August 2021

The Premier Partnership Limited

Your Family Office

NewsLETTER

At last! The sun shines, things are opening up and there is an air of muted 'normality' around, after a very long 18 months. So welcome to our Summer Newsletter, which as always, we hope contains something of interest to you.

Our article recently on Lasting Powers of Attorney certainly gained your attention, and we revisit this subject again. There are also updates on pensions and investment markets for your perusal.

Lasting Powers of Attorney and Wills

In our May edition, we highlighted the issues that a well known TV presenter was having in looking after her husband's affairs due to his illness, and how Lasting Powers of Attorney documents were needed to solve many of the problems that arose for her. The recent Britney Spears Conservatorship case in America has also highlighted the need and use of such documentation. Although the US and UK laws are different on these matters, the overall intention remains the same.

Conservatorship

Under US law, Conservatorship is the appointment of a guardian or protector by a Judge to manage the financial affairs, and/ or daily life of another person due to old age, physical or mental limitations.

Lasting Power of Attorney (LPA)

The Law Society defines a Lasting Power of Attorney as a legal document in which someone (The Donor) gives another person (The Attorney) the right to help them make decisions or take decisions on their behalf.

So, you can see that although the actual laws sitting behind each arrangement is different, the spirit is largely the same.

An LPA comes in two sections, and we would always recommend applying for both parts. They are defined as:

- **Health and Welfare**
- **Property and Financial Affairs**

The titles are self-explanatory and they both require people being appointed to make them work.

The first of course are the Donors themselves. The Donor chooses the people that they trust to look after their affairs and the Donor must have mental capacity to apply for an LPA. The Donor will need to choose at least one Attorney, and the same Attorney can be appointed to both sections of the LPA, or a different Attorney can be appointed to each section as required. We would always advise appointing at least two Attorneys, in case one of them is unable to act in the future. The Attorneys must always act in the best interests of the Donor, and in accordance with Section One of the Mental Capacity Act 2005.

The Certificate Provider

The certificate provider will need to be someone the Donor has known for at least two years or is someone with relevant professional skills. The certificate provider confirms by signature on the application that the Donor understands what is going on and what has been created for them. They also confirm that no undue pressure is being placed on the Donor to apply and that no fraudulent acts are being committed.

These are the individuals involved in making the application, which goes before the Court for approval. If an LPA is not applied for, and the Donor subsequently loses capacity and becomes unable to manage their affairs, the only option is to apply to The Court of Protection for a Deputyship Order. This can be costly and time consuming and would include a medical assessment of the Donor to confirm the lack of capacity. Deputyship as above only applies to England and Wales. Scotland and Northern Ireland have different regimes.

The major difference between the Conservatorship that Britney Spears found herself controlled by, and Deputyship in the UK, is that under a Deputyship a person cannot make a decision for another, if that person can make that decision themselves. The American system, which is what is being challenged by Britney Spears is the opposite. Britney alleges she was forced to work, and if she can work, she does not need a controlling Conservatorship.

Two countries divided by a common language! Application for an LPA for a parent or loved one makes perfect sense and allows decisions to be made when they are needed.

Call us for more information.

Holiday Lets

With the massive rise in 'staycations' due to the pandemic, many clients are looking to the distant shores of Devon and Cornwall (along with many other differing UK staycation destinations), to purchase property and create a holiday letting business. So we thought we had better lay out a few fundamental rules and regulations for this type of activity, which are different to normal buy to let rules.

Qualification

Since 2012/13 all of the following tests must be satisfied if a property is to qualify as a holiday let.

1) **The accommodation must be available to let for holiday accommodation for at least 210 days per year, during the tax year**
2) **The accommodation is commercially let as holiday accommodation to paying customers for at east 105 days during the tax year**
3) **The accommodation must not be let for periods of longer term occupation for more than 155 days during the tax year**
4) **The accommodation must be furnished**
5) **It must be situated in the UK or in the European Economic Area (EEA)**

Many clients will opt to use the services of an agent in marketing and looking after their properties. Remember the fees chargeable can vary widely, but for a full marketing/cleaning service you will be looking at circa 20% of the gross rental income. These fees and charges must be taken into account when assessing the viability of this investment.

There are however beneficial tax rules that can apply to properties that qualify as furnished holiday lettings (FHL's).

- **You can claim capital gains tax reliefs for traders**
- **You are entitled to claim plant and machinery capital allowances for items such as furniture, equipment, and fixtures, provided for use by tenants**
- **The profits count as earnings for pension purposes**

However, remember that after all costs and fees, despite slightly advantageous tax rules, the income received from the rental lets is still taxable as income in the hands of the property owners, and this has to be properly accounted for via your Self Assessment Tax Return.

