PENSION SEMINAR

How Can You Profit From The Biggest Changes To Pensions In The Last 40 Years?

On the 6th April 2006 we enter a brave new world of pension planning. Suddenly, a dull and boring topic has come alive with possibilities, and you can't pick up a financial newspaper without reading something about the changes and their likely effect. So what is everyone so excited about?

Here are just some of the ideas that are fuelling the fire of interest in the new pension rules:

- Buy property - any property - at a massive discount, paid for by the taxman!
- Release previously 'locked-in' funds to be able to invest in a house, second-home, or any other investment asset
- Use your pension fund to pass wealth between generations and minimise inheritance tax
- Not only massively increase your pension contributions but arrange borrowing to gear up your investments even further!
- Avoid the need to buy poorly-performing annuities at any age
- Hugely increase your retirement income!

Of course, these headlines don't tell the full story. There are significant pitfalls for the unwary, and taking the wrong actions could reduce your pension instead of multiplying it. The changes have been billed by the Government as 'Pension Simplification,' but like most of the Inland Revenue's ideas; the devil is in the detail. There are very few people who won't be affected by these changes in some way, and you need to be prepared.

To help to guide you through the pension maze we are holding a Seminar on **Wednesday, 11th January 2006 at 7:30pm at Quorn Country Hotel, Leicester Road, Quorn** and we would like to invite you to come and join us to learn more about this most important subject.

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, and you are advised to reserve your place 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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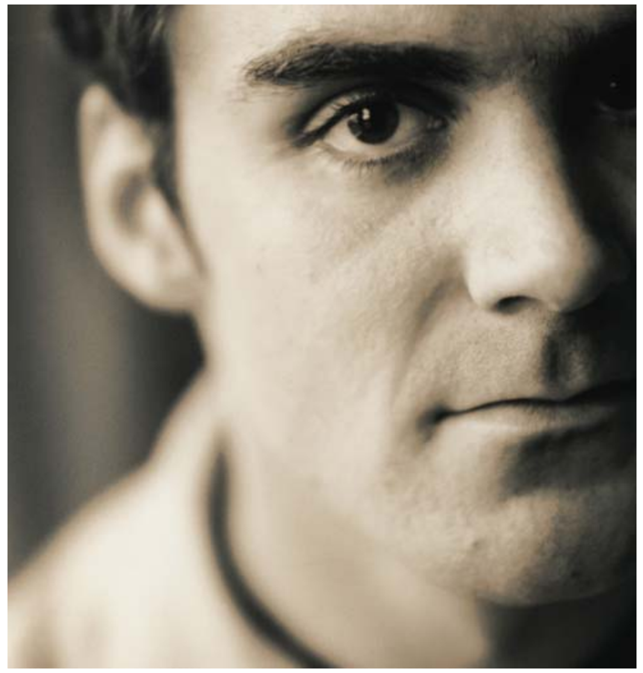
ACCUMULATION & MAINTENANCE TRUSTS

Accumulation and maintenance trusts are often used to give gifts to children that are conditional on their attaining a certain age, or to set aside funds for their education and maintenance. It is important to note that these funds must satisfy strict conditions owing to their favourable tax treatment.



The conditions are as follows:

- one or more of the beneficiaries of the trust must become entitled to an interest in possession (a right to present enjoyment of income or property) before the age of 25;
- no interest in possession subsists in the fund; (for further information regarding an "interest in possession" see later article)
- any income not used for a beneficiary's maintenance must be accumulated; and
- not more than 25 years may have elapsed since the trust was created or since the first two conditions were satisfied.

The maximum period for which such a trust may continue is 80 years, which allows beneficiaries not yet born at the time of its creation to be included.

Inheritance tax (IHT) may be payable on the creation of an accumulation and maintenance trust in a will. If the trust is set up by a living person then the transfer of assets into the trust by the settlor is a potentially exempt transfer (PET) for IHT purposes. This means that if the settlor lives for seven years after the creation of the settlement then no IHT will be payable. No IHT is payable if the beneficiary becomes entitled to, or obtains an interest in possession in the trust property, or if he or she dies before reaching the specified age.

Why Use an Accumulation and Maintenance Trust?

As the creations of such a trust (and gifts into it) are PETs, it is a way of minimising the impact of IHT. It may also be a useful way to set aside funds to cover the most expensive time of a child's life. One possible downside of these trusts is that the trustees are not afforded the wide powers granted to the trustees of discretionary trusts. They therefore have less control over the payment of monies from the trust than might be desirable in some circumstances.

It is vital to obtain advice if you are considering using any form of trust to ensure that it meets your needs and complies with the required conditions. We can advise you on all trust and wealth protection matters.

INTESTACY LAW REFORM - CONSULTATION

Since the majority of people die without making a will, it is perhaps surprising that so many people still believe that when someone dies intestate, the spouse or nearest relations automatically receive the whole estate, no matter how large. This is not the case.

