CORNERSTONE WILLS

November 2013 newsletter

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What happens to your pension savings when you die and how our Family Trust can help to protect it

In our March Newsletter we highlighted our “Top 5 IHT Planning Tips” and stated that we would be giving you more information on these in the following months.

Our May and July Newsletters went into more detail on two of these top tips: the importance of having a valid and up-to-date Will and making use of your exemptions and reliefs.

This Newsletter deals with protecting any lump sum paid on your death from your pension by treating it as a family “heirloom” to be passed down the generations.

Many pension schemes pay benefits following a member's death. This could be a lump sum, a pension paid to a dependant or a combination. The type and amount of benefit paid normally depends on whether you die before or after starting your pension. It is advisable to contact your scheme administrator or financial adviser to find out what benefits your pension scheme will pay.

How does it work?

If you die before you start taking your pension

Your scheme will probably pay a lump sum. It may also pay a dependants' pension. Whether it pays one or both will depend on the type of scheme you have, e.g. a defined benefits pension scheme, company pension scheme or personal pension plan.

Additionally, if you have pension savings in a company pension scheme but you no longer work for the employer the scheme may only pay a refund of your pension contributions.

Not all schemes pay a pension to financial dependants so they may not pay a pension to your partner if you're not married or in a Civil Partnership.

Note that a “dependant” is usually within a defined set of people and may not include people that you would normally expect to be included.

If you die after you start taking your pension

The benefits payable will depend on the type of pension scheme and the choices you made when you started your pension. Examples include:

- any balance is be paid to your estate
- any balance is paid as a lump sum to anyone you wish
- a pension is paid to a dependant – this might be a fraction (e.g. half or third) of the pension you were receiving when you died

How can you protect any lump sum paid from your pension for your family?

Lump sums are usually paid to a spouse or dependant but they don't have to be. Your scheme will normally ask you to fill in an 'expression of wish form' stating who you want any lump sum payments made to. Lump sums can be paid to more than one person. Normally your scheme trustees or provider makes the final decision about who receives it so that the beneficiaries won't pay Inheritance Tax (IHT) on the lump sum.

What are the issues?

Some of the issues with the lump sum from your pension being paid to your estate, spouse, Civil Partner or other dependant are summarised below:

• If it is paid to your estate and you are unmarried then it may be subject to IHT when it passes to your beneficiaries by your Will or through intestacy if you have no Will

• Your spouse/partner received it free of IHT of your death but when they subsequently die it may be subject to IHT on their death before it passes to your children.

• They enter a new relationship or remarry after your death and, in that new relationship, they die first. Their new partner/spouse could claim all your pension lump sum and your children get nothing.

• They enter a new relationship or remarry after your death and pool their resources to purchase a joint property. Your partner/spouse dies first and the joint asset passes automatically to their new partner. Your children get nothing.

• Having remarried, they subsequently divorce. Your lump sum from your pension will be included in the divorce settlement.

• Your partner/spouse needs long term care after your death and it is all spent on their accommodation costs. Your children get nothing.

• Your dependants are under 18. They cannot give a receipt for your lump sum payout. Your pension provider may insist on a trust being established anyway but how much will it cost and who will the trustees be?

What is the simple solution?

If your pension scheme permits for your lump sum to be paid to trust then nominating one of our Family Trusts (with your partner/spouse and/or children as beneficiaries) to receive your pension lump sum instead of your estate, your spouse/partner or children can overcome all of the issues identified above, Please contact Cornerstone Wills for further information

Coming up in future issues

- **More helpful tips with IHT planning - Helping common law partners**
- **Understanding the benefit and differences between LPAs and Living Wills**
- **Sharia Wills**
- **Feedback from the consultation on the simplification of taxation of Trusts**