Bircham Dyson Bell

# Individual Matters

## In this issue

We are delighted, in this issue of *Individual Matters*, to welcome our first guest writer, Patricia Garcia of the Spanish firm Avantia – International Tax and Legal Services.  Patricia summarizes recent changes to Spanish taxation which will have a significant and immediate impact on individuals who own residential or commercial property in Spain.  This upheaval produces winners and losers, but one thing is clear: all foreigners owning properties in Spain need to review their position now.

James Denker continues the international theme with an article that raises a few of the many ways in which international estate and tax planning issues can arise, sometimes without the individual even being aware that there is an international dimension to their affairs.

Helen Ratcliffe and Siân Jones each look at topics that affect both UK individuals and those with offshore interests: Helen considers appointments of new trustees, while Siân reviews the treatment of trust funds on divorce in the context of the *Charman* decision – the recent progress of this case through the courts received a lot of press attention.

Nearer to home, Nick Humphreys covers a topic that will be important to employers and employees alike, some early pointers from the European Court of Justice about the scope of the new age discrimination rules, while Alastair Collett and Carolyn O'Sullivan consider the way in which some of the media has overreacted to the *Phizackerley* case, calling it the end of inheritance tax planning by Will.  Lastly, Judith Morris highlights an issue of relevance to almost every individual: whether they should be making an Enduring Power of Attorney in the next couple of months to provide some protection against the possibility of their mental faculties failing.

*If you are not already a regular recipient of Individual Matters and would like to be added to our mailing list, please contact Christine Clemo, T: 020 7227 7015; E: christineclemo@bdb-law.co.uk*

***Judith Morris***
*Editor and Consultant*
*T: 020 7227 7015*
*E: judithmorris@bdb-law.co.uk*

*Judith Morris, the editor of this newsletter, is a consultant who advises across the full spectrum of private client work.  She writes regularly for professional journals and is a published author contributing to legal textbooks.*

**Contents**

# Spanish Tax Reform: good news or bad for owners of Spanish property?

*by Patricia Garcia*

**Patricia Garcia**
Partner: Avantia – International Tax and Legal Services
T: 0034 94 423 2156
E: patricia.garcia@avantia-fo.com

*Patricia Garcia is a partner at Avantia - International Tax and Legal Services, an independent firm providing Spanish tax and legal services to national and international private clients. She has over 15 years of relevant professional experience at PricewaterhouseCoopers and Ernst & Young, where she was a partner in its Private Client practice. Patricia is a Spanish practitioner with UK professional qualifications in the field of taxation (ATII, 1992), a regular speaker at international events and an ongoing contributor to specialist publications. She currently oversees the International Private Wealth team at Avantia (www.avantiafamilyoffice.com).*

*Individuals who own property in Spain – whether residential property which they occupy and perhaps let for part of the time, or commercial property which they own for investment reasons – will want to know about a recent major upheaval in Spanish taxation. Individuals with simple structures may find themselves pleasantly surprised, but all holders of Spanish property need to review their tax position as a matter of some urgency.*

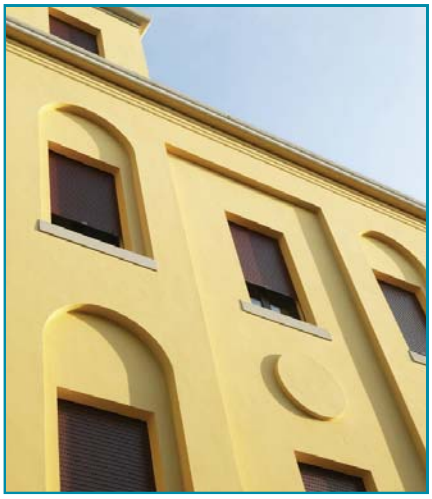
On 1 January 2007, the Spanish tax legislation was amended to introduce significant changes to the tax regime for individuals and companies. The changes are particularly important for individuals who own real estate in Spain. This article will look at the implications of the reforms for the most common ways of holding Spanish property. Any UK resident owner of Spanish property will also need to consider the UK tax implications of owning Spanish property.

