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## Welcome

I'm not sure that newsletters are a good idea but many of you have said you would like one so here it is – our new venture for 2016. As you know, we advise on many matters relating to the elderly and, if we can't help, then we can probably find a lawyer who can.

For instance, elderly people can just as well have a road traffic legal problem – speeding at age ninety is still an offence, forget the age! We have successfully referred clients to another lawyer who has represented them in the ensuing court case; and while they were not totally absolved, they received a lesser sentence than expected.

And what about divorce? Personal injury or commercial matters? Some of our clients have approached us with legal problems such as these and although we don't have the expertise – we know someone who does.

The law is so multi-faceted nowadays – did you know, for instance, that there are lawyers specialising in dental negligence? So no lawyer can be what is called a 'general practitioner'. Our expertise involves caring for the elderly; making sure their finances are looked after (but not advising on specific products, that's another specialty), making sure they obtain the benefits that are available, and that they get the social services assessments and funding that they are entitled to, as well as helping with the

sales and purchases of properties where there is no mortgage involved. We also help clients deal with estates when their loved ones die. Even if they want to do the process themselves, we can advise on parts of that process.

One of the points I thought about over the Christmas break is the way we get involved in a sort of 'social counselling'. What do I mean by that? Many of our clients approach us in states of deep distress, either trying to cope with the illness of a loved one, or with grief. All of us here recognise the signs of stress and try to put the person at their ease, and not rush into the legalities of the situation. We know that, until a person has reached a sort of calm, they cannot concentrate on the advice we give them which may involve using unusual words, although we try to avoid complicated legal phrases.

So, compliments of the season and I hope that the articles in the rest of this newsletter are of interest.

*Jennifer*



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## **Extra inheritance tax exemption for children?**

by Jennifer Margrave

We have been asked by numerous clients about the new proposals announced in the Summer Budget 2015 to introduce a residence nil rate band (we'll call it 'RNRB') of £175,000.00 if your house is given to your children. But how is it going to work? Who is included in the definition of 'children' – and when is it coming in? Should you change your will now?

The first point to note is that the government has said legislation will be introduced in the Summer Finance Bill 2015 and will not come into effect until 2016 – and then, only the first tranche of an extra £100,000.00 to be added to the existing £325,000.00 nil rate band.

Then the amount will be increased annually until we reach the £175,000.00 by 2020-2021.

It should be stressed that the extra exemption only relates to the deceased's interest in a residential property, which has been their residence at some point and is included in their estate, is left to one or more direct descendants on death. A direct descendant will be a child (including a step-child, adopted child or foster child) of the deceased and their lineal descendants.

There is a sting in the tail: The RNRB will be tapered away where the net value of the estate is above £2m.

Should anyone be doing anything now?

Our first piece of advice is to *stop and think* and don't let the tax tail wag the dog. You, the testator, won't be paying the inheritance tax anyway; it will be your beneficiaries. And it is more important to make sure those you love and want to benefit obtain your bounty rather than create artificial gifts to children when there might be others you want to benefit. The government has made the assumption that all parents want to ensure their children or direct descendants inherit, but this is not always the case and, if there are good reasons for leaving your estate to others, then do so after seeking advice and while those beneficiaries may not get as much as you would

wish, they will still get most of your estate.

It seems to be forgotten that inheritance tax, at present, is not paid on the first £325,000.00 of an estate and is then taxed at 40% of what is above that £325,000.00 so, unless your estate is in the millions, the 'tax rate' is likely to be in the region of 32% - the beneficiaries get nearly 70% of the estate. And if the estate is worth millions then millions will still go to the beneficiaries.

Most will leave their estates to their spouses when they die and with the transferable nil rate band on the second death that surviving spouse can leave £650,000.00 of their assets tax free provided no lifetime gifts have been made in the 7 years prior to death.

Interestingly legislation in the Finance Bill 2016 will provide that where part of the RNRB might be lost because the deceased has downsized to a less valuable residence or had ceased to own a residence on or after 8 July 2015 part will still be available provided the deceased left that smaller residence or assets of equivalent value to direct descendants.

