



# Lifetime Allowance Tax Charge: Registering for Protection

One of the features of the pension legislation that came into force in April 2006 is the Lifetime Allowance, with its associated tax charges of up to 55% for those who exceed the allowance.

When the Lifetime Allowance was introduced, it was commonly felt that only highly paid directors and business owner-managers would be caught by its introduction.

However, if you are, for example, a doctor, consultant, dentist, high ranking police or fire officer, airline pilot, or senior civil servant in your late 40's through to your 60's, then there is a significant possibility that you will encounter issues with the Lifetime Allowance in the future and so should review your position.



This is your last chance to take action to protect yourself against a punitive tax charge of 55% and so it would be a costly mistake not to take action.



The reason for this is that the Lifetime Allowance Limit applies not only to pension fund values themselves, but also income drawdown plans, existing pension/annuity income and, crucially, final salary entitlements.

In respect of income drawdown plans, the value taken for the tax calculation may be significantly higher than the actual fund value, which is of particular relevance following the recent falls in the stock market.



The Lifetime Allowance limit which was set at £1.5 million at 6 April 2006 (A Day), now stands at £1.65 million for 2008/09 and will increase to £1.8 million by 2010/11.

There are two ways of protecting your pension benefits from the Lifetime Allowance charge limit:

- Primary Protection – preserves any excess that you had on A Day over the £1.5 million limit.
- Enhanced Protection – you can register for enhanced protection even if your fund values do not exceed the £1.5 million limit at A Day. Anything already in your schemes will be exempt from the tax charge, providing certain conditions are met.

You still have until 5 April 2009 to register your entitlement to protect you from this extra tax charge. This is your last chance to take action to protect yourself against a punitive tax charge of 55% and so it would be a costly mistake not to take action.

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# update

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SERVICES: for families and individuals

# Securing the future

Many successful family businesses are the result of years of effort, nurture and very often sacrifice on the part of the proprietors who have created something to be proud of.



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And yet it would seem from recent survey results that over one half of private business owners have taken no active succession planning steps, thus putting at risk the very thing that they have strived to create.

As a result, research by accountancy practice BDO Stoy Hayward indicates that less than one quarter of family businesses survive to the second generation and less than 15% to the third generation.

The future of your business and, therefore, the financial security of your family and the livelihood of your employees is too important to leave to chance. If, therefore, you have not put in place a succession plan this should be your priority.

Start by making sure that you have in place the essentials. Your Will planning should reflect your succession wishes for your business whether you are a sole trader, in partnership or a shareholder in a family or unquoted limited liability company, and be tailored to compliment in the latter two cases your Partnership Agreement and any possible restrictions upon the transfer of shares.

Under your Will you should consider Inheritance Tax mitigation provisions and

possibly also the appointment of Business Executors specifically tasked with guiding your business through the succession stages. It is vital to have a valid and up to date Will to prevent a possibly disastrous distribution of your Estate under an Intestacy Distribution in the event of your death without a Will.

For those in partnership ensure that your Partnership Agreement is reviewed and contains appropriate succession provisions. Many people trade in partnership without the benefit of a formal Partnership Agreement with the result that the partnership would be automatically dissolved upon the death of a partner – thus potentially resulting in the disintegration of the business if the surviving partners are unable to come to any

financial agreement with the deceased partner's beneficiaries.

Whether in partnership or a co-shareholder you should consider the advisability of option agreements enabling the surviving business proprietors the option to purchase a deceased partner's share in the business or the shares of a deceased co-owner, and the cost effectiveness of ensuring the funding of that purchase through insurance.

Consider further the sense of putting in place a Power of Attorney so that decisions could be made for your business if you became incapacitated.

The key to your succession planning, whether it be for your retirement or in the event of your death, is to start discussing the options with your professional advisory team of lawyer, accountant and financial advisor as early as possible. This is one task that your family and your business cannot afford for you to delay.



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# With this prenuptial I thee wed...

As the wedding season begins, statistics show a soaring number of prenuptials in 2008. Divorce and matrimonial expert Christine Blount explains the process of signing on that dotted line...