## What if I own the Spanish property directly?

Individuals who are not Spanish resident but hold Spanish investments directly have generally benefited from the reform - the Spanish tax charge on the eventual capital gain (for example, on a sale of the property) has been reduced from the previous 35% to the current 18%. However, those individuals continue to be subject to income and wealth tax charges on an annual basis on their Spanish assets, and to significant Spanish inheritance tax liabilities on an eventual inheritance or gift of assets situated in Spain. Spanish inheritance tax is generally in the region of 34%.

## And what if I own the property through a Spanish company?

Taxpayers who are not resident in Spain but hold Spanish investments through a Spanish company also need to evaluate the effects of the new legislation, particularly where the company is a Passive Investment company ('sociedad patrimonial'). Passive Investment companies will no longer benefit from the reduced 15% rate on long term capital gains: they will be taxed under Spanish corporation tax rules. The current standard corporation tax rate is 32.5%.



If the shares of the Spanish company are held directly by an individual who is not resident in Spain, they may benefit from the new tax framework if the disposal of the property is arranged as a share transfer – the Spanish tax charge on the gain has also been reduced to 18%. The investor will, however, continue to be exposed to an annual Spanish wealth tax charge, if no tax treaty relief is available, and to eventual Spanish inheritance tax costs.

## Are offshore vehicles any good?

The amended legislation has mostly negative implications for individuals who are not resident in Spain but own Spanish properties through offshore companies. These include bringing into the Spanish corporate tax net all companies domiciled in tax havens and zero tax jurisdictions, if the underlying assets mostly consist of Spanish real property and property rights. All arrangements of this sort now require careful review to improve their tax position.

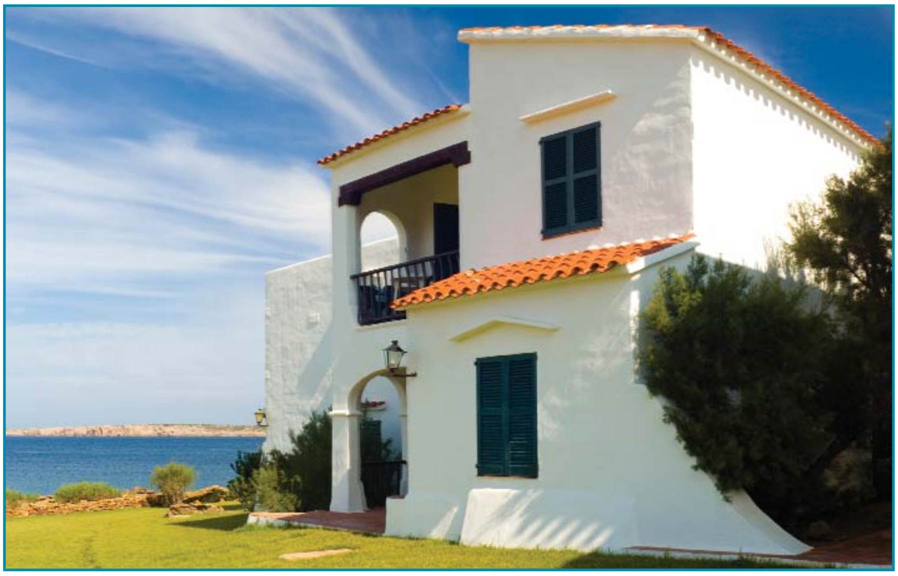
## Is there anything else of which I should be aware?

The reform also contains other important amendments to certain provisions relating to privately used residential properties owned through companies. In some circumstances, deemed rent or dividends may be treated as if they have been paid and Spanish tax charged accordingly. There may be significant penalties if specific backup records are not duly kept.

Those owning property in Spain also need to reassess their overall position in terms of tax compliance, including the provisions regarding the obligation to appoint a tax representative in Spain.

## Is there any way out?

There are strategies to deal with the issues which have arisen. For example, individuals who are not resident in Spain but are considering a direct purchase of a Spanish property might take up a suitable mortgage in order to manage the wealth tax and inheritance tax exposures. Investors in Spanish Passive Investment companies should consider the possibility of realising all or part of the gain under current transitional rules. Individuals with offshore structures should consider



company migration strategies or mechanisms to dilute the overall Spanish asset base of the structure.

One of the main objectives of the reform is to increase tax revenues by addressing offshore real estate holding schemes. This, paired with the noticeable (and highly publicised) increase in Spanish tax

> **Those owning property in Spain also need to reassess their overall position in terms of tax compliance.**

audits on offshore structures which have significant Spanish real estate investments, makes it necessary for international private investors with Spanish real property to perform a detailed review of their existing arrangements to determine how the tax changes affect them, and how best to accommodate their current holding structures within the revised Spanish tax framework.

