

Inheritance Tax and the Family Home

Many people have lived in the same family home for years and want to stay in their property for the rest of their lives. They may also be concerned about inheritance tax and preserving this asset for the next generation.

A number of schemes have fallen foul of the pre-owned asset rules,



where there is benefit deemed to be arising from the free or low-cost enjoyment of tangible and intangible assets that the individual formerly owned, or provided the funds to purchase.

However, one very simple scheme might just provide the answer to this problem for the over 65's. This new investment opportunity in residential property has been introduced to the market to help individuals remove all or part of the value of their home from their estate, whilst allowing them to live in it.

How it works is that the investor enters into a 'home reversion' transaction. The market value of the investor's home is agreed by two independent valuers and is then sold to a life assurance home

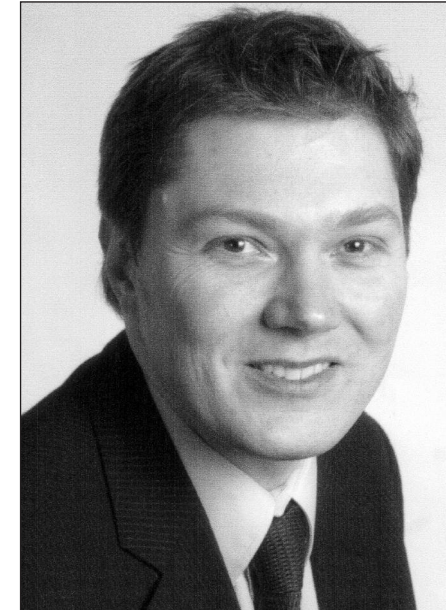
reversion fund and some of the proceeds are used to lease it back for the duration of their lives. Importantly they also retain the right to live there or to move home, should they wish to in the future.

The property is effectively converted into a unitised liquid asset, units of which can be given to children, grandchildren or others. On death, any unencashed units in the home reversion fund will mature and their value be realised.

Units which have been given away will be free of any inheritance tax liability, if the investor has survived 7 years after the date of the gift.

Please contact Ian Shipton on 01934 637 914 or email shipton@powellslaw.com for further details and advice.

Stephen joins the fold!



Powells Property and Commercial Department is pleased to welcome Stephen Soper, an experienced property lawyer (despite his young good looks!). Stephen was previously with a Legal 500 firm and specialises in our growth area of business sales, leases and tenancies.

Away from the heady world of commercial law, Stephen is a keen sportsman and recently completed his first triathlon.

For advice on business legal matters telephone Stephen on 01934 637 915 or email soper@powellslaw.com

we keep you informed

Time Licensees Please

Implementation of the biggest licensing reform for 50 years is nearly upon us.

The first appointed day under the Licensing Act 2003 is 7th February 2005. Between then and 6th August 2005, individuals on Justices' Licences can each apply for a new Personal Licence, to authorise them to sell alcohol, and to convert their existing Justices' Licence into a new Premises Licence.

On the second appointed day, which is likely to be in November 2005, all existing Justices' Licences will automatically expire. If you have not obtained new style licences by then, no more trading!

If you need advice on the new regime or assistance making applications for Personal or Premises Licences please contact Glyn Evans on 01934 637 911 or email on evans@powellslaw.com.

Legal Aid in Tribunal Cases

The Law Centres Federation called for legal protection against discrimination, stating that people are unable to defend their human rights because of a lack of tribunal representation. The Department for Constitutional Affairs has said that funding is already available for some appeal tribunals, including the Employment Appeal Tribunal.

Issue 11 February 2005

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Employment Law – review your procedures!

Employers need to review their disciplinary, dismissal and grievance procedures to ensure they comply with new statutory standards, or face increased compensation awards.

The new standards aim to encourage employers and their staff to deal with disputes internally and reduce the number of cases that reach employment tribunals. If the employer fails to comply with the statutory procedure, the dismissal

is deemed to be automatically unfair and the compensation can be increased by 10 to 50%.

In addition, in certain circumstances the time limit for bringing a tribunal claim has been expanded to six months.

Please contact Russell Dean on 01934 637 930 or email dean@powellslaw.com for further information and advice.

Fair play in love and football

The Court of Appeal has heard the appeals in the cases of two footballers, *McFarlane* and *Parlour*, their wives and in each case three children. The cases were heard together because they involved essentially the same issues: how to assess spousal periodical payments in high net income cases, how the surplus over “needs” is dealt with, and whether English law involves an element of compensation or equitable sharing.

All three Court of Appeal judges stressed the exceptional nature of these cases, and their narrow application.

The appeals were allowed and the amount of the periodical payments increased, but in each case

the “joint lives” order was replaced with a term maintenance order (5 years in the case of *McFarlane*, 4 years in *Parlour*). These were designed to enable the wives to save, over a short term, capital to enable them to become self-sufficient – but this is only appropriate if a clean break is achievable within 5 years.

In the exceptional *Parlour*-type case, maintenance will equate to a fair share of a mega income. However, a “joint lives” order is likely, in the vast majority of modest income cases, to be correct.

Please contact Bobby Ferrari on 01934 637 905 or email ferrari@powellslaw.com for further information and advice.

Injury to feelings

Lords rule on dismissal damages

In *Dunnachie v Kingston-upon-Hull City Council*, the Court of Appeal controversially held that compensation for unfair dismissal could include not only direct financial losses – such as loss of earnings – but also non pecuniary losses caused by the manner of dismissal where there was a “real injury to [the employee’s] self-respect”. This opened the way for “injury to feelings” awards for unfair dismissal in appropriate cases.

The House of Lords has, however, unanimously allowed Hull City Council’s appeal, ruling that non-economic loss is not recoverable in a claim of unfair dismissal. Accordingly, Mr Dunnachie’s claim for compensation for the humiliation, injury to feelings and distress he suffered as a result of his constructive dismissal was rejected.

Whilst this is welcome news for employers, managers will need to be cautious in handling disciplinary and dismissal processes so as to ensure that their conduct does not give rise to potential contract claims.

Please contact Terri Mason on 01934 637 910 or email mason@powellslaw.com for further information and advice.

Staff Focus

Kelly Williams



Kelly is a real Powells success story. She started with us as an Office Junior in 1998 and over the years has studied in her own time, to the extent that in 2004 she became a Fee Earner in the Criminal Department. Kelly acts as a Criminal Clerk and is also well on the way to becoming a fully accredited Police Station Representative.

Terri Mason



Success for Terri, too! She has now qualified as a Solicitor, having carried out her training at Powells. She shares her workload between the Civil Department and the Family & Crime Department.

we keep you informed online @ www.powellslaw.com

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