

The Brief

“May you live in interesting times”

SO RUNS THE OLD CHINESE CURSE. WE ARE ALL DOING THAT AT PRESENT, WITH NOT JUST THE UK, BUT THE WHOLE DEVELOPED WORLD, EXPERIENCING ECONOMIC DISRUPTION ON AN EPIC SCALE.

Much ink will be spilled on the causes, though, I tend to share Chou En-Lai's view, who, when asked by Henry Kissinger in 1971 what he felt the impact of the French Revolution (1789) had been, replied that it was too soon to tell!

We are all affected by the present economic situation, some badly, through loss of value in houses, pension funds and investments; through reduction in income; or even loss of employment. Even those not yet affected may fear what the future might hold.

Paradoxically, some have benefited. Those in secure employment (mostly but not exclusively in the public sector) and with variable rate mortgages, have seen their outgoings drop but their income unaffected.

The legal profession has also been significantly affected, both by the virtual collapse of the housing market and the dramatic reduction in commercial work of all types. Many firms have had to make significant numbers of lawyers and support staff redundant, or put them on reduced hours. It is even suggested that some firms may fail altogether before recovery comes.

Our own experience has been mixed. The freezing of the housing market has affected our Property Department, however our Asset Protection Department is faring much better, and indeed is likely this year to have its best year since we came into existence in our present form in 2000.

Most of our work is related to the significant events in our clients' lives, rather than solely to their financial circumstances. As in all previous recessions, life goes on for us all, despite the economic woes. We continue to marry, cohabit, have children, worry about their upbringing and education, concern ourselves with our retirement and old age, our older family members and so on.

These are the issues that drive most of our work on your behalf, and they endure, despite the prevailing economic conditions.

We are working hard to ensure that we continue to deliver a first class service to you in good times and bad. We have taken advantage of the quieter conditions in the housing market to install a case management system in the Property Department, to improve efficiency and quality of service when more normal market conditions return.

There have been many recessions in my professional lifetime. That they are nothing new can be seen from the diary kept by David Bird, who founded the original firm in 1845. You will find there a colourful reference to the “mania in buying and selling railway shares” – the dot.com or buy-to-let boom of his day. (*David's Diary is available to read at www.bsemple.com/who-we-are/our-past/davids-diary*)

The challenges, and opportunities, of our common humanity endure. We are working hard to make sure we will still be helping you with those challenges and opportunities for many years to come.

Frank Fletcher
Managing Partner



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Planning Considerations

There is no doubt the housing market has changed over the past year and, as a result, rather than move, many homeowners are exploring alternatives when their existing property no longer fulfils all their requirements. A popular option is extending or altering the current home. Here Partner KAREN LANG highlights points to consider.



This raises a number of issues, not least, whether Planning Permission or a Building Warrant is required for the work.

- If your Local Authority advise that no Planning Permission or Building Warrant is required, it would be prudent to obtain confirmation of this in writing from them. Failure to do this can cause difficulties in the event of a future sale, in that you may find it difficult to prove no consents were required and be forced to go to the expense of obtaining this confirmation again or, if regulations have changed, Retrospective Consents may be required. This can be both time consuming and costly.
- If your property is a Listed Building, Listed Building Consent may also be required. Again, if advised that no Listed Building Consent is necessary, obtain written confirmation of this for future reference.
- In some circumstances, a Building Warrant will be required for alterations but not Planning Permission, so check the position with both the Planning Department and the Building Control Department prior to beginning any work.

Another issue, which should also be considered when you are planning alterations to your own property or if you want to object to applications by an adjacent owner, is the terms of the Title Deeds for the property in question.

- If the property to be altered is part of a conversion of a larger property or a flatted property, it may well be that the Title Deeds state that the exterior walls are common to all proprietors in the building. That being the case and if, for example, you wish to convert your kitchen window into patio doors, this would involve the removal of part of a common wall and in terms of the Title Deeds the consent of your co-proprietors would be required.
- Similarly, if your property forms a top floor flat and you wish to extend upwards, you should inspect your Title Deeds, as it is highly likely this area will be owned in common with all proprietors in the building. Therefore, although a Planning Application may be granted by the Local Authority for you to form habitable rooms in that roof space, there are likely to be difficulties when you come to sell, as you will not have legal title to the rooms formed.

It is worthwhile, particularly if your property does form part of a larger building, to check with your Solicitor that your proposals are not likely to cause you any problems on resale and that there are no Title issues which would prevent you from carrying out your proposed development.

Objections

Of course, you may be perfectly happy in your home but what if your neighbours want to alter their property? How can you ensure their plans do not affect your enjoyment of your own home?

First and foremost, think long and hard as to whether the alteration in question will have an impact on you and if this is genuinely something you cannot live with. If your neighbour has their heart set on the alteration proposed and you prevent them from proceeding by objecting to their Planning Application, this may have a negative affect on your future relationship with them. This may be as bad (if not worse) than the impact of the alteration itself.

