

European Court of Justice ruling hits Insurance Premiums

We are probably all fairly aware that when we apply for car insurance or life assurance that women tend to pay lower premiums than their male counterparts. In simple terms this is because women are statistically a lower-risk group (for example, for car insurance) and in terms of life assurance, women tend to live longer than men.



However, all this is about to change and it is important to consider the potential repercussions in terms of your financial planning. In what was a landmark case for insurance companies in March 2011 the European Court of Justice (ECJ) ruled that it would, in future, be unlawful for EU member states to use gender as a factor in the calculation of insurance

premiums and benefits with effect from 21 December 2012.

So what does this mean for policies taken out on or after 21 December 2012?

In straightforward terms this means that the calculations insurance companies now make will result in 'unisex' premiums as they can no longer factor in gender-specific risks.

This will essentially mean that women will see the comparative cost of insurance premiums rise (as they effectively 'cross-subsidise' their higher-risk male counterparts) whilst premiums for males should fall.

For example, an HM Treasury press release on the impact of this ruling calculates that the cost of a 10 year life assurance plan providing life cover of £150,000 for a 50 year old non-smoker would result in a monthly unisex premium of around £20. This compares with a current monthly premium of around £17 for females and £22 for males.

Notably however, the judgement also disallows the use of gender when calculating benefits payable from certain insurance products. Perhaps the most important repercussion here is in terms of pension annuity rates as insurance companies can currently factor in the gender-based differences in longevity. Currently a pension fund of £100,000 would buy an annuity (annual pension) of around £5,200 for a 60 year old male non-smoker, compared to

around £4,970 for a female non-smoker of the same age*.

From the 21 December 2012, however, insurance companies will only be able to offer unisex annuity rates. In reality, this is likely to mean that males will find the income they can secure with their pension fund will fall as a result.

Will this affect any existing policies that I have?

The short answer is it will depend on the policy. For example, car insurance policies operate on an annual basis so, when your policy is due to be renewed the new rules will apply for renewal dates falling on or after 21 December 2012.

For annuities and other types of insurance policies (such as life assurance and critical illness cover) the ECJ ruling only affects policies issued on or after the 21 December 2012 deadline, although there could be certain scenarios where policies effected before this date are affected. For example, some policies have 'reviewable' rather than 'guaranteed' premiums.



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Do I need to take any action?

Certainly, if you are a male approaching retirement it is worthwhile considering whether it will be better to purchase your annuity before the changes take effect – especially given that annuity rates for males could fall by up to 13% as a result of the ECJ ruling**. On the other hand of course, women are likely to benefit by delaying buying an annuity until after the changes take effect.

Any decision to bring forward or defer buying an annuity should not be influenced solely by the switch to unisex rates though as this ruling is not the only factor which affects annuity rates. Your age, health, the current yields on gilts (Government bonds), and

even your post code all affect the rate you can get. In addition, some insurers may already be transitioning towards gender-neutral pricing so the effects may be more gradual as we approach the 21 December 2012 deadline.

To add to the confusion there will also be changes from 6 April 2012 to funds built up from 'contracting-out' of the second state pension (S2P), known as 'protected rights' funds. From 6 April 2012 it will no longer be possible to individually contract out of S2P and the concept of 'protected rights' will be abolished.

Currently protected rights funds are already subject to unisex annuity rates. As these rights simply become 'ordinary' rights

a knock-on effect is that gender-specific annuity rates can apply to these funds between 6 April and 21 December 2012. In addition it will no longer be mandatory to include a 50% spouse's pension and therefore it may be particularly advantageous for married males to defer purchasing an annuity with their protected rights fund until after 5 April 2012.

Of course, as previously mentioned, you should not base any decision on these changes in isolation and obtaining advice is essential.

Summary

Whilst we know the key implications of the move towards unisex rates for insurance policies it is important to note that HM Treasury are still

engaged in a consultation with the financial services industry (particularly in terms of what exact amendments should be made to the Equality Act 2010 in order to comply with the ECJ ruling).

In the meantime, it is important to seek financial advice if you think you may be affected by these changes.

