KILSBY WILLIAMS & GOULD

Newsletter November 2014

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This technical bulletin brings together a number of key areas of financial planning for our clients ranging from the changes in pension legislation, to changes in Intestacy rules, the benefits of Personal Investment Companies and a potential money saving article for those of you with Private Medical Insurance. I also take this opportunity to welcome our new recruit to Kilsby Williams & Gould – Tom Rowlands. Tom has previously experience in the industry and joins our Financial Planning Team. Further details on Tom will be provided on our new website shortly (www.kilsbywilliamsandgould.com).

'People who have worked and saved all their lives will be able to pass on their hard-earned pensions to their families tax-free.'

In his speech to the Tory faithful on 29th September George Osborne delivered more good news for those who have built up pension funds in 'defined contribution' plans (such as personal pensions or self-invested personal pensions).

Currently people who die under the age of 75 and have not drawn benefits from their pension will see their funds distributed to their beneficiaries free of all tax if taken as a lump sum with sufficient lifetime allowance remaining. For those who die after age 75 there is a 55% tax charge on the funds if taken as a lump sum prior to distribution to the nominated beneficiaries. In both cases if death benefits are taken as income (currently available to dependants only) the income is taxed on the recipient at their marginal income tax rate(s).

For those who die under the age of 75 and were drawing down benefits, any lump sum leaving the pension wrapper on death will be subject to 55% tax. However, a spouse (or other dependant) has always been able to elect to continue drawing down the fund as income rather than taking the lump sum and suffering the punitive level of tax – such income is taxed on the recipient at their marginal tax rate(s).

The changes George Osborne announced suggest that:

(i) Those under the age of 75 who have drawn benefits from their pension will see funds distributed to their beneficiaries free of tax on death, whether taken as a lump sum or via the flexible income option. The income option will, in future, not only be restricted to dependants.

(ii) Those who die after age 75 will see any funds that are drawn from the pension fund as a lump sum by the beneficiaries subject to a tax rate of 45% (or possibly, after consultation, the beneficiary's marginal rate(s) of income tax). If taken as income, the income will be taxed at the recipient's marginal tax rate(s) – income payments will no longer be exclusive to dependants.

We see the following potential opportunities for our clients. This is based on the information we have so far as no detailed technical information or draft legislation has yet been published and the ideas below may alter once full details are available:

(i) For those who are under the age of 75 who wish to gift their pension fund to their family can now re-examine the decision to defer drawing income. For example income drawn from the pension can be passed through to beneficiaries utilising the 'out of income' exemption to inheritance tax without any detrimental impact on the fund that is not distributed at the point of death.

(ii) For those who are over the age of 75 consider spending personal capital and leaving pensions to your beneficiaries. If the lump sum tax rate does change from 45% to the marginal rate for the beneficiary then consider leaving the pension funds to non or lower rate income tax payers (e.g. grandchildren), and non-pension assets to higher rate taxpayers. A pension is a trust and the trustees usually have discretion over who receives the death benefits. Any income received by a beneficiary will be taxed at the beneficiary's marginal rate(s) of income tax.

As is to be expected when such an announcement comes out of the blue in the middle of a party conference, a number of points still need to be fully clarified and the pension industry awaits full details in the Autumn Statement on 3rd December.

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Personal Investment Companies

For taxpayers looking at ways they might mitigate future inheritance tax (IHT) bills, trusts have historically featured high on the list. However, many people have been reluctant to transfer their hard-earned cash to a trust because of concerns over the perceived lack of control that comes with establishing a trust, even if they are appointed as the first-named Trustees.

The UK's tax regime for trusts was also the subject of significant changes in the Finance Act 2006 that had the effect of triggering an immediate IHT bill for many people on the transfer of assets into trusts. As a result, many people have looked at alternative vehicles for passing on family wealth.

In this context, a private investment company (PIC) is increasingly seen as a tax efficient vehicle for wealth preservation.

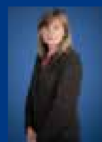
In brief, a PIC is a UK resident private limited company whose shareholders are typically family members and the operation of which is governed by its own Memorandum & Articles of Association. Within these constraints, the PIC can invest in a range of investments including cash, shares, investment funds and property.

Having bespoke Articles of Association also gives a donor shareholder of the PIC the ability to retain a significant element of control over the investment strategy of the PIC, whilst owning less than a majority stake in the company's shares.

For higher rate taxpayers, this structure gives the benefit of being able to retain higher post-tax profits (corporate tax rates of 20% compare very favourably with personal tax rates of up to 45%). Specifically, a PIC will also benefit from the fact that UK and most overseas dividends will not be taxable in the PIC and in addition, it will be able to claim indexation allowance on any gains realised by it, therefore wiping out inflation increases. There is a further benefit that shareholders only pay tax to the extent that the PIC distributes income to them. If profits are retained within the PIC, the reinvested funds can grow without this layer of additional tax.

