

AUTUMN 2024

SHAKESPEARE
MARTINEAU

LIFE

TIMES

A Farmers Guide to Prenuptial Agreements



FREE - do take me home

Printed on recycled material using sustainable inks

contents

Has The Rhetoric Between Tax Relief And Tax Avoidance Gone Too Far?	2
Pet Custody Battles	4
Leaving Money to Charity in a Will	6
Sellers FAQ's	9
Cryptocurrency Meets Couture	10
A Farmers Guide to Prenuptial Agreements	12
House Selling Myths	14
Guardianship Orders	16
Tax Planning Guide	18
High Net Worth Families	20



2

**The Rhetoric
between
Tax Relief and
Tax Avoidance**



10

**Cryptocurrency
Meets Couture**



12

**Farmers
Pre-nuptials**



18

**Tax Planning
Guide**



hello

As we enter the final quarter of 2024, the UK budget takes centre stage, with potential tax reforms on the horizon. It's essential to stay informed about how changes to capital gains and inheritance tax could affect your financial future. This issue explores key insights to help you prepare.

For farming families, prenuptial agreements offer more than just protection—they safeguard generational assets. We discuss how these agreements can ensure your farm's future in the event of a divorce.

With tax avoidance versus tax evasion under growing scrutiny, we clarify the legal distinctions and highlight the importance of responsible tax planning in today's regulatory landscape.

In the world of high-end transactions, cryptocurrencies like Bitcoin are becoming increasingly popular among high-net-worth individuals. We delve into trends around purchasing luxury items with Bitcoin, ensuring you stay ahead of the curve.

Finally, pets are now a focus in divorce disputes, with couples battling for custody of their beloved animals. Enjoy this edition as we explore these timely topics to help you navigate life's evolving landscape.

Suzanne Leggott

Partner
Head of Private Wealth

Has The Rhetoric Between Tax Relief And Tax Avoidance Gone Too Far?

The distinction between tax avoidance and tax evasion is becoming increasingly blurred, raising the risk of penalties for perfectly legal activities. Although tightening regulations

seem attractive, there is a danger that such measures could swing too far and undermine essential tax reliefs that protect individuals and business owners.

Labour has already pledged to review business tax reliefs. However, it is essential that this review does not result in the removal of policies that incentivise entrepreneurship and ensure businesses can continue for future generations.

What's the difference between tax evasion and tax avoidance?

Currently, taxpayers can generally be classified into three categories: compliance, avoidance, or evasion. 'Compliance' involves paying taxes as agreed upon with HM Revenue & Customs, while 'evasion' refers to the intentional non-payment or fraudulent underpayment of taxes.

Tax 'avoidance' is entirely legal, but it is often discouraged, and is largely guided by a sense of 'what is right'. But who determines what is right? The law should be the ultimate guide on this matter.

The concept of tax avoidance arises when it is either criticised in the court of public opinion, or if the country's leadership deem it to be unacceptable in some way.

A surprising example of 'tax avoidance'

Pensions are a good example of tax avoidance. Most people wouldn't choose to tie up their money until their mid-fifties if it weren't for the tax benefits that come with pension contributions; these contributions not only offer immediate income tax relief, but also give tax relief from income tax on investment returns, capital gains tax, and inheritance tax.

Therefore, in essence, those who contribute to pensions are engaging in a form of tax avoidance. However, pensions are viewed as a smart financial decision and have been actively encouraged by the government for many years (although some sceptics would argue this encouragement is self-serving, as it reduces the likelihood of individuals needing state support later in retirement).

So, at what point does the usage of a perfectly legitimate tax relief morph into something that the government suddenly declares as 'unacceptable tax avoidance'?

It seems the main influencing factors are public opinion, or the personal preference of those in power, thereby introducing a degree of subjectivity that can obscure the law's intent.

Undoubtedly, the tax system has been broken for a long time, well before the new Labour government took office. However, the current concern is that the desire to crackdown on 'tax avoidance' could go too far, and potential changes to tackle it could be ill-thought out, which could lead to serious unintended consequences.

