



## THREE COUNTIES

*Financial Management Services Limited*

PROFESSIONAL BRIEFING No.20 April 2007

# Immediate Need Care Fee Payment Plans

If you have a client with an immediate need for care and they are considering selling their home to pay for it they could look at the possibility of purchasing an **immediate need care fee payment plan**. These plans deliver a regular guaranteed tax-free income higher than can normally be achieved from traditional investments or annuities. They are a way of meeting the initial shortfall between income and care costs whilst using up only part of the capital and, as so many older people wish, potentially enable an inheritance to be left for the family.

Care is needed as, although there are currently three companies that offer this product, their actuarial view of life expectancy can be quite varied and, consequently so can the price. To combat this and to obtain the best possible price, we can use an application form and health questionnaire which is submitted to all companies

## Treating Customers Fairly (TCF)

The FSA introduced the TCF initiative with the aim of encouraging IFA firms to:

- put customers at the heart of their business
- help build consumer confidence in the financial services industry.

The principle of TCF applies to all IFA firms, no matter how large or small they are and it is fundamental to the FSA's supervision strategy for smaller firms.

TCF should be and is an integral part of this firm's culture.

## New - Style Property Trusts

The arrival of the real estate investment trust, or REIT follows a change in the law. Britain's biggest commercial property owners can now change their corporate status and turn themselves into investment trusts. This allows them to own property and distribute the gains tax-free.

The end of this 'double taxation' will allow dividends to be paid out of untaxed income provided at least 90 per cent is distributed to investors.

To convert a trust company must pay a one off charge to the Treasury equivalent to 2 per cent of the value of its property portfolio. After that, it will be free to expand its portfolio with little hindrance from tax authorities. The new REITs are also expected to attract investors in residential property. The rules for holding residential property within the new trusts are complicated, but still likely to prove enticing to some investors.

# Normal expenditure out of income

Following the Finance Act 2006, advisers are looking to maximise all avenues to reduce the impact of the changes introduced, especially those relating to inheritance tax (IHT).

Much has been written about using annual exemptions. The annual exemption of £3,000 plus the ability to carry forward an unused yearly allowance is ideal for small gifts. Increasingly this allowance is being used for regular premium insurance policies to fund for any anticipated IHT liability. However, this exemption can be significantly extended where gifts are classified to be out of 'normal expenditure'.

## How does this work?

A transfer is exempt if:

- it was made as part of the transferor's normal expenditure
- it was made out of 'natural' income (for example, dividends or interest from investments or bank accounts)
- after allowing for all transfers which are part of normal expenditure, the transferor was left with sufficient income to maintain his or her standard of living
- it is habitual or regular.

## How does this work in practice?

Where a client has sufficient income, gifts which satisfy the criteria can still be exempt where they exceed the annual allowance.

In the tax case of *Bennett's v IRC* (1995) it was also established that the gifts do not have to be of a fixed amount and can vary from year to year. In the case of Bennett, one payment was £9,300 and the next £60,000. This was due to fluctuating income and each payment did not reduce the transferor's standard of living.

## Recording the evidence

HM Revenue & Customs (HMRC) has a form which must be completed on the death of the Settlor where 'normal expenditure out of income' is being claimed. The D3a form asks for a breakdown of expenses etc to justify the claim that the standard of living has not been affected.

Keeping a clear audit trail will help in the long run should the inspector of taxes query any claim for 'normal expenditure out of income'.

## For further information please contact:-

Peter West (Managing Director) [pww@three-counties.co.uk](mailto:pww@three-counties.co.uk)

Steve Cann (Director) [sec@three-counties.co.uk](mailto:sec@three-counties.co.uk)

Simon Walker (Director) [sgw@three-counties.co.uk](mailto:sgw@three-counties.co.uk)

John Baxter (Director) [John.Baxter@three-counties.co.uk](mailto:John.Baxter@three-counties.co.uk)

Mark West (Associate Director) [mjw@three-counties.co.uk](mailto:mjw@three-counties.co.uk)

Peter Braisby (Client Services Manager) [pab@three-counties.co.uk](mailto:pab@three-counties.co.uk)

Les Cain (Office Manager) [Leslie.Cain@three-counties.co.uk](mailto:Leslie.Cain@three-counties.co.uk)

You should be aware that investment in securities involves risk. The value can fall as well as rise and you may not get back the full amount invested, particularly in the earlier years.

**Taxation:** All statements relating to taxation are based upon our understanding of the law and Inland Revenue practice in force at the date of this report. There can be no guarantee that the tax position or proposed tax position at the time of investment will endure indefinitely.

CALE CROSS HOUSE 156 PILGRIM STREET NEWCASTLE UPON TYNE NE1 6SU

Telephone (0191) 230 3034 Facsimile (0191) 230 3035 [www.three-counties.co.uk](http://www.three-counties.co.uk)

*Authorised and regulated by the Financial Services Authority (FSA) although the FSA may not regulate all products/services recommended.*

Tel: 0191 230 3034