If an individual has available cash, monies can be transferred to the PIC without triggering an immediate IHT charge which compares well to a trust when an immediate 20% IHT liability will arise on transferring funds over £325,000 into most trusts. Gifting PIC shares to other family members is also free of IHT provided the donor survives 7 years following the date of the gift (although some care needs to be taken of the capital gains tax consequences).

With the present, very attractive low corporate tax rates, a PIC is something that should seriously be considered as an alternative to a Trust, especially where there is available cash to fund the PIC and there is no need for access to significant profits so they can roll up within the structure.



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Intestacy – who gets what when you tie the knot

The event of death hit the spotlight in Mr Osborne's recent speech. Hot off the heels of the changes proposed to pension fund death benefits came a revamp in intestacy laws in England and Wales.

New intestacy rules came into play from 1st October 2014 that will change the way you or your relatives inherit assets from loved ones who have passed without a Will.

The table below compares the old rules and new rules which are now in force: -

	OLD RULES	NEW RULES
Married couples/ civil partners with no children:	Only the first £450,000 plus half of the remaining estate would pass to the spouse. The remaining half was split between blood relatives.	Surviving spouses/civil partners are now entitled to the whole estate if the deceased has no children.
Married couples/ civil partners with children:	The surviving spouse would receive the first £250,000, all personal belongings and a life interest in 50% of the remaining estate (with the capital passing to the children on the surviving spouse/civil partner's death). The other 50% would pass equally to the children.	The surviving spouse will receive the first £250,000, all personal belongings and instead of a life interest in 50% of the remaining estate they will now inherit this outright. The other 50% will pass equally to the deceased's children.
Non-married couples:	NO CHANGE - despite pressure to allow people who have lived together to inherit part of the deceased's estate, the new intestacy rules make no provision for 'common law' partners. Even those partners who have children together will still receive nothing on the death of their loved one who has made no Will. However, irrespective of the intestacy rules (or contents of the will) any assets owned as joint tenants automatically pass to the surviving owner on death.	
Single person with no children or direct descendants:	His/her estate will be distributed in the following order: - 1. Parents 2. Blood brothers and sisters, or their children if the deceased's siblings have not survived them 3. Half blood brothers and sisters, or their children if there is no surviving parent 4. Grandparents 5. Blood uncles and aunties, or their children 6. Half-blood uncles and aunties or their children 7. The Crown	

As can be seen above it is only married couples and civil partners who benefit from these changes. There is still no provision for non-married couples. It is possible under the Inheritance (Provision for Family and Dependants) Act 1975 for someone to challenge the distribution of an estate if they feel they have not been adequately provided for under intestacy. This can be a painful, costly, and drawn out process at a very difficult time in life and can be avoided by making a Will. The same applies to pension funds by completing a 'Nomination of death benefits' form.

So, the overwhelming conclusion is TAKE CONTROL over the final destination of the wealth you have worked so hard to build - it is vital you make a Will and review it regularly to ensure that those you wish to inherit your wealth actually do so. If your circumstances change you can update your Will to reflect your new circumstances and it is the latest Will that is valid.

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Your current Medical Insurance Company will not want you to know this

Private medical insurance is a big investment for many people and one where the annual increases can be significant. Having health insurance in place can be a sensible strategy when you consider the increasingly inconsistent service offered by the NHS.

Like most financial products, often the best deals are for new customers and loyal customers cannot access these new deals because they are not available to them. This is the case with private medical insurance in many instances.

Over the years how many times have you seen your premium increase by 10% with little explanation other than "well medical inflation has gone up and you are a little bit older as well"?

Medical insurance providers will also retain your business by giving the impression that you cannot move without losing all your benefits relating to past treatment and medical conditions. This statement has been true up until four years ago when there was a step change in the market. Now the vast majority of providers do offer "switch" terms and you do have cover for pre-existing conditions, past treatment and even planned treatment. There are certain circumstances where you do need to remain with your existing provider and these are:

- Heart condition in the last 12 months
- Cancer in the last 12 months
- Psychiatric condition in the last 12 months
- Stroke in the last 12 months
- You have a major inpatient operation planned

Other than in these circumstances you will almost certainly be able to transfer to a new provider without any loss of ability to claim or new exclusions being applied. If you are over 75 years old do you think that you are too old to secure better terms with a new provider? We recently switched a 91 year old woman to a new provider with a corresponding saving of over £4,000 per annum and actually increased her level of benefits and decreased her excess.

If you have private medical insurance contact Kilsby Williams & Gould now and between us we will produce a comprehensive report detailing your options and how much you could save.

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