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Winter 2014/15

MERIDIAN PRIVATE CLIENT LLP

For a truly specialist law firm focused on clients' specific needs:

- Estate planning and long-term tax planning for entrepreneurs and high net worth individuals
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- Tax planning for internationally mobile individuals.



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In this Issue

Inheritance tax bills unlikely to be cut	page 1
EU change poses threat of uncertainty for overseas home owners	page 2
To give, or not to give - the powers of an attorney to give a donor's wealth away	page 3
Autumn Statement 2014	page 3
New Year's Resolutions	page 4
New Partner appointment boost for Meridian	page 4

Happy New Year to all of our readers.

INHERITANCE TAX BILLS UNLIKELY TO BE CUT

As we draw nearer to the 2015 General Election, the spotlight will focus more sharply on the parties' tax plans and inheritance tax (IHT) and a suggested 'mansion' tax has already been in the limelight.

Prime Minister David Cameron has hinted that a rise in the threshold at which IHT becomes payable to £1m could be in his party's election manifesto. He has even suggested that the threshold could increase before next year's election, though this seems increasingly unlikely.

Mr Cameron first promised an increase in the IHT threshold to £1m in 2007 but this pledge was not delivered. The Liberal Democrats take the 'credit' for blocking that particular change and it seems likely that they would continue to do so if they participated in government after next May.

The effect of this is that the threshold at which the 40 per cent tax kicks in has been fixed at £325,000 since 2009 and is currently not set to be reviewed until 2017/8. Effectively, this has dragged more and more people into the IHT net as house prices have risen.

On the other side of the coin, the 2014 Autumn Statement introduced a welcome change in that, on the death of the holder, the tax benefits of an Individual Savings Account (ISA) can effectively be maintained for the benefit of the spouse, who of course already inherits free of IHT. About 150,000 ISA holders die each year.

It has already been announced that from next April, the remaining pension of an individual passing away aged under 75 will be passed on free of the 55 per cent tax that would previously have applied.

Having said all that, the trend for more and more people to be paying ever higher amounts of IHT will continue if there is no change in the threshold.

As far as the Labour party is concerned, their aspirations seem to be less clear though they have denied Conservative claims that they are planning to impose an additional 'death tax' to pay for care of the elderly.

On the other hand, Shadow Chancellor Ed Balls has set out some details of his proposed 'mansion tax' which would hit home owners with houses worth over £2m.

The 2014 Autumn Statement announced increased stamp duty on the purchase of



houses valued at more than £937,500 and Mr Balls has said that Labour will support this and continue to back the mansion tax.

If this tax were to be introduced, it would be collected via the mechanism already put in place by George Osborne to collect the tax known as 'ATED', the 'annual tax on enveloped dwellings', levied on houses owned by companies. It does seem ironical that a controversial 'wealth' tax of this nature would be collected via a mechanism introduced by the Tories.

Mr Balls also suggested that asset rich cash poor individuals (earning less than £42,000) who couldn't pay the tax could defer the tax until the property ultimately changes hands on sale or the death of the owner.

But a more pernicious threat might be that, just like IHT, thresholds for higher stamp duty and the mansion tax may not increase in line with house price inflation.

The Liberal Democrats also favour a mansion tax, so such a tax would be highly likely to be introduced if there were to be a coalition where they joined forces with the Labour party.

UKIP has said that they would abolish IHT but it is unlikely to be in a position to do more than exercise influence from the side lines.

The economic backdrop is that the national debt is still rising and the consensus is that major government spending cuts will be needed in the next few years. Against this backdrop, tax cuts might be few and far between and perceived loopholes are likely to be attacked.

In summary, any statements by politicians on IHT should be studied carefully and sceptically in the run up to the election. With the possibility of another coalition, it is by no means certain what the outcome will be.

By Philip Harrison, partner at Meridian Private Client LLP

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Peter Gate

EU CHANGE POSES THREAT OF UNCERTAINTY FOR OVERSEAS HOME OWNERS

By Peter Gate, associate at Meridian Private Client LLP

Those who spend more time in what was formerly a holiday home in an EU country could see their Wills overturned once a new EU rule has been introduced.

The EU Succession Regulation, due to be introduced in 2015, will change the way in which domestic EU laws interact with one another in respect of succession. The UK has not ratified the regulation but it cannot be discounted as an irrelevance.