* Source: www.moneyfacts.co.uk (the amount quoted is for a single life annuity that will not increase in payment)

** Source: "UK response to the 1 March European Court of Justice ruling that insurance benefits and Premiums after 21 December 2012 should be gender-neutral" – HM Treasury Consultation Paper December 2011

Leaving might be harder than you think

In 2010, based on data from the Office of National Statistic (ONS), over 336,000 people permanently left UK shores for pastures new and in search of a new life. Of these over 100,000 decided that mainland Europe would be their new place of residence whilst another 94,000 decided that emigrating to Australia was their dream move.

Many of these expatriates will have taken little or no tax advice before leaving the UK. As may or may not be expected, this can result in some very nasty surprises, especially for those who move to a high tax jurisdiction.

Many people who retire abroad are also blissfully unaware of the fact that they are likely to be subject to the same types of tax on their income and capital gains as they were in the UK. There may also be taxes that they have not seen before, such as property or wealth taxes.

To exacerbate the situation unless you have made a distinct break from the UK you may still be subject to UK tax; people often complete the HMRC P85 form (this notifies HMRC that you are leaving the UK) but it is not necessarily enough to define your leaving as being a clean break. A recent high profile legal case involving Robert Gaines-Cooper and HMRC, revolved around the question of UK residency as even though he had left the UK to live in the Seychelles in 1976 (and followed the rules for 'allowed' visits) he was unable to show he had made a "distinct break" from his social and family ties in the UK, this left him facing a potential tax liability of up to £30m, covering the period 1993 - 2004.

There can be further complications such as dual tax residency. For instance once you are present in Spain for more than 90 days you must apply for a resident's permit, even if you're an EU citizen. And once you intend to remain for more than 183 days a year, you must register with the Spanish tax authorities and be issued with a tax identification number.

In fact most countries in the world, and certainly those that are popular with British emigrants, consider an individual resident for tax purposes if they spend more than 183 days a year in that jurisdiction, with many also operating a secondary test that considers you resident if for example, you spend more than say 90 days there per year, or if your main home is there.

Typically most countries do not differentiate between nationals and non-nationals when it comes to taxation and will tax worldwide income and gains. Some jurisdictions however, have special tax regimes for foreign nationals which will either exempt non-nationals from tax on their overseas income and gains, or subject them to a flat tax rate that is lower than the marginal rates that apply to locals. Unfortunately, however, you generally need to be



an entrepreneur, or employed in a specialist profession to benefit from many of these exemptions.

Savings & Investments

If someone has successfully broken ties with the UK and becomes resident elsewhere this does not mean that life will then be plain sailing. It is very rare for someone not to have some legacy connections with the UK, prime ones will be pension schemes, investments, property etc.

A question rarely considered is how

these investments will be treated in the new country. An example of this is the tax treatment of offshore investment bonds as it is a common misconception that other jurisdictions will treat these investments in the same way as the UK tax authorities.

The UK tax rules enable any tax on growth and income to be deferred until certain 'chargeable events' occur (e.g. – full encashment), however foreign jurisdictions may apply their own tax treatment to such assets.

For example in Spain an investment bond needs to invest in funds defined as UCITS (Undertakings for Collective Investment in Transferable Securities) from inception, have a minimum £75k invested and have had no top ups – this should mean it will be a qualifying policy and benefit from an effective low tax rate on the income element of withdrawals

or on full surrender, with minimal exposure to wealth and gift taxes – although this cannot be guaranteed.

If the plan was a non-qualifying plan, then it would come under the 'imputation' regime. This could create the issue of annual growth tax.

A similar issue exists in Australia. Once you are a resident, if you

choose to transfer a UK pension to a qualifying Australian pension scheme you have 6 months in which to do so - If you transfer in after this then any growth on the funds up to this point will be subject to tax. Whilst there may be advantages in considering such a transfer if you decided to move back to the UK permanently and wanted to transfer back to a UK

pension scheme this may not be permitted.

As you can see leaving the UK is a big decision and one which should not be taken lightly. This article can only scratch the surface and give some examples. As explained above, there are many potential pitfalls and seeking appropriate financial advice is essential.

End of Year Tax Planning

Given that 5th April 2012 signals the end of the current tax year, this article offers a brief reminder of some of the main year-end tax planning opportunities that could be considered, depending on your circumstances.

1. Use any Income Tax allowances by transferring investments from a higher rate taxpaying spouse to a spouse who is a basic-rate or non-tax payer. Income received on the investment could then be taxed at a lower rate or become tax-free.

