Questions and Answers from Thursday 4 June 2020.

Q1) Is Business Relief the same as Business Property Relief?

A1) Yes. For some reason it changed in name (but name only) a couple of years ago. It is an encouragement for people to own and run trading businesses. The business has to be a trading business rather than an investment company and you need to have owned it for 2 years. But if you qualify it can give 100% relief against IHT on your business whatever the value so can be incredibly valuable so essential to take advice to ensure you and your business qualify. Because of this relief it also provides the opportunity to give away shares into trust prior to a sale which can have huge IHT benefits and needs to be a consideration ahead of any possible business disposal.

Duncan Bailey, Brabners.

Q2) How much can you put into pensions

A2) A few points to be aware of here:

The maximum you can contribute is referred to as the annual allowance and that's set at £40,000 a year so if you were paying that yourself you'd pay £32,000 net of tax and basic rate tax relief wold take it up to £40k and then you can claim any higher rate tax relief back on your tax return.

You can also carry forward any unused £40,000 from the last three years in some cases which is a handy tax planning opportunity

But high earners need to be careful as that allowance is tapered down. That used to start at £150,000 but from April the limit is a bit higher at £240,000 and it can come down to as little as £4,000 which makes pensions planning a bit of challenge for high earners so we have to look at other options

And note its TOTAL income that counts towards that not just salary so rent, dividends and interest all need to be taken into account.

This is something your financial adviser or your accountant can easily run the numbers on though and there are good online calculators too.

There's also the lifetime allowance to think about though too but that's a whole other topic so let us know if a pensions and estate planning webinar might be useful too.

Moira O'Shaughnessy, Financial Planning Corporation.

Q3) How do you decide what is a fair settlement?

A3) That's an excellent question – I spend my professional life trying to answer that very point!

We have a discretionary system in this country – which means that the court has a long list of factors it needs to consider – length of the marriage; ages of the parties and children; earning capacity etc – and then on top of that the court has very wide powers in terms of how to decide what is a fair outcome bearing in mind those factors.

What I always do when I'm advising to try to sense check my advice is to consider if I was acting for the other party what would I be advising them – so say I am acting for a wife then I will have an idea about what the settlement should be so I always ask myself if I was acting for the Husband what would I be advising him – i.e. to do the mental cross check. The Family Court always likes to encourage compromise and early settlement as there is not just one right answer.

For example in a short childless marriage where the parties are in their thirties with relatively few assets then the outcome is pretty clear cut – but in a long marriage where say one party doesn't work or there is a health need or the parties are nearing retirement then the answer may not be so clear cut. When you look at it that way – i.e. based on the facts of each individual case then it is easy to see that one size does not fit all. I hope that helps.

Helen Marriott, Brabners.

Q4) Is there a limit to how much you can give away?

A4) There is no limit. Some people get confused by a figure of £3000 - that isn't a cap but just the sum that gets ignored even if you don't survive the usual 7 year period from making a gift.

Duncan Bailey, Brabners.

Q5) How can you possibly know how much is enough until after the event?

A5) How can you fully know that – life throws too many swerve balls at us to ever be sure - but the advantage of modelling is that you can look at a range of options and look at the shape of a deal – it's no different to cash flow planning in a business you are just doing it for yourself.

It can also give a visual context to a huge decision and it helps you look at the tax issues and get some of those conversations started about what life might be like after an exit

The key message is to be thinking about it in advance and ideally you should also be looking to make provision for yourself outside of the business so that you are not dependent on a sale.

Moira O'Shaughnessy, Financial Planning Corporation.

Q6) Can the Family Court attack a trust?

A6) The simple answer is yes it can but that doesn't mean it will. The Court has very wide powers and a wide discretion.

The party who is a beneficiary of a trust should declare the existence of the trust and then its relevance or otherwise is going to be considered by reference to how it has been treated during the marriage– if a beneficiary has always received a regular monthly payment say from a trust then it's reasonable to assume that will continue. If by contrast a party has never had anything from a trust then it is far less relevant.

So in simple terms take advice not only in the setting up of the trust - that's a Duncan question - but also how to deal with it from a family perspective.

A word of comfort though - the very existence of a trust clearly denotes a protective wrapper around family money, so it does make it harder for the Family Court to attack.

Helen Marriott, Brabners.

Q7) What happens if you make a gift an do not survive 7 years?

A7) The 7-year rule relates to Inheritance Tax. If you don't survive by 7 years the value of the gift comes back into account and to the extent it is not covered by your allowances or exemptions can attract IHT but the rate reduces the further into the 7 years period you survived.

Duncan Bailey, Brabners.

Q8) We are early 70s, considering downsizing from our large home in the next few years. Can we use the surplus released to set up a pot of money useable for future care costs - or if not needed passed to our children in the most tax efficient manner. Our total joint estate is approx. £1.8M with the main home value £650k

A8) Firstly, check out our first webinar when we talked about a retired couple downsizing and releasing funds. They had the same concerns about long term care and had a similar sized estate.

We also had a question about funding long term care costs in the Q&A so check that out too!

On the point of using the surplus for care costs yes depending on your tax position there are a range of options but investment in ISA's and investment bonds are likely to be helpful and tax efficient.

You should review your Wills to ensure your estate ultimately passes to your children as with an estate of less than £2m you will qualify for the main residence nil rate band so between you your estate will have an inheritance tax free allowance of up to £1,000,000. And don't forget to get lasting powers of attorney in place too. The Brabners personal team can help with all of that.

Moira O'Shaughnessy, Financial Planning Corporation.