The new EU regulation will seek to apply the law of the country where an individual is habitually resident at the time of his or her death as a default position. The term 'habitual residence' does not have specific meaning in UK law, which complicates the matter, though it broadly equates to 'residence'. Alternatively, an individual can choose the law of his or her nationality, either implicitly or explicitly, in a Will.

For the vast majority of individuals, this change will have little or no impact upon their estate planning. However, those with assets within the EU or who are planning to move

to another EU country will need to consider extremely carefully how their Wills are structured and how the regulation could impact upon the passing of their estates on their death

Many individuals who own property in EU countries such as France or Spain will be aware of and have planned for the forced heirship rules which operate in those jurisdictions.

For UK residents who simply use their property abroad as a holiday home, the regulation may allow them the opportunity to apply English law to the property so that it passes under the terms of an English Will, rather than the forced heirship of the country where the property is situated.

However, for those who are not UK resident, perhaps through spending more time in retirement in what was formerly a holiday home, the regulation could be problematic as they may become 'habitually resident' in another EU country.

This may mean that the law of the other EU country may be applied to the passing of their whole estate. This

could also include the possibility that gifts made under an English Will are taken into account when distributing the estate under the forced heirship rules of the country concerned.

For those who have English Wills and rely on testamentary freedom to allow them to create trusts in their Wills, the removal of this level of flexibility could be extremely problematic.

The true impact of all this will not become clear until some time after the new rules are in force.

Ultimately, those with assets in the EU are likely to require a 'choice of law' clause in their Wills to ensure that they can control the passing of their assets, rather than having this decided for them. Those with existing Wills need to review their arrangements and also their general pattern of life to ensure there are no unexpected surprises upon their death.

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TO GIVE, OR NOT TO GIVE

the powers of an attorney to give a donor's wealth away

By Drummond Kerr, partner at Meridian Private Client LLP



Drummond Kerr

It is common for an attorney appointed to handle the property and financial affairs of a donor under a Lasting Power of Attorney to face difficulty when deciding what, if

any, gifts they can make on behalf of that donor, once he or she has lost the mental capacity to make decisions.

The law requires that an attorney considers, first and foremost, what is in the best interests of the donor. Rightly or wrongly, this is often accompanied by the attorney considering, and trying to implement, what the donor might have wanted to do. This is not always consistent with the obligation to consider the best interests of the donor and can lead to problems.

We often encounter attorneys who seek our advice on what gifts they can make.

Frequently this is in the context of inheritance tax planning; an attorney becomes aware of the potential inheritance tax liability on the death of the donor and wants to make plans, usually involving gifting wealth away, as the attorney does not believe that the donor would have wanted to die with such a liability.

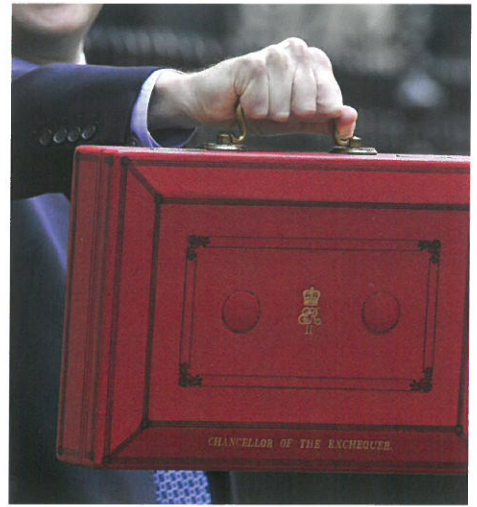
Without the authorisation of the Court, and subject to any restrictions in the Lasting Power of Attorney document further limiting the powers of gifting,

an attorney can only make gifts on customary occasions (such as birthdays, marriages or at Christmas). In addition, the gifts can only be made to persons related to or connected with the donor or charities to whom the donor made (or might have been expected to make) gifts. The value of the gifts should be not unreasonable having regard to all the circumstances, including the size of the donor's estate.

Certain limited gifts that may be seen to infringe the above legal provisions may still, in certain circumstances, be made without Court authorisation – for example, use of the £3,000 annual gift allowance for inheritance tax. Gifting that goes beyond this, however, will require Court authorisation – and it will have to be established that the gifts are in the best interests of the donor. Are the persons to whom the gifts are made the sort of persons who the donor would be expected to look after and, if so, to what extent? How does reducing the donor's potential inheritance tax liability really benefit the donor, rather than the beneficiaries of his estate?