## Key points to note

In summary, the key points to note are:

- Review the way in which Spanish property is held;
- Prepare and keep specified backup records to avoid penalties; and
- If need be, appoint a Spanish tax representative.

*If you would like further information about the issues raised in this article, please contact Patricia direct, or the person with whom you usually deal at Bircham Dyson Bell LLP.*

# The Foreign Element: does it affect you?

*by James Denker*

*The world is becoming smaller, and many clients may have lives and arrangements which are more 'international' than they realise. This could affect not only who would inherit their property on their death, but also how much of it would be left after tax. In this article James Denker highlights some of the most frequent international estate and tax planning issues faced by private clients.*

***James Denker***
*Partner*
*T: 020 7227 7105*
*E: jamesdenker@bdb-law.co.uk*

*James Denker is a partner specializing in international succession and estate planning, international trusts and the administration of cross border estates.*

### What is a 'domicile'?

Under the general law your domicile is basically the place you regard as your 'real' home, maybe a country to which you intend to return even though you do not in fact live there at the moment. It is a question of fact.

Your domicile status decides, among other things, whether English law or a foreign law applies to matrimonial disputes, and questions of who would benefit from your estate in the event of your death.

Someone born abroad with a foreign domicile will generally find it fairly easy to retain that foreign domicile for an extended period, unless they make a positive choice to acquire an English domicile.

## Do you have a holiday home or other assets in a 'forced heirship' jurisdiction?

Patricia Garcia has just looked at recent changes to the tax implications of owning property in Spain, but tax is only one of the factors to be considered when choosing an ownership structure for overseas property. Most European jurisdictions have 'forced heirship' rules. These mean that certain members of the family have an automatic right of inheritance regardless of what the deceased person's Will says. Some jurisdictions accept that if you are a foreign citizen your assets will not be affected by these rules, but not all do so. For example, under French law if a person dies owning immovable property such as a house or an apartment in France, that property will almost always be subject to the forced heirship rules. It is sometimes possible to make arrangements which will avoid these rules, or at any rate reduce the tax which may be payable.

## Have you come to the UK from a foreign country?

If you have come to the UK from a country with forced heirship rules, some or all of your assets may still be affected by these rules. If you live in England and English law regards you as still 'domiciled' in a foreign country, this can sometimes be attractive from a tax standpoint, but you may be surprised to learn that the succession rules of that country of domicile may govern who is to benefit from all your English assets, other than immovable property. If this is not what you would wish, it may be possible to do some planning during your lifetime.

## At the time you got married, were you domiciled in a country with community of property rules? Have you lived in a US state with community of property rules?

If, at the time of your marriage, you were domiciled in a continental European jurisdiction, you may find that, if you did not have a written marriage contract, ownership of your own and your spouse's property is automatically governed by the matrimonial 'legal regime' laid down by that law. This will usually be some form of community of property regime and it may still apply even though you have left that jurisdiction and moved to England. If you have lived with your spouse in one of the nine American states with community of property rules, again you may own assets subject to these rules even though you have left that state.

### Do you have a separate Will (or Wills) for foreign assets? Should you?

Sometimes it can be very practical to have more than one Will, each Will dealing with assets in a particular jurisdiction.  Care must be taken to ensure that the Wills dovetail and that all assets are covered once, but no assets are covered twice.

For some testators it is more efficient to have only one Will, dealing with all assets in all jurisdictions.  This Will usually needs to be checked with a lawyer in each of the other jurisdictions in which assets are held, however, to ensure that the Will makes sense under the laws of those other jurisdictions.  Otherwise, there could be problems when your executors or heirs try to carry out your wishes.  Very careful planning is therefore needed when there are assets in several jurisdictions.

### Are you or your spouse a US citizen?

Although you may have lived in the UK for many years and pay tax here, if you are a US citizen you will still be subject to US income tax and estate tax rules. The double taxation treaties between the US and the UK may however offer some help and these should be looked at carefully.

Your estate planning should be arranged with the laws of both the US and the UK in mind.  If you are a US citizen but your spouse is not, you should be aware that the normal US marital deduction rules will not apply for US estate tax purposes.

