WINTER 2012

For Life

NEWS AND ADVICE FROM BIRKETT LONG

I bequeath my online photo album to...

As a solicitor you read many wills, and some of the bequests can be quite unusual. A personal favourite of mine is 'I leave my granddaughter the stuffed Teddy that sits by my bed next to the radio'.

However, with the increase in the 'digital age' maybe we need to start thinking not just about the physical possessions that we have but our possessions that are stored in digital form.

The term 'digital assets' can include a variety of possessions such as iTunes credits and music collections, Netflix film accounts, online photo albums, email accounts and online magazine subscriptions. Therefore, it might be appropriate to compile a list of these assets with the fitting passwords so that your family can access these assets upon your death. This will ensure that they are not 'lost' in cyberspace, and that your family can retain the benefit of these assets.

Although some people may think that these sorts of assets are 'worthless', this is not the case. It is estimated that people within the UK have £2.3 billion in assets that are comprised of music, film, 'apps' and online subscriptions. That is a staggering amount that is often not included in people's wills. It is also important to remember that the data that you store through these programmes has not just a monetary value, but a personal one as well.

Should you put legacies into your will that covers specific digital assets? Why not? Your online assets can be just as important as your other possessions and whilst some people like to leave their record collections to a specified person, this is no different in the digital age to leaving an iTunes account to a loved one (just make sure they share your taste in music of course!). So why not consider making or amending your will to include a gift of your digital assets? At Birkett Long we will tailor-make your will, or the amendments, and will offer fixed fees for doing so.

Kayleigh O'Donnell
01245 453837
kayleigh.odonnell@birkettlong.co.uk

Are you making the most of tax savings?

Here are just a few tax efficient ideas, but always seek independent financial advice to ensure you are utilising your tax allowances and to review your financial arrangements. All figures relate to the 2012/13 tax year.

Pension tax relief: Pension contributions qualify for Tax relief at your marginal rate of Income Tax up to a gross annual allowance of £50,000. With tax relief of up to 50%, pension contributions can be a very tax efficient investment for retirement.

Maximise pension contributions: If you earn a gross taxable income in excess of £150,000 per annum and pay tax at 50%, you could maximise your pension contributions before the 50% tax rate is "removed". In the 2012 Budget, George Osborn confirmed that the 50p Income Tax band would be scrapped in April 2013 (and replaced with a new 45% tax rate). With higher rate relief under threat, some people may bring forward their planned pension contributions (subject to annual allowance) and utilise the carry forward rules.

Carry forward rules: If you have put £50,000 into your pension for the current tax year you could carry forward unused allowances for the three previous tax years. In certain circumstances this can enable pension contributions of up to £200,000.

Use your family's pension contribution allowances: If you have maximised your own contributions, consider making payments into your partner's pension. Even if your partner does not work and pay tax, pension contributions up to £3,600 gross still qualify for basic rate tax relief. You could even consider adding to a pension for your child or grandchild – again contributions up to £3,600 each tax year qualify for basic rate tax relief. The potential benefit is up to £720 (£3,600 x 20%).

Avoid paying Capital Gains Tax (CGT) with pension fund investments: Once cash is contributed into a pension no CGT is payable on any gain on investments made within the pension fund.

A tax free cash sum: You can normally take up to 25% of your Pension Fund as a Tax Free Cash Lump Sum from age 55 (subject to the Lifetime Allowance).

Annual gift exemption
Have you utilised your annual gift exemption? Up to £3,000 in each Tax Year is exempt from Inheritance Tax (IHT). You can carry forward £3,000 unused relief from the previous Tax Year. No further carry forward is permitted.
Exempt gifts:-
i) Wedding & civil partnership: These gifts are exempt from IHT. Parents can gift £5,000,

Bare essentials

Legal facts you can't do without

Teachers in a tougher system
We all know that our children respond and learn better when they have the best teachers leading the way but we also know the damage that can be done to a child's progress and enthusiasm when their teachers are not performing.

The Government has decided that too much red tape has been hindering schools from dealing with those poorly performing teachers or from knowing whether they are about to take on a member of teaching staff who has a history of poor performance.

New Regulations now mean that where a teacher applies for a post at a maintained or academy school, that the school can request the governing body of a maintained school where the teacher has previously worked, to confirm whether that teacher has been the subject of capability procedures (within the last two years) and to give details of these.

For more details about teaching staff and schools, please contact Emily Brown at emily.brown@birkettlong.co.uk

(School Staffing (England) (Amendment) Regulations 2012 (SI 2012/1740))

grandparents £2,500 and anyone else £1,000.

ii) Small gifts: Up to £250 can be given to as many individuals as you like free of IHT (this cannot be combined with other annual gifts).

Gifts from surplus income: These have to be made from post tax (i.e. net) income. The key issue is that payments are regular – "one off" payments could be treated as Potentially Exempt Transfers (see below).