As with any difficult decision, attorneys facing a quandary over whether to make gifts on behalf of a donor should take specialist legal advice. Attorneys who make the wrong decision on such matters can be exposed to serious personal risk and be required to repay the gifts themselves.

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AUTUMN STATEMENT 2014

By Jon Croxford,
partner at Meridian
Private Client LLP



Jon Croxford

The Chancellor of the Exchequer's Autumn Statement was the last before the General Election in May this year. Against a backdrop of mixed economic indicators and with little room

for manoeuvre in fiscal terms, it was perhaps no surprise that the main messages had a strong political and arguably populist slant.

Measures announced by the Chancellor which were clearly designed to have broad public appeal included more bank bashing and an attack on multi-national corporates (the "Google tax").

For private individuals, the tax burden is again being tilted towards those who are better off and this was seen very clearly in the changes to stamp duty on buying residential property. Of course, over time more people may be pulled into the higher rates of stamp duty if the thresholds are not indexed as property prices rise.

Our Autumn Statement Newsletter can be accessed at:
<http://www.meridianpc.co.uk/autumn-statement-newsletter-december-2014.pdf>
and we hope you find this of interest.

If you wish to discuss any of these changes, or anything with which we may be able to help, please get in touch with your usual contact at Meridian.

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APPROACHING 2015 WITH RENEWED RESOLUTION

This is the time for resolutions and this means more than keeping fit and giving something up! There are vital decisions to be made to keep your family's wealth as far as possible out of the clutches of the tax man and to protect assets from the ravages of family divorce, for example. And the benefits will last long beyond January!

- **Make or update your Will**

Apart from major events like marriage and retirement, estate planning should be reviewed regularly as time goes on and circumstances change.

- **Give a Lasting Power of Attorney**

This will protect your interests in the event of accident, ill health or incapacity.

- **Plan for long-term tax on your business**

Plan now to maximise the tax reliefs available for your business interests. These include entrepreneurs' relief from capital gains tax and business property relief from inheritance tax (IHT).

- **Consider trusts**

Trusts are still valuable in saving tax and protecting your assets, so your family benefits in accordance with your wishes going forward. Some of the tax treatment of trusts is changing and updated advice will be needed.

- **Remember that generosity can pay**

Review your giving plans as gifts are exempt from IHT if the donor survives for seven years after the gift is made. Apart from gifts made more than seven years before death, there are other exemptions from IHT associated with gifts.

- **Look at pensions in the context of IHT planning**

From April this year, pension funds can be inherited tax free where the pension holder is under 75. Where the pension holder is over 75, tax payable is limited to the marginal rates of the individual successors to the pension.

- **Remember the enhanced appeal of Individual Savings Accounts (ISAs)**

Subject to the passing of the Finance Bill, from December 2014 ISAs inherited by a spouse will, in effect, retain their tax free status so can generate an income or tax free capital growth for a surviving spouse.

- **Do not forget your overseas assets**

Make sure that the ownership of any overseas assets is documented and that you have a Will in the country concerned. Also consider whether tax will be payable in the other country.

Your Meridian Private Client LLP contact will be delighted to help with these matters.

NEW PARTNER APPOINTMENT BOOST FOR MERIDIAN

Jon Croxford, one of the region's leading tax planning experts and a specialist in personal tax planning, has been appointed a partner at Meridian.

Prior to joining Meridian in June, Jon, a Chartered Tax Adviser, spent substantial periods with the 'Big Four' accounting practices including a spell of five years as head of Deloitte's private client tax teams in Birmingham and Nottingham and six years with KPMG.

Partner Drummond Kerr said: "Jon's appointment as a partner follows the consent we have obtained from the Law Society to operate as an 'Alternative Business Structure' (ABS). This means that we can now take in as partners other specialist private client advisers, who may not be solicitors.

"For example, this newly approved structure will enable us to consider appointing other top level tax planning specialists in the future, whether they are lawyers or not."

Partner Philip Harrison added: "Jon's appointment will reinforce our market positioning as a specialist provider of long-term tax planning advice as a complement to our private client legal work on estate planning, wills and trusts.

"His specialist areas spread across the whole spectrum of personal tax advice including estate and long-term tax planning and advising 'non-UK domiciled' individuals.



Drummond Kerr, Jon Croxford and Philip Harrison

"Jon's appointment as a partner will also help us to serve the needs of other professional advisers who introduce clients to us for a one-off project or for long-term tax planning advice, support which we give without disturbing existing client-professional relationships."

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