If you are domiciled in the UK but your spouse is not, then the UK spouse exemption rules relating to inheritance tax will apply only to a very limited degree.  Your arrangements will need to be looked at from the standpoint of the tax laws of both jurisdictions.

### Are you a beneficiary of any foreign trusts?

If so, then, depending on your domicile status, you may be liable to tax on all

### Deemed domicile

Inheritance tax has its own particular gloss on the general meaning of domicile.  In particular, people who have been resident in the UK for an extended period are treated as domiciled here, whether or not that is in fact the case, so that the property becomes vulnerable to inheritance tax.  The extended period is strictly 17 out of 20 years, but the detail of the rules means that this can be a scant 15 years in practice.  This deemed domicile does not currently apply for income tax or capital gains tax purposes, but this issue is currently the subject of Government consultation and review.

**Although you may have lived in the UK for many years and pay tax here, if you are a US citizen you will still be subject to US income tax and estate tax rules.**

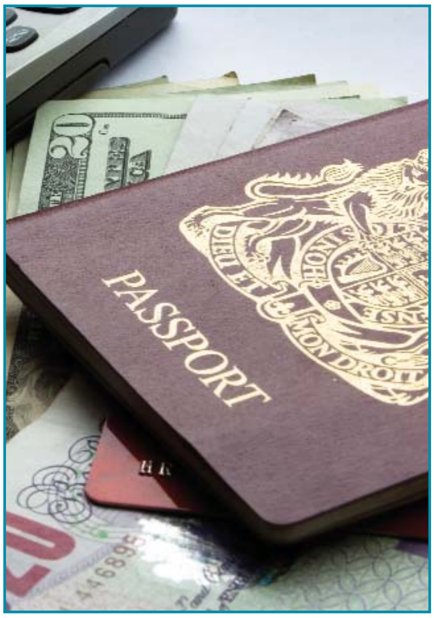

continued overleaf

income and capital gains which you receive from that trust. Alternatively, you may only be taxable on income remitted to this country. If you are UK resident and UK domiciled, then, even

**If you are the beneficiary or the settlor of any foreign trust, the tax implications are complicated and advice should be sought.**

if you do not receive capital, you may be liable to capital gains tax on any 'benefit' (in the widest sense) received in the UK from such a trust. The foreign trust assets may or may not be liable to UK inheritance tax, depending on the domicile of the settlor at the time when the trust was made.

If you are the beneficiary or the settlor of any foreign trust, the tax implications are complicated and advice should be sought. Even if the person who made the trust had no connection with the UK, if a benefit is received in the UK or is received by a UK domiciled person, then tax may be payable.




*These are some of the most frequent problems which can come up when foreign jurisdictions are involved, but there are many others. You may wish to contact James Denker if you have any queries on this type of issue.*

## Moving abroad or coming to the UK? Will it have a tax effect on trusts of which you are a trustee?

Most individuals who either take up residence in the UK, or leave the UK to go abroad, are well aware that good advice can maximize the tax benefits and minimize any tax detriments that might be in store for them. They can sometimes be less aware that their personal change of residence can have an effect on the residence and taxability of a trust of which they are a trustee. For example, the simple act of their retiring to Spain, say, might trigger a capital gains tax charge on all the trust's assets. Anyone who is a trustee and is thinking of changing their personal tax residence, whether to or from the UK, needs to consider the personal tax aspects, and the trustees of the trust also need to be advised well in advance about whether there are any implications for the trust.

# Outgoing trustees: how much protection do you need? How much protection do you want?

*by Helen Ratcliffe*

*The Society of Trust and Estates Practitioners, the international professional body of trusts and estates advisers, has produced a significant new book on transfer of trusteeships. Working alongside lawyers from a wide range of offshore jurisdictions, a team from Bircham Dyson Bell LLP, led by Helen Ratcliffe, contributed the England and Wales precedents.*

***Helen Ratcliffe***
*Partner*
*T: 020 7227 7187*
*E: helenratcliffe@bdb-law.co.uk*

*Helen Ratcliffe is a partner specializing in onshore and offshore trusts and tax matters.*

One of the distinctive features of the common law system across the world is the trust. Satisfactory definitions of a trust are rare but one of the essential characteristics of a trust is the existence of the trustee, the person who has control of the trust assets and must deal with those assets for the benefit of the beneficiaries. The position of the trustee of a trust is a responsible one, governed by the provisions of the trust instrument, statute and the interpretation of the courts.