If you have income over £100,000, or are aged 65 or over, this could also help preserve your personal allowance.

In order to try to maintain a full personal allowance (or a higher age related allowance if you are 65 or over) the following strategies could also be considered:

- Draw an income from tax free investments such as Individual Savings Accounts (ISAs)
- Make use of 5% tax-deferred capital withdrawals from investment bonds
- Contribute to a pension (if under 75) and/or donate to a charity, both of which reduce your total income by the amount of the gross contribution made for the purpose of the personal allowance income test.
- Switch from income generating funds to funds geared for capital growth (although there could

be tax consequences when switching funds so advice is essential).

2. Make full use of your Capital Gains Tax (CGT) annual exemption. In 2011/12, this is £10,600 and is therefore worth up to £1,908 in terms of a tax saving for a basic rate tax payer (£10,600 x 18%) and £2,968 for a higher rate taxpayer (£10,600 x 28%). Ignoring capital losses, a couple could therefore incur a capital gain of up to £21,200 without triggering any CGT liability.

3. Make use of any capital losses to offset against any capital gains. Remember however that where gains and losses occur in the same tax year, you must offset the current year's losses against the gain in full, even if this reduces the gain to less than the annual exemption.

4. Maximise use of ISA allowances to shelter income from tax. In 2011/12, the maximum contribution is £10,680, of which £5,340 can be paid into a cash ISA.

5. If you are under 75, you can make tax-relievable pension contributions of up to the greater of £3,600 and 100% of your relevant



UK earnings. Remember though that if total contributions made by you (or on your behalf) exceed £50,000, this could incur an annual allowance charge.

6. Tax incentives are available for investments into Enterprise Investment Schemes and Venture Capital Trusts. Please note, however, that the high risk attaching to such investments is likely to make them unsuitable for most individuals.

Please note that the above list is for general information only and does not constitute advice. It is important to seek financial advice based on your own personal circumstances

before engaging in any tax planning exercise or making any investments. Please feel free to contact us to arrange a meeting and we will be happy to discuss which tax planning opportunities might be appropriate for you.

Levels and bases of and reliefs from taxation are subject to change and their value depends on the individual circumstances of the investor.

The value of your investment can go down as well as up and you may not get back the full amount invested.

Estate planning is not all about the Taxman

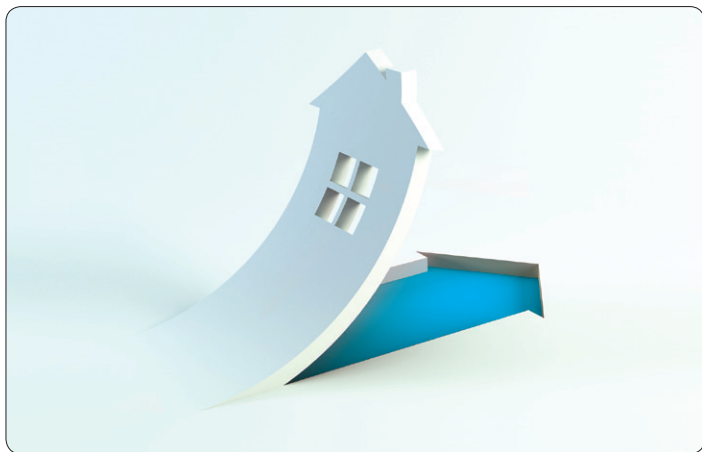
A few years ago Inheritance Tax (IHT) was becoming a political hot-topic. Rising property prices and healthy investment performance had meant that more and more individuals discovered they had estates tipping over the threshold at which IHT was payable

However, fast forward to present day and property prices and asset values generally continue to be suppressed

meaning IHT is perhaps not the same problem it was for many people who were on the borderline.

The introduction from 9th October 2007 of the ability to transfer any 'nil rate band' (currently £325,000

for tax year 2011/12) unused by a deceased spouse or civil partner to the survivor has also meant that



most joint estates under £650,000 escape IHT altogether.

However, estate planning is not all about Inheritance Tax and there are a number of estate planning tips that can be relevant regardless of whether or not you are caught by the IHT net.

1. Make a Will

Ensuring you have a valid and up to date Will is the cornerstone of any estate planning. Where no Will has been made then the estate must be distributed in a particular order known as 'the Intestacy rules' – These differ depending on whether the deceased lived in England & Wales, Scotland, or Northern Ireland and can be complex.