That is a brief run through the world of holiday lets, but this is a complex area of taxation, particularly if you also have residential letting properties in the portfolio. So take advice early if this is an area you want to become involved in.

The creation of a limited company to hold the FHL can potentially be advantageous, and in the first six months of 2021, 1201 holiday let companies were incorporated – up 83% from the same period in 2020 and up 119% from 2019.

Those buying a second home and renting it out, are under no obligation to set up a company, as holiday lets can be owned and run by individuals, companies, trusts or partnerships, but there may be certain tax rules where a company structure could be more attractive.

People buying in their own name will pay tax on the profits at rates up to 45%, depending on their overall income tax bracket. A company however pays tax at 19%. No brainer. However, again there are costs associated with running the company and as figures show, 83% of all the property companies created this year contain only one property. These may not all be profitable.

Will the boom in FHL's last? Well, longer term the return of full air travel will clearly have an effect on the FHL market. For now it's looking good for owners, but over the longer term, market forces will dictate rental prices. So make hay whilst the sun shines, as the days of wine and roses are never long.

Cryptocurrencies

As clients continue to ask us about cryptocurrencies, we thought we had better update you generally about the world of crypto and the developments herein.

It will come as no surprise to regular readers that we believe cryptocurrencies have no inherent worth, and in our opinion the hype is akin to the 'Tulip Bulb' mania of the 17th Century. It is a pure trading instrument with no underlying asset value, and therefore any investment is a pure punt. Witness the unfortunate person who invested in Bitcoin at over $75,000, only to see it trade at below $30,000 a month later.

That said, a new cryptocurrency is launched almost every week, but what can you use them for now that Tesla have decided against taking payment of Bitcoin for their cars? This was due to the environmental concerns over the use of fossil fuels in Bitcoin mining. As well as new cryptos being issued, new exchanges are being launched to help traders indulge their passion. One such exchange is Binance. This crypto exchange facilitates hundreds of billions of dollars worth of trades a month, as it allows investors to magnify their bets by up to 20 times. It used to allow traders to leverage their bets by 125 times, but a flash cryptocurrency crash on 19 May wiped $8.6 Billion from investors accounts, so the exchange changed the rules. It seems to me that is after the horse has bolted and is akin to giving a person a rope to hang themselves.

The UK financial watchdog the FCA, have banned the sale of crypto derivatives to retail traders over concerns they are too risky, and regulators around the world have tried to crack down on the unauthorised sale of these products by crypto platforms. However, exchanges like Binance, incorporated in the Cayman Islands can continue to offer highly speculative 'investments' even in jurisdictions where they are banned.

So, Caveat Emptor (buyer beware) is still very much the rule in the crypto markets.

Pensions

Are you aware of the 2023 deadline?

Current pension rules allow savers with Defined Contribution pots to access their schemes at age 55. But this is set to change with the Government confirming plans to raise the so called 'normal minimum pension age' (NMPA) to 57 by April 2028.

The State Pension Age will also increase on this date from 66 to 67. The change will affect those born after April 1973, who are 48 and younger today. They will have to wait another couple of years before attaining minimum pension age.

To assist people with the change, the Government will allow members of Defined Contribution schemes the chance to preserve the existing NMPA, but the current age of 55 must be clearly stated in the scheme rules, and this action must take place before April 2023.

As always with these things there are exceptions: Armed Forces; Police and Fire Service schemes, and possibly certain other schemes, but we do not know that as yet, as the full rules have not yet been written.

As always, if you are unsure as to your position, please call us.

Small Stories

The rise in house prices that has been fuelled by the Stamp Duty holiday, slowed very slightly in July according to the monthly Nationwide survey.

The annual rate of growth for July was +10.5%, down from the 17 year high achieved in June of +13.4%. This now makes the average price of a house in the UK £244,229.

Almost 200,000 property completions took place in June, as buyers rushed to beat the lowering of the Nil Rate threshold from £500,000 to £250,000 on 30 June. This was more than twice the completions of a 'normal average' month. It is not just the Stamp Duty effect that has caused the figures to rise. Householders have also been considering the effect of the pandemic on working practices, and the reducing need for employees to commute into cities going forward.

Activity will inevitably slow down as furlough ends, employment positions shift and Government incentive schemes wind down. It is however likely to remain fairly solid at least to the end of the year if you are thinking of moving home.

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