MOSS
SOLICITORS

When is an Investment Opportunity Too Good to Miss?

QUESTION

When is an investment opportunity which is 'too good to miss', worth missing?

ANSWER

...when you find out about it via an unsolicited telephone call from a 'financial adviser' or 'asset manager', who offers to 'let you in on a great investment opportunity' or offers 'tax free investments'.

Unsolicited calls and emails are becoming more and more common as unscrupulous companies harvest telephone numbers and email addresses from an ever-wider range of sources. A typical email will indicate that a company has negotiated a new contract which will make its share price soar and will recommend that you purchase its shares ('stock' if the sales patter is aimed at Americans) before this occurs.

Emanating from offshore financial centres, the unhappy reality is that the large majority of these are just scams. Once your money has left your bank account, you are unlikely ever to see any of it back or receive any compensation for your loss.

Says David Wright MIFP, Director of Woodgate Financial Services, "As always, if it seems too good to be true, it is too good to be true. If you knew about shares destined to skyrocket, why would you tell anyone else about them, let alone a perfect stranger?"

If you are investing and want the benefit of proper investor protection, you should use an investment adviser who is authorised under the Financial Services Act. Our specialist investment advisers can advise you based on a sound knowledge of your aims and the UK tax system.

Giving to Charity - Tax Efficiently

There are a variety of ways of giving to charity, some of which are more tax-efficient than others. Here is a short round-up of some possibilities.

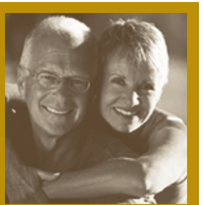
For company directors, consider making the charitable gift out of the company if the alternative is to make the payment out of your after-tax income. This will allow the company to claim tax relief directly as a deduction against profits and will, in effect, save the employers' and employees' national insurance on the payment. Note, however, that there will be no additional recovery of tax by the charity (by the grossing-up of the gift) as there can be in the case of payments by individual taxpayers.

Remember that to qualify as a charitable donation a gift by a business must be a gift of cash. Gifting non-cash assets or the value of services will not qualify for relief against corporation tax and might in some circumstances have VAT implications. There are a number of more technical exclusions also, so if a proposed gift is part of a larger arrangement of any sort, take advice.

For individuals, gifts of money to charity qualify for tax relief. Normally the gift is deemed to have had basic rate tax deducted and relief is available at higher rates of tax by way of a claim on the giver's tax return. The charity will reclaim the basic rate tax directly if the appropriate documentation is filled out, confirming that the donor is a UK taxpayer.

Gifts to charity in a will attract full Inheritance Tax relief at (currently) 40 per cent. There are pros and cons of either making gifts as a bequest of a specific sum or as a percentage of the residual estate, so if you are considering putting a substantial charitable bequest in your will, it is worth taking professional advice.

Life Planning Seminar



Moss Solicitors invite you to attend our latest seminar providing legal and financial information for you and your family

On **7th February 2007** from **2.30pm until 4.00pm** at **the Quorn Country Hotel, Leicester Road, Quorn, Leicestershire.**

Who will inherit your property when you die? What kind of medical treatments will you want to receive - or avoid - if you become critically ill? Thinking about these questions - before illness or death strike - is what 'life planning' is all about.

Planning your estate includes, talking to family members now to decide how to handle your financial and medical affairs if you become incapable of making your own decisions, and working with a solicitor now to draw up a will or establish a trust that will distribute your property according to your wishes after you die. That way, your loved ones won't be confused or burdened with financial troubles when you can no longer make them.

In order to have your personal affairs in order, you must consider your options carefully. To help guide you through the maze of 'life planning' this seminar will concentrate on some of the more topical issues including:

- Importance of making a will
- Making gifts
- The benefits of Enduring Powers of Attorney (EPAs)
- The effects of increasing property prices on your estate
- Residential care planning
- How financial planning is essential in arranging your Life Plan
- Inheritance Tax (IHT) planning
- An appraisal of releasing equity from your home

There will also be an opportunity for open discussion within the group setting or individually with the guest speakers. To reserve a place, please register your interest by:-

- Telephone on **01509 217770**
- Email to **enquiries@moss-solicitors.co.uk**
- Our website at **www.moss-solicitors.co.uk**

There is a restriction on numbers at this venue; you are therefore advised to reserve your place(s) early. If you know someone who would like to join you at the seminar - let us know. They will be welcome to attend.

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LAW SOCIETY WARNS OF UNREGULATED WILLS DANGER

The Law Society has issued a warning on the dangers of using unregulated will writers, citing more than a dozen recent examples of problems with wills drafted in this way.