It is hoped that the new government will take a sensible approach to tax reliefs and does not overemphasise the tax-avoidance rhetoric. Speculation is already circulating about certain inheritance tax (IHT) reliefs being reformed, or even scrapped. While some question why business owners are

entitled to pass on their wealth (potentially without paying any IHT), while others face a 40% tax, there are sound economic reasons for this relief. It enables businesses to continue operating without the risk of having to liquidate to cover IHT liabilities.

The same logic applies to reliefs for agricultural holdings. While removing these reliefs might boost IHT revenue for the government in the short term, arguably it loses out on a lot more revenue overall; for example, if businesses are forced to close, taxpaying employees may suddenly require state assistance (due to their job loss) and will stop paying income tax.

Equally, a business that is forced to close will no longer contribute to corporation tax or VAT receipts. Nor does it stimulate the economy through consumer spending.

The government must carefully consider these factors before making any changes to tax reliefs, ensuring that the broader economic impact is fully understood.

Is business asset disposal relief under threat?

Business asset disposal relief can reduce a business owner's capital gains tax rate from the standard 20%, down to 10% when they sell their business. While some view this as 'another tax break for the wealthy', and therefore could also come under threat, this relief is important to encourage entrepreneurship.

Launching, operating and growing a business comes with commercial and financial risk. To help mitigate these risks and encourage entrepreneurship, it's crucial to maintain tax incentives at every stage of the business lifecycle. After all, successful business owners don't just generate money for themselves, they also create jobs and make a wider economic contribution.

The wider impact

Rather than reducing, or eliminating certain tax reliefs, there might even be an argument for the government to expand on some of them. While many different types of businesses benefit from IHT exemptions, others, like those involved in owning and letting property, have been overlooked.

Some of these property businesses often represent full-time jobs for the owners, yet they do not qualify for IHT or other reliefs. In fact, they suffer more penal taxes than most other businesses. As a result, without, for example, IHT relief, beneficiaries of such businesses may be forced to sell properties just to pay the tax bill, potentially putting tenants at risk of eviction.

What happens next?

Hopefully, as the new government reviews tax policies, it will take a sensible and balanced approach to tax reliefs and not overemphasise the tax-avoidance rhetoric. Short-sighted decisions may increase tax receipts in the short term, but at a significant longer-term cost. Such decisions could harm the country's financial health as well as its cultural and economic vibrancy.

We're here to help

If you need some guidance on the complex rules surrounding tax, then our team of dedicated tax lawyers can provide you with clear strategic advice.



Julia Rosenbloom

Julia.Rosenbloom@shma.co.uk

0121 214 0014

Pet Custody Battles: What Happens to Furry Friends in a Divorce?

When couples go through a **divorce**, the emotional toll can be overwhelming, and while issues such as finances and childcare often dominate proceedings, the question of who gets the family pet can become a significant point of contention. For many, pets are much more than just animals – they are beloved family members. But when relationships break down, what happens to these furry companions?

How does the law view pets in divorce?

In the UK, pets are classified as “chattels” under the law, meaning they are considered personal property, much like a car or a piece of furniture. This legal framework can be distressing for pet owners who see their pets as members of the family rather than possessions. Unfortunately, this classification means there is no specific “pet custody” law in the UK.

Joint ownership and agreements

While courts may ultimately view pets as property, many couples wish to approach the situation with the pet’s best interests in mind. This often leads to joint ownership agreements or “pet-nups,” where both parties agree on shared responsibilities for the pet post-divorce.

Some considerations in a joint ownership agreement might include:

- Living arrangements: Will the pet stay with one party full-time or split time between homes?
- Expenses: How will costs such as food, vet care, and grooming be divided?
- Decision-making: How will major decisions, such as medical care, be handled?

We encourage couples to negotiate these agreements early in the divorce process, as they can help avoid lengthy disputes later on.

A carefully crafted pet agreement, while not legally binding, can be an important document considered by the courts in the separation process.

