity, the taxman would take £270,000 leaving the children with £730,000. Thus, 'depriving' the children of £16,200 means £67,500 can be given to charity.

These workings assume that it is just the estate passing to the children that is taxed at 36%. It could potentially be read as if the whole of the net estate is taxed at a blanket rate of 36% (this would mean the charity legacy is effectively being charged to tax). Time will tell how the calculations are worked.

These measures may encourage philanthropy albeit those who were not minded to give before are unlikely to be won over by this measure. There might be some who were going to give and will now increase this to 10% to qualify for the reduced tax rate. However, there may be another spin off. Query whether we will find some chargeable beneficiaries clubbing together to execute a deed of variation to give at least 10% of the estate to charity in lieu of the charitable gifts those beneficiaries would have otherwise made. Ordinarily, for them to have given £67,500 to charity would have cost them just that. Via a deed of variation, they could give £67,500 with it only costing them £16,200.

On a separate note, from 6th April 2011, the Disclosure of Tax Avoidance Schemes (DOTAS) regime has been extended to cover Inheritance Tax on lifetime transfers by individuals to relevant property trusts. Tax planning arrangements will have to be disclosed if property becomes relevant property and a main purpose of any such arrangement is that an advantage is obtained in relation to a relevant property entry charge.

Guidance has been given by the Revenue but the onus, as always, is on the practitioner to judge whether the transaction needs reporting. In fairness, most of the common tax planning is covered by the issued 'white list' where disclosure is not needed. However, it is one thing thinking that your straight forward arrangement comes within an exemption based on your interpretation of the Revenue guidance and another being prepared to rely on this, bearing in mind the burden is on you to get it correct. Only in the most straightforward of transactions, will practitioners feel sufficiently confident that they do not need disclosing.

This might become cumbersome over time with the Revenue wanting ever more information. The intention of extending DOTAS in this way was to create reporting requirements for Melville styled tax avoidance schemes. It has and will go much further than this.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Private Client issues, please contact: Duncan Bailey in Liverpool on 0151 600 3451, Richard Bate in Manchester on 0161 836 8840 or Stephen Marriott in Preston on 01772 229 816.

If you no longer wish to receive the bulletin please let us know by return e-mail to kimberley.malcolm@brabnerscs.com

This bulletin is for general guidance purposes only and should not be used for any other purpose.

Brabners Chaffe Street was recently recognised in the Private Client Practitioner Journal as having one of the Top 25 private client teams in the country and is the only firm in the North West of England to receive this accreditation.

Brabners Chaffe Street is a Limited Liability Partnership



LIVERPOOL

Horton House, Exchange Flags, Liverpool L2 3YL
0151 600 3000

MANCHESTER

55 King Street, Manchester M2 4LQ
0161 836 8800

PRESTON

7-8 Chapel Street, Preston PR1 8AN
01772 823921