We are often involved in trusteeship changes – at one end of the scale an individual trustee may simply wish to retire or may have died; at the other end, tensions may have escalated to the point where it is in the best interests of all concerned for there to be a change. A change in trustees sounds simple enough, but the reality is that ensuring a valid appointment is made and that all the trust property is in the correct ownership can be tricky and involve difficult negotiations.

One of the questions which arises on a trusteeship change is how best to protect the retiring trustee who will be parting with control of the trust assets. As a trust is not a separate legal entity, everything the retiring trustee will have done will have been done in his own name. To the extent that a trustee has acted properly, he is entitled to be reimbursed from the trust assets in respect of those personal liabilities and he does not lose that right by ceasing to be a trustee and parting with the trust assets. However, increasingly, a departing trustee will want to protect his position further by negotiating a contractual indemnity with the incoming trustee. What is an appropriate amount in such cases can be difficult to agree.

In May this year the Society of Trust and Estate Practitioners, the representative body for trust advisers, published a new book, *A Practical Guide to the Transfer of Trusteeships*, providing a protocol and model precedents for various common law jurisdictions on this subject, with particular reference to the best way of providing sufficient protection for the outgoing trustee whilst not overly fettering the position of the incoming trustee. The book provides precedents for the UK and for a wide range of offshore jurisdictions and the Bircham Dyson Bell LLP Private Client Department was invited to contribute the precedents for England and Wales and to assist with the commentary. The team comprised Helen Ratcliffe, Judith Morris, Carol Haworth and Victoria Pursall, who spent a very busy few months between November and early April, keeping ahead – just! – of the printing deadlines.

**One of the questions which arises on a trusteeship change is how best to protect the retiring trustee who will be parting with control of the trust assets...increasingly, a departing trustee will want to protect his position further by negotiating a contractual indemnity with the incoming trustee.**

# *Charman v Charman*: a divorced financial genius and his trust fund

*by Siân Jones*

*In what is believed to be the highest award ever made in contested matrimonial proceedings in England and Wales, the Court of Appeal recently upheld a divorce settlement involving very considerable wealth. The decision provides a cautionary reminder that, in certain circumstances, trust funds may fall into the 'pot' of matrimonial assets to be divided on divorce. It also sounds a warning note to divorcees who claim that their special contribution to the family's wealth is such that they should be entitled to a greater share of the overall resources.*

***Siân Jones***
*Partner and Head of the Family Group*
*T: 020 7227 7161*
*E: sianjones@bdb-law.co.uk*

*Siân Jones is a partner and Head of the Family Group. She acts for a wide range of individuals including international clients, city investors and clients with inherited wealth. She has particular experience in high value ancillary relief claims, often involving competing jurisdictions.*

*The media frequently seeks Siân's opinion on family law issues including pre-nuptial agreements, cohabitation and civil partnerships.*

Mr and Mrs Charman's marriage lasted 28 years, during the course of which Mr Charman pursued a highly successful career in the insurance industry. In divorce proceedings in the High Court, the judge found that the parties' total assets amounted to £131 million, and in this total he included the value of an offshore trust that Mr Charman had made years earlier. Those funds might not technically be Mr Charman's, but in practice they were available to him as a resource.

The judge awarded £48 million (36.5%) to Mrs Charman and £83 million (63.5%) to Mr Charman. Mr Charman received over 50% primarily because he had made a 'special contribution' by generating the parties' fortune through his skill and effort during the marriage.

**In divorce proceedings in the High Court, the judge found that the parties' total assets amounted to £131 million, and in this total he included the value of an offshore trust that Mr Charman had made years earlier.**

The husband was unsuccessful in arguing, on appeal, that the judge had erred by including, in his calculation of the parties' total assets, the value of the offshore discretionary trust. He also lost on his argument that the judge had made insufficient allowance for the husband's 'special contribution'.

As well as helping to clarify the position on 'special contributions', the case illustrates the difficulties faced by those who put assets into a trust structure and then seek to claim, on divorce, that the trust structure offers protection. Such arrangements need careful structuring at the outset, and meticulous implementation thereafter, to reflect the realities of the situation. In particular, in order to be in a position to substantiate a claim of that kind, it will be important for any letter of wishes to record the settlor's intentions accurately, and for those intentions to be capable of being tested against reality.