Because of the way intestacy rules apply in the UK, there are now over 9,000 cases a year in which the spouse of a deceased person does not receive the whole estate. Last year, nearly 4,000 family homes needed to be sold as a result of intestacy.

In the UK, depending on circumstances, the spouse of someone who dies intestate will receive the first £125,000 of the estate where there are also children. If there are no children but there are parents or siblings, the spouse will receive the first £200,000.

Currently, nearly sixty per cent of UK estates exceed £125,000 and more than a fifth are over £200,000. The Department for Constitutional Affairs has recently completed a consultation process which it is hoped will lead to an increase in the above limits and thereby reduce the impact of intestacy. It is proposed to increase the limits to £350,000 and £650,000 respectively.

As the legislation necessary to bring this about is unlikely to come into force until late 2006 at the earliest, it is very important to make a will to ensure your wishes are carried out.

SECOND HOME ANYONE?

April 2006 sees the advent of new pensions legislation that may come as a boon to anyone seeking to secure a weekend retreat, a retirement home on the Costas, or even accommodation for student children. From then, the new Self-Invested Personal Pensions (SIPP) scheme will be in place which is designed to allow people to manage their pensions themselves, rather than relying on external fund managers. Under the SIPP legislation, residential property is a permitted investment.

The advantage of using such a scheme will be that tax relief at your marginal rate of income tax will be given on the cost of the property, because it is financed by a pension contribution. Any rents received are received tax free and the subsequent sale of the property is, unlike a normal second home, not subject to Capital Gains Tax. The relief is available for contributions of up to £215,000.

With such bounty on display, there must be a downside - and there is. Firstly, in order to make such an investment, there must be at least £75,000 in the SIPP fund. Secondly, the property will be owned by the pension fund, which will be responsible for meeting all necessary expenses. Thirdly, when you are in occupation, you will need to pay the appropriate market rent for the property to your pension fund.

In the long term, holding property in a SIPP should be attractive for tax purposes, but it does require careful thought. The point of a pension fund is, after all, to provide a pension and it remains to be seen, for example, how Local Authorities will deal with such assets when undertaking financial assessments of people needing care.

Contact our associated business, Woodgate Financial Services on **01509 635467** for advice on all aspects of your financial planning and wealth management strategy.

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INTEREST IN POSSESSION TRUSTS

- WHYS AND WHEREFORES

The interest in possession trust is a common form of trust. It gives the beneficiary an immediate right to the income from the trust. Such trusts are commonly used in will planning whereby a spouse is left property on trust for their lifetime (a 'life interest'). This gives the spouse (described as a 'life tenant' in trust terminology) a right to income for life, but on the spouse's death the underlying assets pass to the children. Interest in possession trusts are usually used in order to protect capital.

With proper drafting, such trusts can be quite flexible. The passing of assets by the settlor into an interest in possession trust is normally a potentially exempt transfer (PET) for Inheritance Tax (IHT) purposes, so if the settlor survives for seven years, no IHT is chargeable on the transfer. However, there can sometimes be problems with Capital Gains Tax (CGT) as the transfer into the trust during the settlor's lifetime is a chargeable disposal for CGT and there is no general relief for gifts into such a trust. However, there are certain reliefs ('holdover relief') for gifts of business assets, shares in trading companies and agricultural assets, which act to prevent an immediate charge to CGT on the settlor. The effect of the operation of holdover relief is that the trust takes the asset at the original cost to the settlor for CGT purposes. It may in some circumstances be better not to make a holdover relief claim and to pay a small amount of CGT on the gift rather than to have the trust pay a larger amount on the subsequent disposal of the asset.

Trustees of interest in possession trusts pay tax (currently) at 22 per cent on the trust's non-savings income, 10 per cent on dividends and 20 per cent on other savings income, such as interest. The expenses of the trust are set off against dividend income first, then other savings income, then non-savings income. The trustees have an annual exemption for CGT of (currently) £4,250 (ie half the personal annual exemption) and gains exceeding this figure are taxed at 40 per cent.

When the trust is wound up (i.e. the assets are distributed) there may be an IHT charge if the winding up is due to the death of the person entitled to the trust income or if the individual's interest in the trust terminates during his or her lifetime. There is no charge where the trust assets pass back to the settlor, or to the settlor's spouse within two years of the death of the settlor. There is no charge to CGT when a life interest terminates unless the assets pass to the life tenant absolutely. Where there are a number of beneficiaries entitled to an interest in land, the transfer of which is contingent on reaching a certain age, the transfer for CGT purposes occurs when the youngest beneficiary reaches the required age.

One advantage of such trusts is that when the life tenant dies, the asset values are uplifted to current market values for CGT purposes. One downside, however, is that taxable gains previously not taxed due to holdover relief claims then fall to tax, unless further claims for holdover relief are made. This is usually, but not always, possible.

If you have assets you wish to protect and are considering the use of trusts, contact us.