The importance of a “pet-nup”

Just as couples can enter into a prenuptial agreement to clarify financial and property arrangements in the event of a divorce, a “pet-nup” is becoming an increasingly popular option for pet owners. A pet-nup is a formal agreement that outlines who would keep the pet if the relationship were to break down and is an effective way to ensure that both parties’ expectations regarding the pet’s future are clear from the outset.

Mediation

Mediation can be a valuable tool in resolving pet custody battles. A mediator can help facilitate productive discussions, ensuring both parties’ voices are heard while prioritising the well-being of the pet, allowing couples to craft creative solutions, which are much harder to achieve in a courtroom setting where strict legal definitions of ownership apply.

Considerations for pet welfare

Beyond the legal ownership aspect, it’s important to take into account the welfare of the pet during and after a divorce. Pets, particularly dogs and cats, can be highly sensitive to changes in their environment and routine. Prolonged disputes over their custody can lead to stress and behavioural issues.

When deciding pet custody, ask yourself:

- Who has more time to care for the pet?
- Is there enough space for the pet in both households?
- Will the pet be alone for long periods due to work commitments?
- How will children’s contact with the pet be maintained?

While these considerations won’t always have a legal bearing, they are crucial for ensuring your pet’s well-being.

If you’re facing a divorce and are unsure about the future of your pet, don’t hesitate to reach out to our team. We’re here to provide compassionate, expert guidance so you can focus on moving forward.



Katherine Marshall
Katherine.marshall@shma.co.uk
07872 507755

Leaving Money to Charity in a Will

As people with significant personal wealth get older and start to think about their legacies, as well as taking care of their own families, it appears that many look to provide assistance to those less well-off. One of the ways that those with substantial wealth look to do this is through the setting up of a charity, either via their will, or during their lifetime.

Why set up a charity?

- Individuals may choose to leave gifts to charities in their wills or make regular gifts during their lifetime.
- People with substantial wealth may set up a grant-making charity to create an ongoing legacy and ensure funds are managed to support causes close to their hearts.
- Setting up a charity can have tax advantages for both the individual and the charity, as most of the income and capital gains of a charity are tax-free and charities can claim back Income Tax through the Gift Aid scheme.
- Gifts to UK charities on a person's death can be free of Inheritance Tax and if 10% of a person's assets are left to charities, the rest of the estate can qualify for a reduced rate of Inheritance Tax.

From an estate planning point of view, gifts to UK charities on a person's death can be appealing as they are free of Inheritance Tax. On top of this, if 10% of a person's assets on their death are left to charities, the rest of the estate can qualify for a reduced rate of Inheritance Tax. This can, in certain circumstances, reduce the overall Inheritance Tax payable on a person's death.

Setting up a structure to give back to worthy causes can be fairly straightforward through the creation of a charitable trust. However, those considering this should take advice on the most suitable structure given their circumstances, the kind of activities the charitable will be undertaking, and the assets the charity will hold.

Can a will be contested if money is left to charity?

- A will can be contested if money is left to charity, but it's less likely than if left to an individual beneficiary
- A will can be contested if there are doubts about its validity or the mental capacity of the testator at the time of making the will
- If there are allegations of undue influence or fraud, the will may be contested
- If the will is valid and there are no concerns about mental capacity or undue influence or fraud, it's unlikely to be successfully contested even if most of the estate is left to charity

of a will after a person's death, or bring a claim against the estate for financial provision.

With an aging population and family relationships getting ever more complex, we have seen a steady increase in claims relating to wills and estates. If a will challenge is successful, the will is overturned and the important gift meant for the charity never reaches them. Even if the claim is unsuccessful, it will have caused delay and stress and the charity is still likely to have used up some (if not all) of the value of the gift in legal fees.

Whilst it's not possible for an individual to completely safeguard their legacy and prevent claims being made, there are some steps which they can take to reduce the risks.

