

## Probate tax

The Government has announced that the cost of obtaining probate of deceaseds' estates is to be changed and will in future be linked to the value of the estate.

At present, the fee is £155 when applications for probate are made by solicitors, and £215 when made by other people. In future, there will be no charge in respect of estates worth £50,000 or less, but estates worth more than £2 million will suffer a charge of £20,000.

Subject to parliamentary approval, the change will take effect in May 2017 (so some executors might find it possible to rush through applications to beat the deadline).

The change will create problems for executors because the charge will be payable before they gain access to the assets from which the charge might have been expected to be paid. Similarly, inheritance tax is also payable up-front but enjoys a special exemption when the estate passes to a surviving spouse or civil partner or to a charity. But no such exemption applies to probate fees.

So executors may have to ask the institutions in which the estate is invested – banks and investment managers and National Savings – to release funds to provide the necessary cash. Otherwise, the executors or family may have to raise the money themselves.

The final rung on the scale of the charge involves a 'cliff-edge' increase. An estate worth £2 million will pay £12,000, while an estate worth £2,000,001 will pay £20,000. This increases the likelihood that ways will be sought of reducing the value of estates, perhaps by making lifetime gifts.

Some advisers are suggesting that property which is held by couples as 'tenants in common' should be converted into a 'joint tenancy', so that the deceased person's share by-passes their estate and goes directly to the survivor.

It was common practice before 2007 for testators with larger estates to create tenancies in common so that their share in a property would be diverted into a trust and so avoid increasing the value of the survivor's estate, but these trusts may now need to be reviewed.

## State pension to start at 70?

Having previously been ruled-out, reductions in tax relief for pension contributions are once again being discussed as a possible means of addressing the Chancellor's Budget deficit.

Also being considered is an increase in the minimum age at which the State pension can be drawn.

The Government currently spends some £100 billion annually on State pensions and pensioner benefits, and this figure will continue to rise as average longevity increases. This year, around 6,000 people are expected to reach the age of 100 and the figure is expected to rise to 56,000 by 2050.

Currently, the State pension age is 65 for men and 63 for women, and this will rise to age 65 for both sexes by 2018, 66 by 2020 and 67 by 2028.

An independent review commissioned by the Government has made three recommendations:

- (i) That the State pension age should increase to 68 by 2039.
- (ii) That the "triple lock", whereby the Government committed to increase State pensions each year by whichever is the highest of the prices index, average earnings and 2.5% should be abandoned and replaced by a link to earnings.
- (iii) That exceptions should be made to the higher qualifying ages for people in poor health and those who have had long working lives.

However, a separate report by the Government Actuary's Department has proposed more drastic cut-backs, which could result in people aged under 30 not being able to access the State pension until the age of 70.

The Government is expected to make known its thinking in May 2017.

### Benefits in kind

Despite the Chancellor's u-turn on National Insurance contributions for the self-employed, the subject of NI has clearly not been removed altogether from his agenda

Currently, some benefits in kind are exempt from NI contributions and may also permit the employee's charge to income tax to be based on a lower figure.

However, a provision in this year's Finance Bill aims to remove these advantages. In future, when employers offer benefits as an alternative to cash remuneration, National Insurance contributions will apply and income tax will be charged on the basis of whichever is the greater of the cash equivalent value of the benefit and the amount of pay which is foregone.

### Thank you for small mercis

An exception is made to the new provisions for benefits in kind which are classified as 'Trivial Benefits'. To qualify, these must satisfy three conditions:

- The value must be no more than £50 per recipient, or an average of £50 if the benefit is provided to a group of employees and the exact value to each employee cannot be calculated precisely.
- The benefit must not take the form of cash or cash voucher, though shop vouchers are allowed.
- The benefit must be gratuitous and not

provided in consideration of a service which the recipient is employed to provide.

Any other benefits, except for staff functions, will be taxable; and if the value of a Trivial Benefit exceeds £50 the whole amount will be taxed, not just the excess over £50.

For employees who are not directors, there is no limit to the number of Trivial Benefits which can be provided in any tax year. So an employee could receive 6 benefits with a total value of £300 in the same tax year. But this flexibility would not apply to directors.

Being non-taxable, Trivial Benefits need not be reported to HMRC on form P11D

### Junk

Moody's, the ratings agency, has warned that if Scotland were to leave the UK the reduction in its credit status would put it on a par with Azerbaijan and Guatemala.