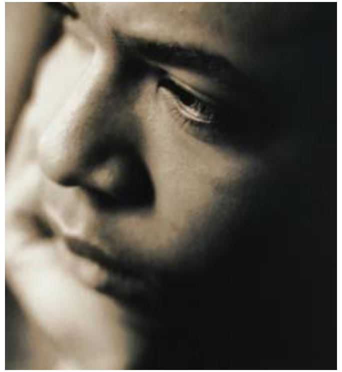
One example was where a woman's entire estate passed to her estranged son, who had not seen her for over 20 years, instead of (as she wished) to her long-term carer. This occurred because the woman's will, which was drafted by an unqualified will writer, was judged to be invalid owing to a technical error. In another instance, a will was ruled to be invalid simply because the will writer failed to have the testator's signature properly witnessed.

There were also many examples given of will writing companies that had disappeared, which meant that the originals of the wills were impossible to find, and of companies that charged much higher sums for preparing wills than their advertising would suggest. In one case, a charge of £700 was made for a straightforward will.

One particularly sad example involved a will writer who appeared to be in league with a trust company, which was appointed as the sole executor of a client's will and which charged a large 'termination fee' when the family decided they wanted to appoint family members as executors.

Will writing companies frequently do not have indemnity insurance, so if mistakes are made, there is often no redress.

The independent wills market is not regulated and stories of incompetence and worse are not at all uncommon. As solicitors, we are regulated by the Law Society, which ensures our work is done to a professional standard and which also requires that comprehensive indemnity insurance is carried for the protection of clients so that on those very rare occasions when mistakes are made, the client can obtain proper compensation. Having a will prepared by a solicitor is not expensive and will give you and your family peace of mind that the job has been done properly.



Testamentary Capacity - Shifting Burden of Proof

When a person (the 'testator') draws up a will, they must have 'testamentary capacity' for the will to be valid. A recent case has highlighted how the assumption that the creator of the will has testamentary capacity becomes less certain in cases in which the testator's health is in decline.

Testamentary capacity is the ability to know and understand the implications of the will being made - the 'being of sound mind'. It is normally regarded as a given, so that the burden of proof is placed on anyone contesting a will on these grounds to show that the testator did not have testamentary capacity. However, if the testator's health is failing when a will is changed or a new will drawn up, the court may well look for positive evidence of testamentary capacity, especially if the provisions of the will are very different from those in an earlier will.

In a recent case, an elderly man made a new will shortly before his death, superseding an existing home-made will. The new will made his daughter his sole beneficiary and executor. However, it was discovered that a few months before his death, he had given much of his property to his second wife, who was the sole beneficiary under his earlier will.

There was a difference of opinion over whether the testator was suffering from delirium when he made the new will and also when he transferred the property to his second wife.

The issues arising were:

- whether the testator had testamentary capacity at the time the second will was made and when the transfers of the property were completed;
- whether the property transfers were the result of undue influence being exerted by the second wife; and
- whether the earlier will had been properly executed.

In the view of the court, the presence of delirium did not prove that the testator lacked testamentary capacity. However, in view of his declining health, the court was unwilling to accept that he 'understood the extent of the property of which he was disposing', which is a key element in the testamentary capacity test. Accordingly, the earlier will stood. Although the testator was physically dependent on his wife, that did not constitute undue influence, so the earlier transfers of property were also valid.

This case illustrates the point that wills should be made with the benefit of professional advice earlier rather then later. This is especially so when health is in decline.

Contact us for advice on all matters relating to wills and family wealth preservation.

HMRC Seek Ebay Traders

Are you a regular seller on eBay? Are you proud of your perfect feedback? Are you pleased with the money you have made buying and selling things online? Did you know that the profits you make from trading on online auction sites are probably taxable and that HM Revenue and Customs (HMRC) is looking for you? Did you know that the profits of regular buying and selling at car-boot sales are also taxable?

HMRC have invested in a search engine tool to look for regular traders on eBay who do not declare their profits and/or who have not registered for VAT despite having a turnover above the VAT limit. HMRC expect to earn an additional £1m annually in VAT as a result. The initiative follows a successful targeting of regular car-boot sale traders, which has swollen the coffers of HMRC with additional income tax.

Undertaking transactions with a view to profit is taxable, but merely selling something one-off for more than you paid for it normally isn't. Certain one-off transactions may be subject to Capital Gains Tax (or, less frequently, Income Tax), although these are comparatively rare. The 'badges of trade' are many and varied, but if you buy and sell regularly and do so with a view to making a profit, HMRC will almost certainly consider you to be trading.

If you are trading, remember that your eBay fees, postage costs and other expenses such as PayPal charges will be deductible from your profits. Failure to advise HMRC of commencing to trade and failing to make a return of income may lead to penalties being levied in addition to interest charges for late payment of tax.

What is Taxable?

With the Government seeing fit to make HM Revenue and Customs (HMRC) a payer of benefits (pension credit etc.) as well as a collector of taxes, it is no wonder that people are becoming confused as to which sources of income are taxable and which are not. It is particularly confusing for pensioners, who may receive annuity income and various sorts of investment income as well as their pension.