2. Use a solicitor

These days a will can be downloaded from the internet for less than the cost of a large family pizza and while the technology offers speed and ease and may save some money in the short term - it can often simply be false economy. No independent advice is given about the terms of the will and no one is checking the donor's capacity. And there is often that suspicion that the person sat behind the laptop completing the will form is not actually the 80 year old donor themselves but rather someone else. Charities may inadvertently find themselves caught up in such issues and they risk losing the gift over the perceptions and suspicions of disappointed family members.

Therefore, donors who wish to leave legacies to charities are encouraged to use a solicitor or professional will writer to prepare their will as:

The solicitor can ensure that the donor's wishes are followed properly and recorded, particularly their reasons for making the legacy to the charity if it is to the detriment of other family members.

What is the best way to leave money to charity?

The best way to leave money to charity depends on your personal circumstances, charitable interests, and financial goals.

1. Make sure your wishes are upheld

It is important that having made the decision to make a will and benefit a charity, that a donor's wishes are upheld. Unfortunately, the rules on making a will are strict and if not followed properly, then the will is not valid and the gift fails. This often doesn't come to light until after a person has died and by then it's too late to rectify. It can also happen that disappointed family members may also try to challenge the validity



The solicitor can ensure that the will is validly executed (many wills are invalid because they aren't witnessed properly).

The solicitor should satisfy themselves that the donor has capacity to make the will and to advise the donor to get a medical report if capacity is in doubt. If a claim is made against the estate, then the solicitor's will file will contain crucial evidence and the solicitor who prepared the will can be a key witness.

3. Communication

Donors should communicate with their family and be open about their testamentary wishes either speaking to them during their lifetime or leaving a letter of wishes with their will setting out their reasons. Some family members simply cannot accept that their parent/relative didn't want them to inherit and are immediately suspicious of any will which doesn't align with their expectations, even if there is no real grounds to contest it.

If the donor has had "the conversation" with their family and addressed concerns during their lifetime or else left a note detailing their reasons, then that makes it less likely a claim will be made against the estate.

4. Education

When the terms of the will become known, charities should be encouraged to liaise with the donor's family members in a timely and sensitive manner – explaining the good work that the charity does, how the legacy will be used and how the legacy is not a windfall for the charity, but helps keep the charity operating.

The charity can also use this opportunity to address the often held mistaken belief that the charity is free to give the money back to the family if they really wanted to. Many people simply don't know that the charity is legally obliged to only use legacies for its charitable purposes and only in very specific circumstances is it free to depart from that.

As legacy giving is on the increase, so are disputes so it's always important that if a charity is faced with a challenge to a will or a claim against an estate, that they take their own specialist legal advice.

5. The small print

It is important to remember that most charities other than the very smallest will need to be registered with the Charity Commission in order to be recognised by HMRC and gain the tax advantages that come with charitable status. Those setting up a charity need to be aware of the requirements and conditions of registration from the outset when preparing their governing document and deciding on their objectives.

Although running a charity can be very rewarding, it is important that the administration and reporting requirements are fully complied with and the charity is properly managed.

If this is the route you would like to explore to ensure that your wealth is leaping into action for those less fortunate, the team can advise and assist with the setup and ongoing running of a charity. This will ensure that all taxation and reporting requirements are fully met with, allowing those that run the charity to get on with the work of benefitting worthy organisations and individuals leaving those charitable trustees leaping for joy!



Andrew Wilkinson
andrew.wilkinson@shma.co.uk
07860 402672

Sellers FAQ's

Selling a property can often feel overwhelming, but understanding the key steps involved in **residential conveyancing** can help make the process smoother. This FAQ guide is designed to answer common questions sellers have about the legal aspects of transferring property ownership, ensuring you are informed every step of the way.

How much does it cost to sell my property?

Typically, the cost to selling your home includes your mortgage fees, conveyancing fees, obtaining an Energy Performance Certificate (EPC), having a valuation, estate agent fees and any additional moving costs.

My partner and I have separated, and we are selling the house, is there anything we need to do?

In this situation the house sale process is the same, but the administration side is different as you will each have to sign and agree to everything. This means that the forms are filled out by one party and then sent to the other party for them to confirm they agree, which can sometimes cause delays.

