



In the Firm

Rebranding of the firm as Sharman Law

It is now over a year since we changed our name to Sharman Law. This was after 110 years of the firm being known as Sharman & Trethewey. The change went extremely smoothly and has been welcomed almost universally. It has also meant a lot less letters being received with the firm's name being mis-spelt!



150 Years in Ampthill

The mayor of Ampthill, Richard Holden, presented Senior Partner Anthony Northey with a commemorative certificate to mark this anniversary, which the mayor regarded as a remarkable achievement.

New Faces

Deborah Frost has joined the firm as a residential property conveyancer in our Bedford office. A student member of the Institute of Legal Executives, Debbie enjoys horse riding and has her own horse as well as helping to look after three others.



Bill Fudge joined the civil litigation department as a Senior solicitor in September 2004 from Claytons in Luton. He has wide experience in property litigation, personal injury and employment matters, contentious probate, commercial litigation and road traffic work. He is working in the Bedford Office. Bill sings in a Bedford Chamber choir, is a locum church organist and enjoys watching Bedford Rugby Club.

Philip Elliot joined the Bedford office matrimonial and family team in November 2004 from Austins in Luton. A graduate of Nottingham



Trent University and Nottingham Law School, Philip is a member of Resolution (formerly the Solicitors Family Law Association). He is also a member of the Law Society Family Law Panel. He enjoys a variety of leisure activities through the local Inter-Varsity club and likes to travel at home and abroad.

Janet Brown has also joined the matrimonial and family team in the Bedford office and is a Fellow of the Institute of Legal Executives. She is also an associate member of Resolution (formerly the Solicitors Family Law Association).



Kathryn Wright qualified as a solicitor in October 2004 and joined the Family Law team in the Bedford office. She studied European Languages and Law at university and spent a year working in a German law firm. Kathryn hopes to relocate to Bedford from Aylesbury.

Victoria Horan has joined the Residential Conveyancing Team in the Bedford office. She is very experienced in handling sales and purchases of freehold, leasehold, registered and unregistered property as well as remortgages and property development work.



Joint Seminar on Inheritance Tax

Sharman Law recently organised a seminar with Edward Jones Ltd on the subject of possible ways of mitigating Inheritance Tax. Kate Tingey from Sharman Law and a representative from Legal and General were the speakers. The event was both well attended and successful.

If you would like any advice or guidance on Inheritance Tax planning of Wills then please contact Kate Tingey or another member of our Probate Teams - see page 2 for details.

Charity Fund Raising

The firm has had various funding raising events over the last twelve months. These included an event for the St John's Hospice at Moggerhanger in memory of Pauline Kell who was a secretary with the firm for many years and who died prematurely from cancer.



A Jeans for Genes day was again also held when staff were allowed to wear jeans in return for a donation to eight national charities working together for sick children.

Staff and Partners also responded positively to the recent Tsunami disaster in the Indian Ocean by raising £500 in cash and also filling several Rotary emergency Aquaboxes.

CRUSE Bereavement Counsellor

Kate Tingey, Head of the Probate Department has recently qualified as a CRUSE volunteer counsellor. CRUSE is a charitable organisation providing support to the bereaved and help people to cope with their grief so that they can get on with their own lives. The charity organises drop-in sessions at the Chapter House of St Peter's Church Bedford on Tuesday between 10.00 am and 12.00 noon when counselling can be provided without an appointment.



Bedfordshire YFC Rally & Show

Sharman Law was one of the sponsors of Bedfordshire Federation of Young Farmers Clubs' Country Rally & Show held on Saturday 22 May 2004 at Rectory Farm Great Staughton. The sun shone on the event and the firm was runner up in the Best Stand Awards. We hope to see many of our clients at this year's Rally and Show which is being held at Shuttleworth College on Saturday 14 June 2005.

President

Partner John Moore was in 2004 elected as President of the Bedfordshire Law Society and holds this office into April 2005.



AND FINALLY

Don't forget that you can visit us via our Website at www.SharmanLaw.co.uk

and also can contact us directly through our email address at mail@SharmanLaw.co.uk

We look forward to hearing from you!

This letter is also on our website.



Stamp Duty Land Tax

The old stamp duty regime was replaced by the introduction of a Stamp Duty Land Tax on 1 December 2003. Formerly the Inland Revenue required the transfer deed to be physically "stamped" upon completion of a property or land purchase. Now these procedures have changed although the rate of duty payable has not changed. The rates are set out on page 2 overleaf.

Solicitors are no longer allowed to sign the return, which has to be submitted to the Inland Revenue. Now it is the responsibility of the purchasers themselves to complete, sign and submit the form. In reality, the solicitor for the purchasers will complete the form and arrange for it to be signed by their clients whilst they are attending the solicitors' offices to sign their contract or the transfer.

