

# Newsletter

**LLOYD DOWSON - MARCH 2010**

**ISSUE 6**

## **DO NOT DELAY MAKE A WILL TODAY!**

**D**id you know that it is estimated that more than one half of the British population do not have a will and do you fully understand the impact this will have on your family if the worst were to happen?

Under current UK law, if a person dies without making a will, their assets are distributed according to the Law on Intestacy. It is important to note that the spouse of a deceased person does not automatically inherit the whole of the estate on death, if the value of the estate is substantial. In addition, Intestacy is a time consuming and stressful process and it can often take years to settle an estate leaving the surviving spouse without access to funds to pay day to day living costs.

For unmarried couples, there is no automatic right to inherit even if you have lived together as man and wife for a number of years and potentially, if there are children involved, they will inherit the entire estate even if they are minors potentially leaving the surviving partner without funds to maintain the family home.

It is therefore essential that wills are drawn up (and kept up to date) to protect your loved ones in the event of your death. The cost of drawing up a basic will can be as little as £100 and if it helps, we would be happy to liaise with clients and the solicitor to aid in the writing of the will.

## **LASTING POWER OF ATTORNEY**

Most people are aware that the terms of a will determine how assets are distributed on death but have you considered the implications of becoming incapacitated due to sickness or injury.

In the absence of a legal document, such as a Lasting Power of Attorney, if you become incapable of making a decision for yourself, your personal affairs would become the responsibility of the Public Guardianship Office. Your family would then need to ask the Receiver appointed by the Public Guardianship Office to release the funds required to cover care costs and everyday financial needs and as well as dealing with the emotional stress caused by the illness, you will have to deal with officials when making any financial decision. You will also have no rights regarding a family members medical treatment even if their wishes had been discussed in advance of the illness.

Although a family member can apply to become the receiver on behalf of a loved one, this can take a long period of time and is costly. You should also note that even if you are appointed as a receiver for a family member, there are still restrictions on what can and cannot be done without the permission of the court.



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It is possible to draw up a legal document which allows you to choose someone now that you trust to make both financial and health and welfare decisions on your behalf at a time in the future when you are no longer capable of making the decisions personally. This can either be drawn up by a solicitor in conjunction with your will or alternatively, you can download the appropriate form at:

[www.guardianship.gov.uk/formsdocuments/forms.htm](http://www.guardianship.gov.uk/formsdocuments/forms.htm)

## END OF THE ROAD FOR FURNISHED HOLIDAY LETTINGS

Owners of a furnished holiday letting (FHL) will be aware that the favourable tax treatment afforded to such a property comes to an end on 5 April 2010.

Currently, the main tax advantages of owning a FHL are:-

- Any losses arising on the commercial letting of a property can be offset against other income sources (normally producing a tax refund).
- Capital allowances can be claimed on furnishings and furniture.
- On the final sale of the FHL business, the disposal will qualify as a business asset for tax purposes which ultimately means that the effective rate of tax on the disposal is only 10%. Following the change in rules, this tax rate will increase to 18%.
- The income is deemed to be "Earned Income" for tax purposes and this enables taxpayers to effectively pension this income.
- The gain arising on the sale of a FHL can be rolled over into the purchase price of a second FHL thereby deferring when the tax falling payable on the sale is paid over to H M Revenue and Customs.

Even if owners of a FHL wanted to sell their business to bank the current 10% tax rate, due to the slump in the UK housing market, this may not prove feasible.

However, the good news is that although FHL trades are deemed to cease on 5 April 2010, in certain circumstances, the 10% rate of tax could come into play in the three year period to 5 April 2013 and with careful tax planning, we can help to minimise your tax liability.

The other point to mention is that even after 5 April 2013, there may be some circumstances where the disposal of a FHL will still continue to qualify for the 10% tax rate and this will ultimately be dependent upon whether the letting of the property is run as a business and the services that the owner provides to the guests who rent the property. This will not apply to an individual who simply hands a key over to a guest at the start of the letting period and then collects it at the end but it may be available if for example other services are provided such as a daily cleaning service.

## Congratulations!

Following two years of hard study, and a career in tax for over 17 years we are delighted to announce Phil Thompson has now passed the most prestigious Chartered Tax Association examination. Phil joined Lloyd Dowson 6 years ago and works in all areas of Tax undertaken by the Practice.



**PLEASE CONTACT A MEMBER OF THE TAX TEAM OR THE LLOYD DOWSON WEALTH CARE TEAM IF YOU REQUIRE ANY FURTHER GUIDANCE ON ANY OF THE ISSUES RAISED ABOVE.**