Will I have to pay Capital Gains Tax?

You will not need to pay Capital Gains Tax if you are selling your

primary residence. However, if the property you are selling is a rental property or your second home then you may need to pay Capital Gains Tax.

Will I need to pay stamp duty?

The buyer pays stamp duty so you will not need to pay this tax when selling your property.

What are the common delays in the conveyancing process?

Before embarking on the conveyancing process, it is essential to be aware of common delays that may arise. Delays can occur for several reasons including incomplete paperwork, searches revealing unexpected problems or difficulties in coordinating with multiple parties in the chain. Understanding these potential hurdles can help you prepare and mitigate any risks that may arise, some reasons for delay to be aware of include;

- **Title:** Discovering discrepancies or defects in the property's title, such as unresolved boundary disputes, or incorrect ownership details, can lead to delays while these issues are resolved.
- **Financing:** Delays can occur if you/the other party encounter difficulties securing mortgage financing or if the lender requires additional documentation or appraisals.

- **Survey or valuation:** Issues identified during property surveys or valuations, such as structural defects or discrepancies in property measurements, may require further investigation or negotiation, leading to delays.
- **Chain:** In a chain of property transactions where multiple parties are buying and selling properties simultaneously, delays can occur if one transaction encounters problems or if there are delays in coordinating the completion dates of all transactions in the chain.
- **Legal complexities:** Legal delays such as disputes over property boundaries, planning permission, or easements can arise, requiring additional time and legal expertise to resolve.
- **Searches and enquiries:** Delays can occur if local authority searches or other necessary enquiries uncover unexpected issues or if there are delays in obtaining search results.
- **Communication breakdowns:** Ineffective communication between parties involved in the transaction, including solicitors, estate agents, mortgage lenders, and buyers or sellers, can lead to misunderstandings or delays in providing necessary information or documentation.



Amit Patel
Amit.Patel@shma.co.uk
0116 257 4438

Cryptocurrency Meets Couture

- Bitcoin and Beyond

The world of luxury is built on exclusivity, opulence, and the ability to offer unique experiences to a select few. For decades, luxury brands have maintained their status by catering to an elite clientele, offering bespoke items and services that often go beyond just the product itself. However, a new player is emerging in this prestigious space: cryptocurrency. Once relegated to tech enthusiasts and speculative investors, digital currencies like Bitcoin and Ethereum are now shaping high-end

markets, paving the way for a new era of wealth management, shopping experiences, and investment opportunities.

The Rise of Crypto in Luxury Markets

Cryptocurrencies have made significant strides in mainstream financial markets, but their impact on the luxury sector is where things get especially interesting. Wealthy individuals and high net worth clients, who have traditionally relied on fiat currency and physical assets to display wealth, are increasingly turning to digital currencies as part of their portfolio. This shift is driven by a number of factors, including a desire for increased privacy, faster transactions, and the potential for crypto assets to appreciate in value.

Brands such as Gucci, Balenciaga, and Off-White have begun accepting cryptocurrencies as a payment method, allowing customers to purchase luxury goods with Bitcoin, Ethereum, and other altcoins. By embracing this technology, these brands are not only expanding their reach but also appealing to a younger, tech-savvy demographic with considerable disposable income. Cryptocurrency transactions also offer an additional layer of privacy and security, something particularly important to high-net-worth individuals.

Blockchain Technology and Luxury Authentication

For luxury brands, the potential of cryptocurrency and blockchain technology goes far beyond payment methods. Blockchain, the technology underpinning cryptocurrencies, offers a new way to authenticate high-end products, providing transparency and traceability in a market where counterfeit goods are a persistent problem.

Top brands like Louis Vuitton and Prada are exploring blockchain-based platforms to authenticate luxury items, ensuring that customers can trace the provenance of their purchases from production to the point of sale. This is particularly important for items like handbags, watches, and fine jewellery, where authenticity is paramount. By using blockchain, brands can also protect their reputation, reinforcing their image as exclusive and trustworthy.