If, however, you feel you have no option but to object, then familiarise yourself with what constitutes a valid Planning consideration.

- Valid Planning considerations include the impact on the natural or built environment. Accordingly, the proposed development should be in keeping with the local environment. The appearance, design, scale and materials will be considered, as well as residential amenity (noise, smell, overlooking or overshadowing etc) and traffic, parking or access problems.
- Invalid Planning considerations generally include loss of a private view, devaluation of your property as a result of the development, a personal opinion that there is no need for the development e.g. that there are already enough licensed premises or hot food take aways in the area, health issues and moral issues (for example an objection to a public house or the identity of the applicant).

Prior to submitting an objection, it may also help to familiarise yourself with the local Plan for the area, something the Local Authority will be able to advise you on, to see if the proposed development is, in fact, contrary to the Plan.

Many Local Authorities now have online guidance on Planning issues and, indeed, it may be possible to view applications for Planning Permission on your Local Authority's website. If not, Applications should be available for viewing at the relevant Local Authority's offices.

Again, it is worthwhile obtaining legal advice to clarify your own position in circumstances where your neighbour has successfully applied for Planning Permission for alterations which you believe interfere with the common parts of the building you share.

To discuss Planning considerations, or property matters in general, please contact Karen Lang or Karen Fulton on t 0141 304 3434.

THE CREDIT CRUNCH

A "Gift" for Inheritance Tax Planning?

One positive development that has emerged during the current economic downturn and consequent falling value of assets is the opportunity to reduce your potential inheritance tax bill and any associated liability to capital gains tax. Here Tom Monteith, Asset Protection Partner, considers the situation



Gifts to Future Generations

Inheritance tax is often described as an avoidable tax. However, the majority of people do not use lifetime tax allowances.

Declining property prices and falling share values mean that your estate could be at its lowest value for many years. In practice this could mean that the tax "cost" of lifetime giving may be minimal or even nil. For lifetime gifts, the value of assets for inheritance tax purposes is fixed at the time they are given away. As such, it could be well worth considering gifting surplus assets now whilst valuations are low.

How much can I gift?

There are two main categories of gifts for inheritance tax purposes – "exempt transfers" and "Potentially Exempt Transfers" (PETs):

"Exempt Transfers"

The current limit for exempt transfers is £3000 per year. For example, if the value of an investment has fallen below £3000, you will be able to give this away free of any inheritance tax liability (assuming that no other gifts are made in the same tax year). Where you haven't used last year's exemption at all, you could double up the £3000 gift to £6000. Indeed, any unused element of your £3,000 allowance for last year can be added to your £3,000 allowance for the current year.

You can also make as many small gifts as you want, so long as the total given to any one person is less than £250 in any one year.

"PETs"

PETs are gifts of more than £3000 which are generally made outright to one or more individuals. A PET is free of inheritance tax provided that the person making the gift survives for a 7 year period from the date of the gift. If you die within 7 years of making the gift then the full value of the PET is included in your estate although there may be some relief where at least 3 years have passed since the time the gift was made (most commonly where the PETs made exceed £325,000). Any inheritance tax charged could be up to 40% of the value of the PET.

It is important to note, however, that transfers between spouses are generally exempt for inheritance tax purposes.

However, if you are considering making a PET you must be careful not to retain any benefit from or interest in the asset gifted. To do so could mean you fall foul of so-called Pre-owned Assets rules (POAT) or Gift with Reservation of Benefit rules.

Other considerations

Although such transfers may be free of any inheritance tax liability, a capital gains tax liability could arise in the tax year that the gift is made.

As with inheritance tax planning, the falling value of assets presents opportunities for savings as capital gains tax is, broadly speaking, calculated by subtracting the cost of acquisition of the asset in question from its value at the time that it is gifted.

Post-death opportunities

There are also various reliefs available post death for reducing any inheritance liability on an estate.

Most commonly the main asset in an estate will be the family home. Assuming that property prices continue to fall, if the home is sold by the executors at a lesser value than the date of death value (the value executors are required to return for Inheritance tax purposes) the sale proceeds can be substituted for the original value and set off against any inheritance tax liability and a refund obtained. To qualify, the property must be sold on the open market within 4 years of the date of death.

Similarly, if the deceased held shares which fall in value following death then, provided that the shares are sold within 12 months of the date of death, any overall loss can be set against an inheritance tax liability and a refund of inheritance tax obtained.

What should I do now?

Whether or not you should gift assets now is a difficult decision given the uncertainty of the market and one that is particular to you and your family's circumstances. If you can afford to be without certain assets, now may be the time to pass some of these on to the next generation. Your usual Bird Semple contact will be happy to discuss these opportunities with you.

On The (Net)ball



Having decided that 2009 was the year to get fit, January saw the creation of Bird Semple's very first Netball Team.

