

Barlow, King & King – Updates August 2009

Chapter 3

3.09

As from February 1 2009 the statutory legacy payable on intestacy to spouses and civil partners increased to £250,000 from £125,000 where there are issue surviving and to £450,000 from £200,000 where there are no issue but parents or brothers and sisters of the whole blood.

The rate of interest payable on the statutory legacy remains at 6% at the time of writing.

Chapter 4

4.07

The nil rate band for 2009/10 is increased to £325,000.

4.72

There is an arithmetical error in the last line of part (a) of the example. The Example should read as follows:

Example

A dies in Tax Year 2008/09 leaving an estate of £800,000. She has made lifetime transfers which leave £300,000 of her nil rate band available. In her will she leaves £315,000 to her daughter, residue to be divided between her husband and her sister. The will contains no directions as to the burden of inheritance tax.

- (a) Gross up the gift to the daughter as if it were the only taxable gift on death. On this assumption £300,000 is within the nil rate band so only £15,000 has to be grossed up at 40 per cent. £15,000 grossed up at 40 per cent is £25,000. The gross legacy is therefore £300,000 + £25,000 = £325,000.
- (b) Calculate the other taxable parts of the estate. Only half of the residue is taxable, the other half is going to the husband (and so is exempt).
- (c) Add the grossed-up legacy and the taxable half of residue to give the taxable estate.

	£
Value of estate	800,000
Less: grossed up legacy	<u>(325,000)</u>
“Residue”	475,000
Half residue	237,500

Tax is therefore payable on:	
Grossed up legacy	325,000
Taxable half of residue	<u>237,500</u>
Taxable estate	<u>562,500</u>

- (a) Calculate an assumed rate. This is the rate of tax which would be charged on an estate of £562,500 with £300,000 of nil rate band available. The tax would be:

	Band £	Rate	£
First	300,000	nil	nil
Next	262,500	40%	<u>105,000</u>
Inheritance Tax			105,000

The assumed rate would therefore be:

$$\frac{\pounds 105,000}{\pounds 562,500} \times 100 = 18.67\%$$

- (e) Gross up the specific gift not bearing its own tax at the assumed rate:

$$\begin{aligned} & \pounds 315,000 \times \frac{100}{100 - 18.67} \\ = & \pounds 315,000 \times \frac{100}{81.33} \\ = & \pounds 387,310.95 \end{aligned}$$

Chapter 5

5.09 and 5.14

The annual exemption for 2009/10 is increased to £10,100.

Chapter 6

6.11

The upper limit of the starting rate of income tax (charged only on non-dividend savings income) is increased to £2,440.

The upper limit of the basic rate of income tax is increased to £37,400.

The higher rate of income tax is charged on income in excess of £37,400.

Chapter 10

10.02

.As from January 1 2009, Her Majesty's Court Service requires all applications for a grant to include two A4 sized copies of the deceased's sworn will and, where applicable, codicil. This is thought to be a cost cutting measure for probate registries as they will have to do less photocopying.

10.38

The IHT 200 has been replaced as from June 9 2009 with the IHT 400.

Chapter 16

16.55

The basic rate of interest payable on funds in court is the rate payable on legacies unless the will provides otherwise. In line with falling interest rates generally this rate has fallen dramatically. A table showing the rates of interest payable are available from the website of the court funds office. It has fallen from 4% in February 2002 to 0.3% in July 2009.

Chapter 20

20.08

In *Baynes v Hedger* [2008] EWHC 1587 and on appeal at [2009] EWCA Civ 374 the following points were made:

- The word 'maintenance' has a broad meaning without predetermined meaning but is not without limits.
 - The outright gift of a house cannot constitute maintenance even if the claimant continues to live in it. The asset becomes the claimant's asset and could be sold and the proceeds used for whatever the claimant wants.
 - Likewise, once money is gifted to a trust fund the settlor is not maintaining the beneficiary even if the settlor continues as a trustee.
- Both a marriage and a civil partnership are publicly acknowledged relationships. The relationship must be openly and unequivocally displayed to the outside world. It is not possible for two persons live together as spouses or civil partners unless their relationship as a couple is an acknowledged one.