Here is a short guide on what income is taxable and what income is not. Whilst it covers the most usual sources of income, it is not a comprehensive list.

We appreciate that we have previously included such a guide in an earlier newsletter, but we felt it to be so useful so as to warrant inclusion again.

TAXABLE

- occupational pensions (normally income tax will be deducted under PAYE);
- the state retirement pension (income tax is never deducted from this at source). The earnings-related element of the state pension is also taxable;
- interest earned on bank, building society etc. accounts;
- income from employment;
- personal pension income (excluding the capital element);
- debenture interest and interest received on government stocks or bonds;
- dividends;
- profits of any trade or profession;
- royalties; and
- rental income, net of allowable expenses.

NOT TAXABLE

- the capital element of an annuity or pension. Annuities have two elements. The capital element is, in effect, a return of part of the sum invested. The income element is, in effect, interest on the sum invested. Only the latter is taxable. The insurance company administering the annuity should issue a tax certificate showing the taxable amount annually;
- Attendance Allowance and Disability Living Allowance;
- premium bond, lottery and gambling winnings;
- interest earned on ISAs, etc. (when held to maturity);
- pension credits;
- The first £70 of interest earned on National Savings & Investments bank accounts; and
- interest earned on National Savings Certificates.

There are many other benefits, both means-tested and not means-tested. Some are taxable and some are not. If you receive a benefit and are not sure whether it is taxable or not, consult your local HMRC office.

There are also quite complex rules in some cases as to how the taxable amount is calculated, so just knowing that something is or is not taxable is often of little use in knowing what figure to put on your tax return. This is especially true when dealing with rental income.

If you were an employee before you retired, the tax office dealing with your affairs will often be the one that dealt with you as an employee. However, some pension schemes (especially those of large employers) are dealt with by specialist units at different tax offices. If you have any doubt as to which tax office you should deal with, your local tax office should be able to advise you if you supply your full name, date of birth and National Insurance number.

Many pensioners do not receive tax returns and therefore have no way of knowing whether they are paying too much or too little in income tax. However, under the self-assessment system the responsibility for making sure that the tax paid is correct lies entirely with the taxpayer.

If you have any doubts as to whether your tax affairs are being correctly dealt with, we can advise you.

A Refreshingly Different Approach to Money

If you have had any dealings with Woodgate Financial Services you will know that we see our role rather differently to most financial advisers. Our primary goal is **"To Improve The Quality Of Our Clients' Lives"** by helping them to take the actions necessary to achieve measurable results from their Financial Plan.

To create your Plan we need to understand what is truly important to you, and the first step is to complete your own Financial Road Map. This is a tool that we use to help our clients to get clarity about what's important to them, and the goals that they want to achieve. This Values Based Financial Planning™ approach is based on a method created by financial expert Bill Bachrach in San Diego, California, and our Planners have attended conferences in San Diego to study these principles in more depth. Adopting this process has had some profound results in our work with clients. It begins by asking "What's important about money to you?" and goes on to explore your values in depth. When you begin to understand the link between the actions that you take towards achieving your goals and the realisation of what is truly important to you, the results can be exciting and deeply satisfying.

If, as part of this process, you are going to delegate your financial decision-making to our Team, you need to know that we have a clear understanding of what you are trying to achieve, and of our own subject, so that you will get good results that move you towards your goals as efficiently as possible. We attend numerous Conferences and training sessions in order to keep up-to-date and to remain at the cutting edge of our profession, and in the course of those meetings we rub shoulders with many financial advisers from all over the UK and overseas. We know from our conversations with them that many remain rooted in a commission-based, transaction-oriented culture that focuses on producing new business from their clients, with much less regard for future servicing requirements. One indicator is the level of support staff within the typical 'old-model' adviser's office, which might have one administrator supporting two, three, or sometimes even five financial advisers. This contrasts with our own model, within which each client is served by a three-way Team comprising Planner (strategy), Paraplanner (technical) and Administrator (implementation) in order to get results. In fact, a great question to ask your existing financial adviser is how his/her office is organised. This can give you clues as to where their business priority lies.

The effect of this structure is to enable you to spend time on issues that really do improve your Quality of Life, such as improving your Relationships, your Physical and Mental Health, your Career and your Spiritual Life. The defining characteristic of all of these areas is that, as well as having a profound effect on your life's quality, none of them can be delegated. You can't delegate someone to read your kids a bedtime story, or to go to the gym to get you fit.

As well as staying abreast of the latest developments in the financial world, we are also looking into ways to enhance this 'Quality of Life' theme, and we have some interesting new ideas that we hope to share with you over the next year.

If you would like to experience this refreshingly different approach to financial planning, contact our office to arrange your free initial 'Financial Road Map' meeting on 01509 635467. We know from experience that you will enjoy the process, whether or not you ask us to proceed to create your own Financial Plan.

David Wright, MIFP,
Director, Woodgate Financial Services