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Questions and Answers from Thursday 21 May 2020.

Q1) We have gifted £20k to our granddaughter for a house purchase - and simply asked our grandson in law to sign a note acknowledging that it was to be considered as a gift to our granddaughter alone, in the (hopefully unlikely) event of divorce. Does that stand for anything?

A1) The Family Court can consider contributions made by one party – here if your grandson in law has acknowledged in writing the nature of the gift from you to his wife then at least there is some evidence of that contribution which was presumably signed/ acknowledged at the time the gift was made. If the house is held in the joint names of your granddaughter and her husband then that additional contribution is not protected per se on the title (i.e. by showing your granddaughter owns a greater share) but as I indicated in the presentation the matrimonial home is usually treated as an asset which is considered as available for distribution equally in its entirety irrespective of who contributed to it or how the house is held. Also, arguments about ring fencing only really come into play if both parties needs can be met from the other matrimonial assets. If your granddaughter had put the monies in an account in her name and never touches it then it has a better chance of being able to be ring-fenced for her and excluded from the pot of assets to be shared. But of course, no doubt the gift was needed to buy the house in the first place! At the end of the day your grandson in law may simply acknowledge that his wife should have that sum back first and then divide the rest of the equity between them.

Helen Marriott, Brabners.

Q2) Is the £3000 annual allowance per child?

A2) Each individual has an annual allowance, currently of £3,000 that they can use to make gifts in any tax year but unfortunately it isn't per child. It would need to be split between them. If you haven't used your allowance from the previous tax year though you can roll that forward. We often encourage clients to use these allowances at Christmas or for birthdays as that makes them remember to use them! But again, all gifts should be recorded although they do not need reporting to HMRC other than in the event of death. Please note, this is up for review and we may see a move to a new annual gifts allowance soon that could be higher so watch this space - we will cover that in Webinar 3.

Moira O'Shaughnessy, Financial Planning Corporation.

Q3) What is the best way to secure funds to one side for care costs? We are early 70s now.

A3) You may have to pay for long term care if you don't qualify for local authority funding or you want to enhance your care. Funding is means tested so assuming you won't qualify then you will need to fund care from your own resources. Start by looking at what income sources you have and then assess the gap between that and the cost of care (which can be as much as £1,000 a week.) Lifetime cash flow modelling can help with this. You would then turn to savings and investments to meet the shortfall so ringfencing some capital to provide for long term care is sensible. Ideally you would want to be investing long term in

a risk appropriate blend of assets that is within your comfort zone. Investment bonds can be useful tax wrappers as they will usually be excluded from means testing calculations as they are classed as life insurance policies. However you need to take care that you are not seen to be deliberately depriving yourself of assets just to avoid care fees so early planning is a good idea and take advice as there may be other tax wrappers such as ISA's that are more suitable for your circumstances. There are also long-term care insurance products available, but they too need close scrutiny. Useful guides here:

https://www.payingforcare.org/calculators/residential-care-costs

https://www.moneyadviceservice.org.uk/en/articles/how-to-fund-your-long-term-care-a-beginners-guide#self-funding-your-long-term-care

Moira O'Shaughnessy, Financial Planning Corporation.

Q4) Can Claire and John be trustees of their trusts if they are beneficiaries?

A4) Yes there is nothing to prevent a beneficiary being a trustee and vice versa. There can be practical reasons why you might not have a beneficiary as a trustee, but we would talk this through on a specific case basis.

Duncan Bailey, Brabners.

Q5) How does your AIMS modelling cope with changing assumptions especially at times like this?

A5) We use powerful modelling software to build lifetime cashflow models for our clients, but they need to be bespoke and you can't use a "black box" approach. Our team of financial planners and investment advisers regularly review the assumptions we use in consultation with our independent investment economist and we stress test a range of scenarios such as what if expenditure inflation is higher than expected or what if there is a sharp stock market fall; alongside scenarios such as ill health, bereavement or long term care. However the most significant variable is how much you spend so time spent figuring that out is essential especially for the business owner who may have other family members who have relied on the business so their likely needs should be factored in to plus any costs that perhaps the business subsidised such as motoring, private medical insurance and travel. Most importantly that assessment needs to be made before a sale of a business not after it!

