

GIFTS OF PROPERTY TO FAMILY MEMBERS

Many of our clients, having reached retirement age, are becoming concerned about their ability to pass on their assets to their families. For this reason some of them are considering giving their homes, or a share of them, to younger members of the family. However, this can have the following pitfalls:-

1. Under anti-avoidance measures, the full value of the home may still be taken into account in relation to means-testing for any government benefits or help with residential care fees.
2. The Capital Gains Tax owner/occupier exemption will apply to the gift itself, but will be lost thereafter and will no longer apply to the market value of the home, or share of it, on the client's death.
3. The client may never need residential or nursing home care (less than 6% of the population ever does) and so the risks of giving away their home for such a reason may outweigh any benefits received.
4. The home, or share of it, may be lost on the bankruptcy, divorce or death of the relatives to whom it has been given.
5. There would be no Inheritance Tax saving if the client continues to live at the property, unless he or she pays a full market level of rent to the new owners. This is because only outright gifts are valid for tax purposes and the donor must not retain any benefit. Conversely, if any of the relatives receiving the gift die before the donor then the home, or share of it, would be assessable for Inheritance Tax as part of that relative's own estate.
6. The relatives may lose entitlement to benefits and/or services themselves (for example, Social Security benefits, Legal Aid, university fees, etc.) if they own a property, or a share of a property, in which they do not live.

If, having considered these issues, you still feel that a scheme of this nature might be appropriate then we would be happy to discuss it with you.