Potential Exempt Transfers: Gifts to individuals are exempt from IHT so long as you live for seven years after making the gift. You cannot retain an interest in the gift, e.g. giving your house away but continuing to live in it rent free.

Use your ISA allowances for the current tax year: You can invest up to £11,280 of which up to £5,640 can be in a Cash ISA (2012/13). There is no tax on interest/ dividends and no CGT on profit.

Junior ISA: Under 18s who do not have a Child Trust Fund qualify for a Cash ISA - maximum contribution £3,600.

Venture Capital Trusts: 30% Income Tax relief is available on investments up to £200,000 per tax year into new shares issued in qualifying companies. The investment qualifies for tax free dividends and exemption from CGT on disposal of the shares provided they are held for five years.

Enterprise Investment Schemes (EIS): 30% Income Tax relief is available on investment up to £1 million per tax year into shares in companies granted EIS status. Such investments attract tax free growth and up to 50% loss relief on investments that fall in value, provided they are held for 3 years. 100% Business Property Relief for Inheritance Tax purposes is available where the investment is held for a minimum of 2 years. EIS schemes and Venture Capital Trusts represent a very high level of investment risk.

Charitable gift aided payments: Made from post tax income, these are highly efficient for higher rate tax payers wishing to make charitable gifts. Tax between the higher and basic rate can be reclaimed by the donor.

For your free 30 minute financial review contact Paul Chilver on 01206 217614 or email paul.chilver@birkettlong.co.uk

Nicola Ward
01206 217308
nicola.ward@birkettlong.co.uk

Meet the team

Nadina Edmondson

Nadina Edmondson is an Associate in our Commercial Litigation team who specialises in serious and complex medical negligence cases and personal injury claims. Nadina joined us 6 years ago, after a 20 year career based in Essex representing accident victims.

Injury and negligence claims attract a high profile in the press as the stories are used to support the argument that there is a so-called "compensation culture" However a serious accident particularly a medical accident, can have life changing or even fatal consequences for the victim and his or her family, and Nadina believes that such claimants deserve adequate recompense by way of damages to help them get their life back on track. Nadina says: "many of my clients have suffered very serious injuries and as a consequence may also have financial worries. Defendants and their insurers are well resourced have access to good legal advise and can also be obstructive. I will fight tooth and nail for my clients to get them the compensation they deserve".

Nadina Edmondson
01245 453827
nadina.edmondson@birkettlong.co.uk

under the spotlight

The perils of joint ownership

The recent court case of Jones v Kernott had dramatic consequences for the parties involved and has shown once again how important it is that when unmarried couples buy a property they need to decide at the outset how they will own that property and how both of them will contribute towards its maintenance and repair, as well as paying any mortgage on the property. A failure to take the time to agree these basics before you buy could cause you longer term headaches in the future.

Whilst this may incur some additional legal fees at the outset it is likely that these will be far less than the costs which could be incurred if you end up arguing about the ownership at a later date or worse still end up in costly litigation.

Your solicitor can advise you about the various forms of co-ownership and, if necessary, draw up the appropriate documents which can identify both your intentions regarding the ownership of the property and your responsibilities towards each other. Provided that the arrangements which you have agreed are adhered to, when the property is sold or should your relationship end you will both know exactly what to expect. If matters get to this point it is likely that you will both need to rely on the agreements reached when you first set out.

The agreements you reach may of course change because of your circumstances. If that happens then any deed you have entered into can always be changed by agreement. If there are any changes, the worst thing you can do is to ignore them or wait and do nothing. The longer you wait the harder it is to remember what the changes were and to agree on what should be done.

Always make sure you keep all documentation relating to your joint ownership of property up to date. It will help a great deal in the long run and lead to less arguments or disputes about what you both agreed.

Should you move out of a property for any reason it is extremely important that you change your address for service at the Land Registry as this is the only address the Land Registry will use should they have to write to you for any reason about the property. You can have up to three addresses, including an email address, but at least one of them must be a postal address.

Should you have any queries our property experts at Birkett Long LLP are here to help and guide you.

Kurt Goddard
01206 217391
kurt.goddard@birkettlong.co.uk

Forthcoming events

Coming up in 2013:

- **Seminar on how to reclaim care home fees**
- **Investments and legal advice seminar for individuals**

BIRKETT LONG LLP

PHOENIX HOUSE
CHRISTOPHER MARTIN ROAD
BASILDON SS14 3EX
T 01268 244144

ESSEX HOUSE, 42 CROUCH STREET
COLCHESTER CO3 3HH
T 01206 217300

NUMBER ONE, LEGG STREET
CHELMSFORD CM1 1JS
T 01245 453800

E LEGALNEWS@BIRKETTLONG.CO.UK
WWW.BIRKETTLONG.CO.UK

Reference: NEWS/FORLIFE11/2012