Moira O'Shaughnessy, Financial Planning Corporation.

Q6) Can I have more than one attorney?

A6) Yes - you can have multiple attorneys who can either act concurrently or you can have attorneys who only come into play if a prior appointment cannot act. For example, Sarah might like to have Thomas as her attorney but if he were unable to act, then she could have her children - John and Claire - as her attorneys.

Duncan Bailey, Brabners.

Q7) On first death if parents have gifted property into trust 50% to kids to avoid care costs. As this may impact on residents NRB can this be changed post death if parents present an IHT liability?

A7) We would need to check what the terms of the trust are but in theory the trust could be dismantled and there is the possibility of a reading back effect if this is done within 2 years of death.

Duncan Bailey, Brabners.

Q8) How much can you give away each year free of inheritance tax?

A8) The answers above are relevant but also note the ability to gift "surplus income" which we referred to in the webinar. There is no limit on this provided the gift (or the intention to gift) is regular (e.g. Monthly school or nursery fees) and you can prove that you had adequate surplus income above your normal day to day expenditure (odd one offs are not necessarily take into account). It's worth taking advice though about what "normal" might be for you. Here's a useful guide on the HMRC website that lists all of the gifting allowances you can take advantage of: **https://www.gov.uk/inheritance-tax/gifts**

Moira O'Shaughnessy, Financial Planning Corporation.

Q9) Are Pre-nuptial agreements binding?

A9) The short answer is no – they are not automatically binding. However, pre-nups can carry significant weight. At the time of a divorce if the financially weaker party wants to try to resile from the terms of the agreement, saying it don't meet needs for example, then the very existence of the pre-nup can limit or reduce what that party would otherwise have got if there was no pre-nup at all. This goes back to the discretionary nature and the extremely wide powers of the Family Court – always take advice so as to try to have peace of mind. Certainly if there is a disparity in wealth between the parties or, indeed if it's a second marriage, and say there are children of a first relationship that you want to protect then always take advice and consider having a pre-nuptial agreement (or indeed a post-nuptial agreement i.e.. made during the marriage) to give protection.

Helen Marriott, Brabners.

Q10) When should you take advice?

A10) Hopefully what we demonstrated in the webinar is that it is sensible to take holistic advice – that is consider what you want to do from an IHT/ gifting perspective from a Family Law perspective as well so as to maximise protection across the generations. In practice this is what we do – Duncan and I and other members of our respective teams work closely together with our professional connections to give that added value and best advice to our clients from our respective points of view.

Helen Marriott, Brabners.

Q11) Is there any limit on how much I can pass to my children ?

A11) No - there is no limit. You can give away any amount to anyone at any time. Such a gift is called a potentially exempt transfer as it is "potentially" exempt from IHT provided

you survive for 7 years. If you die within that time all of the gifts you have made in the previous 7 years are added together and if they exceed your inheritance tax allowance of £325,000 then a tax charge will arise and potentially that falls on the person who received the gift.

Therefore lump sum gifts should be tracked carefully and if appropriate short term insurance cover should be considered to cover any tax that might arise particularly if the funds have ended up being used to pay off a mortgage or are invested in property. The rules are different for gifts into a Trust so advice should be sought as a tax charge can arise on gifts in excess of your nil rate band.

Moira O'Shaughnessy, Financial Planning Corporation.

Q12) Will you be covering Family Investment Companies and if they can successfully integrate with Trusts?

A12) This will be too involved a topic to cover in the family overview webinars, so we may cover in a separate webinar. But do get in contact and we can provide some initial advice on this.

Duncan Bailey, Brabners.