It is also important to be aware that any existing Will you may have made will automatically be revoked on marriage or civil partnership so, even if you have previously made a Will it may no longer be valid. It is also important

to review any existing Wills to take into account other changes in your circumstances.

There are many things you can do through a Will such as:

- Ensure your assets, money, and property pass to whom you wish to inherit and in the way you want
- Save Inheritance Tax and care fees
- Ensure your spouse / partner always has a home
- Appoint guardians to care for your children (and provide money for their maintenance)
- Give rights of occupation to adult children who are still living at your home when you die
- Ensure an inheritance for your children in the event of your partner remarrying after your death

2. Consider making a Lasting Power of Attorney (LPA)

When we think of the term 'estate

planning' it is usually in the context of controlling what will happen to our assets when we die, but what about what will happen to our assets whilst we are still alive should we become unable to manage our own affairs?

This is why making a Lasting Power of Attorney (LPA) is important – possibly even more important than your Will. An LPA is a legal document that allows you to choose persons (attorneys) you would like to make decisions on your behalf if you lack the mental capacity to make the decision yourself.

There are two types of LPA:

Property & financial affairs LPA: This allows an attorney to make decisions about paying bills, dealing with the bank, collecting benefits, selling your house, etc

Health and welfare LPA: this allows decisions on medical treatment, care, medication, where you live, etc

Making an LPA not only gives you peace of mind that someone of your choice will be there to manage your affairs but can also make this process less stressful for your loved ones, should they be placed into a situation where they need to make decisions on your behalf.

3. Pre-nuptial agreements

OK, we appreciate this is not the most romantic thing to discuss with your partner when proposing but in some cases a pre-nuptial agreement may be a sensible thing to consider. It perhaps also doesn't

at first glance appear to be 'estate planning', but the costs of divorce can often be greater than the costs of any inheritance tax.

Consider, for example, a couple who each have children from previous relationships. They may wish to ensure that their assets are 'ringfenced' to ensure they would not be lost on divorce – Such planning is often incorporated in Wills but of course this only covers a scenario should either party die.

It is important to stress that pre-nuptial agreements are not legally binding, although they are increasingly taken into account provided they meet the following conditions:

- Each party has received good quality legal advice;
- Each party makes a full financial disclosure;
- The terms are fair & reasonable (for example making sufficient provision for children);and
- There is no pressure on either party to sign the agreement

Summary

The issues raised above are not necessarily exhaustive but hopefully this article demonstrates that estate planning is just as much about control over your assets as it is about tax.

However, whether you are looking for advice on general estate planning or mitigating inheritance tax please contact us if you need further guidance and we will be happy to help.

Reminder! – Deadline for Fixed Protection is 5 April 2012

For individuals with significant pension benefits it is important to remember that the standard lifetime allowance is reducing from £1.8m to £1.5m from 6 April 2012. The standard lifetime allowance is the maximum value of pension benefits that an individual, who does not have an enhanced lifetime allowance (or enhanced protection), can accumulate without facing a tax charge.

From 6 April 2012, an individual without any lifetime allowance protection and benefits above £1.5m will incur a tax charge of up to 55% on any amounts in excess

of this threshold when they take their pension benefits – although it is possible to preserve the current lifetime allowance of £1.8m by applying for 'fixed protection'.

However, one important implication of applying for fixed protection is that (with very limited exceptions) no further benefits can accrue after 5 April 2012 so, for example, it would not be possible to make further contributions to money purchase arrangements. Fixed protection is also not available to you if you have previously registered for primary protection.

Those individuals looking to apply for fixed protection will need to complete HM Revenue & Customs form APSS227 and ensure that this is received by them on or before 5 April 2012.

Individuals who have previously registered for enhanced protection and wish to give this up in order to benefit from fixed protection must also ensure that HMRC receive their separate notice giving up enhanced protection no later than 5 April 2012.

Clearly, the decision to apply is not necessarily straightforward,

particularly for those individuals who have benefits close to £1.5m who need to weigh up the advantages of preserving the higher lifetime allowance against the requirement to cease further benefit accrual. Please contact us for financial advice if you are unsure whether the changes affect you or whether you need to take any action before the deadline.

Reliefs from taxation are subject to change and their value depends on the individual circumstances of the investor.