*If you would like any further information please contact Siân Jones, Head of our Family Group. She will be happy to let you have a copy of the more detailed Briefing Note we have prepared on the Charman decision, or to consider any particular issues with you.*

# Age discrimination update: long-service benefits

*by Nick Humphreys*

*The question of how the tests in the new age discrimination rules will be implemented by the courts has created a fresh area of uncertainty for employers and employees alike. The recent decision of the European Court of Justice (**ECJ**) in Cadman v Health & Safety Executive will be welcomed by employers and long-standing employees, but employees with shorter service and some women will be less enthusiastic. The case provides a fascinating insight into the way in which the age discrimination rules will interrelate with those against sex discrimination.*

***Nick Humphreys***
*Partner*
*T: 020 7227 7207*
*E: nickhumphreys@bdb-law.co.uk*

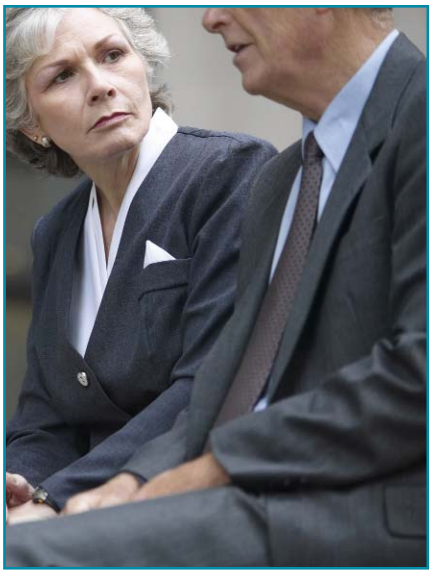
*Nick Humphreys is a partner in Bircham Dyson Bell LLP's Employment Group. He has been involved in employment law matters for 12 years since originally qualifying as a barrister, and is a published author in the field. Please contact Nick or your usual Bircham Dyson Bell LLP contact in relation to any employment law issues.*

The *Cadman* decision gives us some clues as to how the courts are likely to interpret the exemptions from the Employment Equality (Age) Regulations 2006 ('the Age Regulations'). In particular, under regulation 34 of the Age Regulations, employers are entirely free from age discrimination fears if, during the first five years of employment, they treat employees differently in respect of service-based benefits. Even after this initial period, any such differences will be exempt from the Age Regulations if it 'reasonably appears' to the employer (or, to put it another way, to an Employment Tribunal) that service-based benefits fulfil a 'business need' of the employer's undertaking, for example 'by encouraging the loyalty or motivation, or rewarding the experience, of some or all of his workers'. This is a low hurdle for employers to surmount.

The question in the *Cadman* case turned on whether service-based pay scales fell foul of the sex discrimination laws, given that basing rewards on length of service will generally indirectly discriminate against women who, for childcare-related reasons, are liable to have less continuous service.

The ECJ in *Cadman* held that rewarding experience is objectively justifiable since, as a general rule, length of service goes hand in hand with experience, and experience generally enables workers to perform their duties better. On that basis, employers were free to reward length of service without having to establish its importance in enhancing the performance of the specific tasks entrusted to the particular class of employee in their particular business. In other words, generally, employers do not have to provide objective evidence of a link between length of service and improved performance: it will be assumed.

Although the ECJ's judgment in *Cadman* was decided in the context of an equal pay claim on grounds of sex discrimination, it reinforces the seemingly relative ease with which employers will be able to defend age-related claims on the grounds of the exemption. Indeed, employers will doubtless rely upon *Cadman* to argue that, since the courts' decisions should be mutually consistent, they are entitled to assume that the law recognizes (as practical experience perhaps does not) that there is a link between longer service and improved performance. To argue otherwise would upset the applecart of the law on equal pay, age-related on the one hand, and sex-related on the other. In this light, we await eagerly the first cases on the length of service exemption.