The government has said they need to consult regarding the way in which the new exemption will work in these situations. Already we can see difficulties. Imagine this scenario: an elderly widow owns a house worth £850,000.00 and decides to leave it to her grandchildren who are still struggling to get on the housing ladder. She makes a specific gift in her will, leaving the remaining cash and other assets, to her children. Most of her investments are in tax free wrappers such as ISAs.

Unfortunately, the shock of the solicitor's bill makes her keel over and she breaks her hip and this leads to nursing home admittance. The children, who step in to help, sell the home and start using the proceeds to pay for her care, not keeping any records. She survives for ten years and most of the house proceeds are used up but she still has her ISAs because she paid no tax on the growth and income.

Who will get the estate? How will the family work out what, if anything of the sale proceeds go to the children? Will this cause a family rift?

Or what about the elderly aunt, who, with no direct descendants, has always been involved in her siblings' families



and wants her nieces and nephews to be able to take advantage of the new exemption? The simple answer to that is that she can't.

There are other points that we won't go into now but remember what we said – don't let the tax tail wag the dog. If you really want to give your house to your children, as part of your testamentary wishes, then consider making a will with a specific clause in it but be careful of the consequences.

And watch this space as we'll update as more information becomes available.

### **85% in the South East leave life-changing decisions in the hands of strangers**

- Alarming new report reveals people in the South East leaving major decisions about housing, assets and care to chance
- 86% want loved ones to make decisions in the event of illness or accident – but only 12% have created a lasting power of attorney (LPA) to enable this
- People in the South East are better at planning for death than later life; 44% of people with a will vs. only 12% with an LPA

85% of people in the the South East are currently living with no control over important later-life decisions around their housing, assets, health,

and care, according to a new report by SFE (Solicitors for the Elderly), the national organisation representing legal professionals such as Jennifer Margrave Solicitors LLP specialising in helping people plan for later life.

The report reveals that whilst 44% of people in this region have a will in place to manage their affairs after death, only 12% have a lasting power of attorney (LPA) in place to safeguard their wishes in the event they are no longer able to make decisions for themselves, due to accident or illness like dementia.

86% want a family member or friend to make important decisions on their behalf, in the event of illness or an accident. However, few are aware that without an LPA in place, any individuals' affairs, such as their end-of-life wishes and health treatments, can be left in the hands of third party solicitors, social workers, medical doctors, or the British courts.

Even the minority of people that have taken steps to plan ahead for later life may still be at risk, due to poor quality legal advice and invalid documents. 52% of the people with LPAs in place did not use experts or legal guidance, instead taking a gamble using online

resources, non-legal advisers, or off-the-shelf kits.

**Lakshmi Turner, Chief Executive of SFE, said:** "Most people assume that if they suffer an illness or accident, their next of kin will be responsible for vital decisions. The reality is starkly different – loved ones may not be able to make a decision on your behalf unless you have an LPA in place.

An LPA is by far the most powerful and important legal document an individual can have. If you have children, own a home, or have views on your preferred health treatment, we urge you to go to an expert to get the right advice."

SFE is an independent, national organisation of professionals, such as solicitors, barristers, and chartered legal executives, committed to providing the highest quality of legal advice for older and vulnerable people, their families and carers.

To download the report 'Who will decide for you when you cant?' go to: <http://www.sfe.legal>

## 100-year-olds in the UK quadruple

The number of people living in Britain living to 100 has quadrupled over the last 30 years, figures show. In 2014 there were 14,450 centenarians living in the UK including 780 over the age of 105 – a record high, the Office for National Statistics revealed. More people are set to reach their centenary in the next few years with 550,810 Britons already aged 90 or over, almost three times the 187,250 in 1984. The number of centenarians living in the UK has risen by 6,030 – a 72% jump in the last decade alone. Diet, exercise, better housing, safer jobs and improving medical care have contributed to the rise. (Source: *The Express*)

## Office news

We are pleased to inform you that we are planning to introduce Julie Orgill into the partnership at the end of March, more information in our next newsletter.



"The first thing we do," said a character in Shakespeare's Henry VI, is "kill all the lawyers."

Contrary to popular belief, the proposal was not designed to encourage people to murder us, it was intended to eliminate those (and there were others) who might stand in the way of a contemplated revolution - thus underscoring the important role that lawyers can play in society.