One of the aims of the new provisions is to close previous loopholes which existed for avoiding payment of any or a higher rate of tax. These include:

- 1 Apportionment of the overall purchase price to allocate part of the purchase price to fixtures and fittings in order to avoid a higher rate of tax. For example £249,950 for the property and £5,050 for fixtures and fittings. The amount paid for fixtures and fittings must also now be disclosed and this sort of arrangement will now be open to investigation by the Inland Revenue.
- 2 Exchanges of Properties. Previously the person purchasing the higher priced property paid Stamp Duty but the person downgrading paid none. Stamp Duty Land Tax is now payable by both parties. The only exception to this is that builders do not have to pay tax on a property taken as a part exchange for a new property.
- 3 It is also now no longer possible to separate contracts for the purchase of land and subsequent construction of a building thereon; Stamp Duty Land Tax is now normally payable on the total price including construction costs.

The Inland Revenue has the power to investigate and open cases for up to six years after completion.

The new regime is a step closer to the introduction of electronic conveyancing, which will allow the purchase of property to be effected or registered electronically.

Our very experienced team of Property Solicitors and Conveyancers will, of course, advise you at the beginning of a transaction as to your liability for payment of Stamp Duty Land Tax.

For further information on property purchases and sales and transfers please do not hesitate to contact Anthony Northey or Les Exton (Legal Executive) at our Ampthill Office 01525 750 750 or John Moore, David Ralley, Victoria Horan, Debbie Frost (Conveyancing Executive) or Iain Hancock (Conveyancing Executive) in our Bedford Office 01234 30 30 30.

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Elsewhere in this issue:

Noteworthy tax points

Bankruptcy and beyond

Residential Care fees

Accident claims

In The Firm
Our regular look at what is happening at Sharman Law

New faces

Charity Fundraising

Other News

STOP PRESS Payment by Credit Card

Please note that we can now accept payments by credit card (Visa and Mastercard subject to payment of the credit card company's fee). Please ask if you wish to pay by credit card.





SOME NOTEWORTHY TAX POINTS

Inheritance Tax

The nil rate band was increased from £263,000.00 to £275,000.00 for deaths on or after 6 April 2005 but the rate of tax applicable thereafter remains at 40%.

Capital Gains

The annual exemption was increased for the tax year ending 5 April 2006 to £8,500.00 (previously £8,200.00) for individuals and £4,250.00 (from £4,100.00) for most trusts.

Tax Changes for Trusts

As from 6 April 2004 the tax rate applicable to Discretionary Trusts increased from 34% to 40%. This

will have an impact on both the Income Tax and Capital Gains Tax liabilities of trusts. Executors as well as Trustees are also liable to Capital Gains Tax at 40%.

Pre Owned Assets - Gift Tax Trap – Beware!

Anyone who has given assets such as houses, art, antiques, cash or shares to others, either directly or through certain specialist trusts since April 1986 may have to pay income tax on the assets they previously gave away. This is a new tax due to be effective as from April 2005. However, all the details have yet to be finalised.

Stamp Duty/Land Tax rates

Purchase price	Stamp Duty Land Tax payable
£120,000 or less	Nil
Over £120,000 and up to £250,000	1%
Over £250,000 and up to £500,000	3%
Over £500,000	4%

Note

Commercial (non residential) properties and properties in areas of regeneration up to £150,000 in value are also exempt.

BANKRUPTCY AND BEYOND

New rules and procedures regarding personal insolvency came into force on 1 April 2004. The reforms concern Bankruptcy and Individual Voluntary Arrangements (IVAs) include the following points:

The duration of bankruptcy is now reduced to twelve months, normally.

You can still be ordered to make payments from surplus income for up to three years.

“Windfalls” can only be claimed whilst still undischarged from bankruptcy and even in less time if there is a reduced discharge period.

There is now a three year period limit for realising the asset value of the matrimonial home through various means.

STOP PRESS!

Enduring Powers of Attorney continue to be a high priority and all Clients should consider them when making or updating Wills. EPAs in particular, allow individuals to appoint a person (over 18 years of age) to manage their affairs should they become mentally impaired in the future. An EPA must be made whilst the person making such an appointment is still mentally capable. Specific restrictions can be imposed if appropriate and joint attorneys are possible. Subsequent mental impairment does not invalidate an Enduring Power of Attorney but the person appointed as attorney must inform the Public Trustee if the “donor” is becoming or has become mentally incapable.

Any objections to such registration by the Public Trustee can be made to the Court of Protection.

Same Sex Partnerships - Civil Partnerships

The Civil Partnerships Act 2004 comes into force on 5 December 2005, when same sex couples can enter into civil partnerships. They will then be treated for all tax purposes as married couples. Transfers between such couples will generally be free of Inheritance Tax and Capital Gains Tax. However, civil partners will only be entitled to a single private residence exemption from Capital Gains Tax and will be treated by the Inland Revenue as ‘Connected Persons’ and will be caught by certain anti-avoidance provisions.

RESIDENTIAL CARE FEES

The main concern regarding residential care is nearly always the cost of funding such care.