# Utilizing the nil rate band for tax planning in your Will: implications of the *Phizackerley* decision

*by Alastair Collett and Carolyn O'Sullivan*

*Many married couples and civil partners can reduce their combined inheritance tax bill by ensuring that full use is made, on the death of the first to die, of the nil rate band that is free of inheritance tax - this tax-free slice currently stands at £300,000, giving a tax saving of up to £120,000.*

***Alastair Collett***
*Partner*
*T: 020 7153 8515*
*E: alastaircollett@bdb-law.co.uk*

*Alastair Collett is a partner in the Private Client Department, advising on a wide range of trust, charity and probate matters. He recently advised the successful claimant in a rectification case heard by the High Court.*

***Carolyn O'Sullivan***
*Senior Associate*
*T: 020 7170 1153*
*E: carolyno'sullivan@bdb-law.co.uk*

*Carolyn O'Sullivan is a Private Client senior associate who, as a professional support lawyer, advises on a wide range of tax, trusts and estates matters. She is a member of our Offshore Group.*

*If you have a query about the topics in this article, please contact Alastair or Carolyn, or the person with whom you usually deal.*

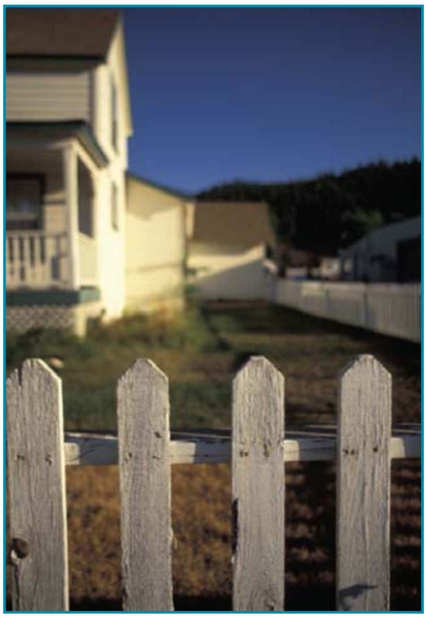
Creating a discretionary trust under each Will saves this tax, but in many estates it is not easy to set aside specific 'spare' assets to form a discretionary trust and this can be a particular issue where much of the value of the estate is in the family home in which the surviving spouse would want to continue to live.

This lack of 'spare' assets need not, however, be an insurmountable problem, as it is not necessary for the trust to contain assets in the usual sense. One route is to loan assets to the surviving spouse and the other is for the trustees to secure a charge over property passing to the surviving spouse. On the surviving spouse's death, the value of their estate would be reduced by the outstanding loan or charge, thus reducing the amount of inheritance tax potentially payable at that time.

The Special Commissioner's decision in *Phizackerley* has attracted a significant amount of press attention and may have led some to believe that the use of such trusts is no longer possible where the family home is involved. This is not the case.

## The facts in *Phizackerley*

Dr Phizackerley was an Oxford don and he and his wife had lived in college accommodation until his retirement in 1992 when they then bought a house.



It was bought in their joint names, but all the funds were provided by Dr Phizackerley. In 1996 they made new Wills under which a sum equal to the nil rate band was left on discretionary trusts, with the residue going to the survivor absolutely. Mrs Phizackerley died first and a discretionary trust arrangement was implemented, using the loan route mentioned earlier.

## Why did the loan arrangements in *Phizackerley* not achieve an inheritance tax saving?

It was expected that, on Dr Phizackerley's death, a deduction would be available for this loan, reducing the inheritance tax payable on his death. The Revenue refused to allow this deduction, on the basis that Dr Phizackerley had made a gift to Mrs

Phizackerley when he put the house in their joint names and so the loan fell to be disallowed under a specific anti-avoidance provision. This provision applied because Dr Phizackerley was entitled outright to the residuary estate; this would not have been the case if he had been left a life interest, or if the charge route had been used instead of the loan route.

### How does the *Phizackerley* decision affect planning by Will?

It has always been necessary to take care in structuring nil rate band discretionary trusts and this case reinforces the point. With a potential saving of £120,000, the trouble is worth taking. Careful consideration needs to be given as to how the purchase of the property was funded, how the property title is owned, and how the residue under the Will should be held. Whether it is possible or desirable to effect either the loan or the charge route will depend on the circumstances at the time of death. It is therefore important that both spouses' Wills are drafted to allow for maximum flexibility.