Glasgow's Kelvinhall being our venue of choice, we arranged our first game. From the most seasoned player to the complete novice, we started off with enthusiasm and determination, even leading the game by 3 goals to 2 by the midway point. However, much to our disappointment the final outcome

was not in our favour. Nevertheless, we quickly organised our next few games – practice makes perfect after all!

The Team aims to get together once a week, whether it is for a practice game or a competitive game and thanks to some expert coaching from our cash room's Elizabeth Descoteaux – former PE teacher and Netballer extraordinaire – we can safely say that we are improving as the weeks pass by.

What does the Budget mean for you?

An overview by Amber Heron

The Chancellor's budget on 22nd April 2009 indicates that public borrowing is expected to reach record levels, and anticipates the largest issue of gilts ever to finance part of that borrowing.

From a tax perspective, the biggest changes will affect those earning over £150,000 per annum, with the proportion of their earnings over that amount to be taxed at 50% from 6 April 2010. This same group will also have Income Tax Relief on their pension contribution limited. For those earning over £100,000, the Personal Allowance will be phased out by £1 for every £2 of earnings over the threshold.

The new tax rate will also affect Trusts, which will pay the 50% rate on all income other than dividends (taxed at 42.5%, up from 32.5%).

For owners of Furnished Holiday Lettings, the law allowing losses from UK properties to be offset against other income is to be extended with immediate effect, to furnished holiday lettings within the European Economic Area ('EEA'). However, from 6 April 2010, the relief will be withdrawn.

On the plus side, the ISA Investment limits (currently £7,200) will be increased to £10,200 (of which half may be cash). This will become available from 6 October 2009 for those over the age of 50 and from 6 April 2010 for everyone else.

The Agricultural Property regime has been extended with immediate effect for those with qualifying land, property and woodlands in the 'EEA'.

The time scale for the Stamp Duty Land Tax "holiday" has been extended to exempt property purchases of not more than £175,000 until 31 December 2009 inclusive, and the VAT "holiday" (15%) will cease on the same date, with the rate reverting to 17.5% thereafter.

The Enterprise Investment Scheme provisions have been amended to extend the time limit in which companies utilise funds raised from its investors to 24 months, and investors may now carry back up to £500,000 of investment to obtain tax relief in the earlier year.

From a tax compliance perspective, taxpayers who are penalised for various "misdemeanours" where the tax loss is more than £25,000, could have their names published on the HM Revenue & Customs website.

Legislation is to be introduced to reform the Tax Penalty Regime for late filing of tax returns and late payment of tax. This will apply to all taxpayers including employers filing PAYE returns and payments.

For more budget information, or to discuss your personal tax affairs, please contact our Tax Manager, Amber Heron.



WIN A PINK LADY AFTERNOON TEA FOR TWO AT

Hot on the heels of the launch of its successful After Dark menu for discerning evening diners, uber chic Fifi and Ally has introduced a fabulous Pink Lady Afternoon Tea to be enjoyed over gossip with friends, family or even business associates you are out to impress.

Fifi and Ally is already a magnet for ladies who lunch and those in the know, cleverly combining pared down retail and stylish eating at its multi award winning stores in Princes Square and Wellington Street.

The beautifully presented Pink Lady Afternoon Tea

has a pink Champagne option and features Fifi and Ally's famous signature cakes adorned with butterflies. £1 from every Pink Tea sold goes to the Princess Royal Trust for Carers.

To have a chance of winning, simply answer the following question:

From 6 October 2009, what will the new ISA Investment limit be for those aged over 50?

Now just complete the enclosed postcard or e-mail your answer to competitions@bsemple.com on or before 30 June 2009.

fifi and ally



www.fifiandally.com

From Fright Nights to Red Noses – All in the Name of Charity...

Recently, a number of worthy causes have benefited from various fundraising events organised by the staff at Bird Semple.

The proceeds from the firm's monthly "dress-down" days, which have amounted to over £500.00, have been donated to several charities, including Make a Wish Foundation and Children 1st over the past year.

In February this year, Sharon Clift and Marlene Fairley "bravely" signed up for a Fright Night at the Provand's Lordship to raise funds for The Anthony Nolan Trust, a charity very close to the hearts of a number of members of staff. Sharon and Marlene managed to raise several hundred pounds – quite a scary

experience but for a worthwhile cause.

On Red Nose Day, which took place in March, a further £270 was raised through selling cakes and raffle tickets and the money was split between Comic Relief and CHAS. And at Easter, a "Name the Easter Chick" was organised on behalf of Christian Lewis Children's Cancer Care Charity, which was a great success.

Maureen Borland, who is actively involved in the firm's charity events, comments:

"On behalf of all the team, a big thank-you to everyone who has contributed so generously to our fundraising efforts, it really is hugely appreciated!"