Charges will depend upon whether it is a local authority home, private residential home or nursing home. The Care Standards Act 2000 defined all homes as “care home” but then differentiated between nursing beds, Elderly Mental Infirm (EMI) or simply residential.

In reality there are few local authority homes and most are now in the private sector.

The above designations affect the access to funding and a recent test case emphasises the need for access to nursing care when the person is demented and not just a providing a safe residential home.

There is no social services funding if the cared for person has more than £20,000 capital and is contribution based between £12,000 and £20,000. This assumes an income of £1 per week for every £250 of capital.

However, some amounts of capital may be disregarded and this usually refers to jointly owned assets such as the family home and joint bank accounts. Various other disregards are allowed – mainly statutory benefits. The family home is also disregarded if a dependant aged over 60 or under 16 remains in the home.

If the local authority/social services considers that someone had intentionally given away their assets in order to avoid contributing to their “home” costs then they will still consider the person to have such monies and proceed accordingly. The local authority only has to prove the elderly person’s main intention was to dispose of capital to avoid paying such costs. However, the person’s health should be taken into consideration at the time of capital disposal. If the elderly person was in good health and active at the time, then it would be more difficult for the local authority to contend that the disposal was effected to avoid paying for care.

Placing assets in a trust is about the only legitimate way of reducing capital as such a trust can distinguish between legal and beneficial interests. This has to be done well before anyone needs any long term care. This is definitely an area which needs specialist professional advice.

Spouses are not legally obliged to contribute to the care of the other spouse placed in residential care and also do not have to reveal their capital. However, joint banks accounts will reveal capital and social services may “encourage” family members to contribute to the cost of fees.

It is important that you take professional advice on the rules regarding nursing home fees and we can advise on the rules. We know that these are a major concern to our clients.

For further advice please contact Kate Tingey or Christine Myers (Senior Probate Executive) in our Bedford Office 01234 30 30 30 or Anthony Northey or Esther Marchant in our Ampthill Office 01525 750 750.



No win - No fee for Personal Injury Claims

Bill Fudge in our Bedford office is happy to advise you on whether we believe you have a good claim and whether the Firm would be willing to take on such a claim whether it arises from a Road Traffic Accident or an Accident at Work or a Tripping/Slipping Incident on this basis. Why not arrange to see Bill Fudge for a brief (and Free of Charge) initial Consultation.



Please contact Bill Fudge on 01234 30 30 30.

Types of Trusts – an outline

There are many types of trusts which can shelter and protect your wealth from the Inland Revenue, although the government frequently tries to close the door on some of the special trusts. Those that remain are outlined below:

Caveat! The information given on these trusts is simply to demonstrate the variety available as a means of tax planning. Choosing the right form of trust for each individual can be complicated and professional advice should always be taken.

For further advice please contact Kate Tingey or Christine Myers (Senior Probate Executive) in our Bedford Office 01234 30 30 30 or Anthony Northey or Esther Marchant in our Amptill Office 01525 750 750.

Trust	Normal Beneficiary	Features	Disadvantages
Bare Trust	Children under 18 years	<ul style="list-style-type: none"> Simple to set up by parents or others. All income and capital will be regarded as that of the beneficiary for tax purposes. Settlor must live for seven years after setting up the trust to avoid Inheritance Tax. 	<ul style="list-style-type: none"> Least control over how money is used. If the trust generates income of more than £100 per year then personal income tax payable by those making the gift, if a parent.
Accumulation & Maintenance Trusts	Children and Young Adults	<ul style="list-style-type: none"> Greater control. Recipients must receive income from trust once 25 years old but trustees can still control capital. Settlor must live for seven years after setting up the trust to avoid Inheritance Tax 	<ul style="list-style-type: none"> Tax deducted at 40% from all income and Capital gains arising within the trust.
Nil rate band Discretionary Will Trusts	Children of married couples as well as spouse	<ul style="list-style-type: none"> Reduces Inheritance Tax liabilities for inheriting children whilst parents can still have access to savings and investments. Flexible. 	<ul style="list-style-type: none"> Comparatively complex Taxation is complicated and trusts have to be carefully run and administered.
Nil rate band with Loan Scheme Trust Wills	Married couples	<ul style="list-style-type: none"> Similar to discretionary will trusts but can be used where home is main asset. Up to £263,000 worth of home or other assets passes to trust when first person dies and not the survivor. Trust takes loan from surviving spouse. Interest normally charged on loan and debt. 	<ul style="list-style-type: none"> Ownership of home must be as tenants in common and not joint tenants. Problem if home was previously owned solely by one spouse. Complex Taxation is complicated and trust has to be carefully run and administered.
Interest in Possession Trusts	Anyone needing a life interest in an asset but wishing to provide for others as well.	<ul style="list-style-type: none"> Assets – usually pass to the trust. The Life Tenant has the benefit of income but capital passes to others. 	<ul style="list-style-type: none"> Inflexible. Beneficiaries, once named cannot normally be changed. Capital gains (if taxable), taxed at 40% and income also taxed. Not Inheritance Tax efficient.