# Enduring Powers of Attorney

*by Judith Morris*

*Do you need to make an Enduring Power of Attorney (**EPA**) in the remaining few weeks that they are available?*

EPAs have their weaknesses and the initiative to reform this area of the law was in principle welcome. However, although some of the changes that will shortly come into force will benefit clients, others, relating to the new financial arrangements, have met with much criticism. For EPAs have three significant merits: they are relatively simple, they are relatively inexpensive, and they provide for a clear division of responsibility between the person who gave the power on the one hand, and the attorney on the other. The new financial Lasting Powers of Attorney (LPAs), to be introduced from 1 October, have none of these merits. We have been making many EPAs for clients over recent months, and we expect a crescendo in the last couple of months for which they are available, until 30 September this year.

An EPA enables a trusted friend, relative or professional to manage your financial affairs if you were to become unable to do so because of mental incapacity, perhaps caused by a stroke, an accident, or dementia. An EPA made before October will continue to operate under pretty much the old rules, even if mental capacity is not lost for years or even decades. This is why it can be worthwhile for even quite young people to make EPAs now.

*If you have still not made an EPA and would like to know more, then please ask the person with whom you usually deal at Bircham Dyson Bell LLP, or Judith Morris, for a copy of our Briefing Note on EPAs.*

*Nearer the launch date for LPAs we will be publishing a Briefing Note to give some details of LPAs. This note will cover both financial LPAs, which will replace EPAs, and the health and welfare LPAs which are wholly new. If you would like to be sent a copy of this briefing once it is available, then please tell Judith or your usual contact.*

***Judith Morris***
*Editor and Consultant*
*T: 020 7227 7015*
*E: judithmorris@bdb-law.co.uk*

*Judith Morris, the editor of this newsletter, is a consultant who advises across the full spectrum of private client work. She writes regularly for professional journals and is a published author contributing to legal textbooks.*

# Further Information

**For further information on our range of services, or to view or download our publications, please visit www.bdb-law.co.uk**

**T: 020 7227 7000**
**F: 020 7222 3480**

## Contacts in the Individuals Team

**Contentious Trusts and Estates**
Simon Weil
Head of Individuals
T: 020 7227 7015
E: simonweil@bdb-law.co.uk

**Estate Planning**
James Johnston
Head of Private Client
T: 020 7227 7079
E: jamesjohnston@bdb-law.co.uk

**Wills and Probate**
Sarah Stowell
Partner
T: 020 7227 7140
E: sarahstowell@bdb-law.co.uk

**Family Law**
Siân Jones
Head of the Family Group
T: 020 7227 7000
E: sianjones@bdb-law.co.uk

**Tax Planning**
Stephen Lewin
Partner
T: 020 7227 7187
E: stephenlewin@bdb-law.co.uk

**Family Law**
John Darnton
Partner
T: 020 7227 7160
E: johndarnton@bdb-law.co.uk

**International Succession**
James Denker
Partner
T: 020 7227 7169
E: jamesdenker@bdb-law.co.uk

**Offshore Trusts and Tax**
Helen Ratcliffe
Partner
T: 020 7227 7187
E: helenratcliffe@bdb-law.co.uk

*The articles in this newsletter are not meant as a substitute for advice on particular issues and are written in general terms. You should seek specific advice before taking any action based on the information that this newsletter contains.*

*This firm is not authorised under the Financial Services and Markets Act 2000 but we are able, in certain circumstances, to offer a limited range of investment services to clients because we are members of the Law Society. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.*

*Bircham Dyson Bell LLP processes your personal data in connection with the operation and marketing of a legal practice and will occasionally send you information relating to the firm. If you would prefer not to receive this information, please notify us in writing.*

*If you would like us to amend your contact details, please send a fax or letter for the attention of the Client Records Administrator at Bircham Dyson Bell LLP.*

*Bircham Dyson Bell LLP is regulated by the Solicitors Regulation Authority.*

Bircham Dyson Bell LLP is a progressive law firm renowned for its personal service. In addition to our services for individuals, we offer a wide range of services to the business, charity and public sectors.

Our range of services includes corporate and commercial, litigation, parliamentary, public law and planning, private client, charities, real estate, employment, intellectual property and dispute resolution.

The firm issues a number of publications, including:

- Charities Bulletin
- Corporate Bulletin
- Employment Bulletin
- Individual Matters Bulletin
- IP Bulletin
- Major Projects Bulletin
- Planning Bulletin
- Public Law Bulletin
- Road User Charging Bulletin