## Panicking

High-profile divorces, such as McCartney-Mills, have meant that some people are panicking at the thought of a settlement - hence the rise in popularity of prenuptials. Although most popular with celebrities, wealthy businessmen and women, lawyers, accountants, bankers and brokers, prenuptials are becoming especially common in second marriages where adult children suggest a prenuptial to protect their inheritance from their new step-parent. Later on in life people may enter marriage with more assets to protect e.g. from their divorce settlement.

## Despite common conceptions, they can be legally binding

If both parties seek legal advice, the agreement was signed at least a month before the wedding, the finances were disclosed and the contract is deemed fair by a judge then the prenuptial is likely to be seen as legally binding. In America and most of Europe, prenuptials are legally binding. However England is years behind - due to a number of reasons which I won't bore you with.

## ...however, don't leave it too late!

Raising the issue of a prenuptial agreement with your future wife/husband can be tricky and some clients don't contact us until one week before the wedding - when it's too late. Remember you must sign a prenuptial one month before the wedding.

Baywatch star David Hasselhoff was so desperate to protect his £25million fortune that he made his wife sign a prenuptial agreement just 30 minutes before they were married. When they divorced, the agreement did not stand up in court and according to reports the assets were split 50/50.

## It can be stressful

Jennifer Aniston is reportedly on the verge of saying 'I don't' to John Mayer after he kicked up a fuss about signing a prenuptial agreement. The couple - who are rumoured to be on the verge of breaking up one day, and heading down the aisle the next - are said to be embroiled in a lover's tiff over the legalities of their imminent wedding. It may be a good test of strength of a relationship at an early stage which isn't necessarily a bad thing.

## Top 10 prenuptial wish list\*

(results from a study carried out in 2007\*)

1. No cheating
2. Equal share of housework
3. Limit on shopping sprees
4. Not letting your appearance go
5. No contact with exes
6. Control of the remote
7. No snoring
8. No unwanted family visits
9. No breaking wind
10. No leaving the toilet seat up.

Quite seriously though, a range of issues can be dealt with in a prenuptial and dealing with such matters early in a relationship will surely only promote openness and pave the way for a long and faithful relationship whilst protecting each party at the same time.

If you wish to discuss the possibility of a prenuptial (or post nuptial), please do not hesitate to contact me or a member of the family team.



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# Still no alternative to a Will



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Many married couples and couples who have registered their civil partnership presume that if they die without leaving a valid Will then their surviving spouse or registered partner will inherit their estate in its entirety. However, in many cases their presumption is wrong.

The Rules of Intestacy govern the distribution of a person's estate should they die without leaving a valid Will. If you are married or you have a registered civil partnership then the Rules provide that once you have died your surviving spouse or registered partner will only receive all of your estate in the following circumstances:

1. You do not leave any children or siblings and your parents have both died before you; or
2. You are survived by one or more of your children and the value of your estate does not exceed £250,000; or
3. You do not leave any children but you are survived by at least one of your siblings or either of your parents and the value of your estate does not exceed £450,000.

You will note that if you are survived by your spouse and a child or your spouse and either a sibling or a parent then your spouse will only receive all of your estate if it is worth £250,000 or less in the first instance or £450,000 or less in the second. These values have recently been increased from £125,000 and £200,000 respectively in order to bring them a little more up to date.

Although the changes referred to in the paragraph above are

“...unmarried partners and unregistered civil partners are not entitled to receive anything from the estate of a person who dies without leaving a valid Will.”

welcome, they have not done anything to make the Rules of Intestacy any less complicated nor have they altered the fact that unmarried partners and unregistered civil partners are not entitled to receive anything from the estate of a person who dies without leaving a valid Will.

The recent changes to the Rules of Intestacy may mean that your estate is now small enough to pass to your surviving

spouse even if you leave a child, a sibling or a parent and, therefore, you may feel that it is no longer necessary for you to make a Will. However, you should bear in mind that you can also use your Will to appoint the people who you would like to administer your estate and ensure that those people have all of the powers that they need in order to carry out their role as efficiently and effectively as possible. In addition, you can appoint guardians to look after your children and set out your funeral wishes.

The “new and improved” Rules of Intestacy are indeed better than before but they are still no substitute for a professionally prepared Will.