In essence, blockchain technology is the ultimate proof of authenticity—something that is crucial when customers are investing not just in a product, but in the brand's heritage and prestige.

NFT-based Products: The New Era of Luxury Collectibles

Perhaps the most disruptive intersection between luxury and cryptocurrency comes in the form of NFTs (Non-Fungible Tokens). NFTs have captured the attention of collectors and investors alike, allowing them to own digital

assets that range from art and fashion to real estate and exclusive experiences. In the luxury space, NFTs represent a new frontier for brands to engage with their wealthiest clients.

High-end fashion houses are increasingly incorporating NFTs into their product lines, offering digital versions of couture clothing, accessories, and exclusive experiences that can only be unlocked via NFT ownership. For instance, Dolce & Gabbana launched its NFT collection, "Collezione Genesi," which allowed collectors to purchase both physical and digital couture items through NFTs, blending the digital and physical worlds in an unprecedented way.

NFTs also allow brands to offer more personalised and exclusive experiences, such as digital-only fashion shows, virtual meet-and-greets with designers, or bespoke digital fashion items. For ultra-high-net-worth clients, owning an NFT tied to a luxury brand is more than just a transaction—it's a unique and rare experience, much like owning a one-of-a-kind piece of couture.

The Future of Luxury Shopping

The fusion of cryptocurrency, blockchain, and NFTs is fundamentally reshaping how high-end markets operate. For luxury brands, embracing this technology isn't just about staying current—it's about setting the pace for the future of fashion and luxury. Wealthy consumers, particularly Millennials and Gen Z, are increasingly interested in owning digital assets and transacting in cryptocurrencies, and the brands that cater to these desires are poised to gain a competitive edge.

As the adoption of cryptocurrency grows, we can expect to see even more luxury brands entering the space, offering innovative products and services that go beyond the traditional luxury experience.

From blockchain-authenticated handbags to NFT-based digital fashion shows, the future of luxury shopping promises to be as exclusive and opulent as ever—just with a modern, tech-driven twist. For high-net-worth individuals, the integration of crypto into the luxury space offers a new way to invest, shop, and experience the brands they love.

Luxury brands are no strangers to evolution, and their embrace of cryptocurrency, blockchain, and NFTs signals a bold new chapter in their storied histories. For those with the means, this intersection of finance, technology, and fashion offers an exciting, forward-thinking way to experience the very best that luxury has to offer—both in the real world and beyond.

However as luxury brands and high-net-worth individuals embrace cryptocurrencies, blockchain technology, and NFTs, navigating the legal landscape becomes increasingly complex. From ensuring compliance with financial regulations to protecting intellectual property and verifying the authenticity of digital assets, having expert legal guidance is essential. Our team can help you understand the legal implications of adopting these technologies, safeguard your investments, and ensure that your transactions are secure and compliant. Whether you're a luxury brand exploring new opportunities or a client investing in digital assets, we're here to provide strategic advice and protection in this evolving space.



Lesley Davis

Lesley.Davis@shma.co.uk
07900 056739

A Farmers Guide to Prenuptial Agreements

As farmers tend to have significant assets in terms of land, equipment and livestock, it may be worth considering getting a pre-nuptial agreement if you are soon to be married, or a post-nuptial agreement if you are happily married or living with your spouse.

While it is never nice to think about what may happen should your marriage breakdown, it is wise to consider protecting yours or your family's life work in the farming sector.

Our lawyers work with you to prepare a clear, properly drafted document that will either influence the outcome of a court decision or be followed exactly on separation.

Failure to have a pre- or postnuptial agreement in place can leave you open to an unpredictable courtroom deciding your financial fate if things go wrong.

Our team addresses the most frequently asked questions when it comes to prenuptial agreements for farmers.

Why is a prenuptial agreement important for farmers?

A prenuptial agreement is crucial for farmers because it can protect land that has often been in the family for generations. Farming assets, including land, equipment, and livestock, can be significant and represent both livelihood and heritage.

A prenuptial agreement ensures that these assets are safeguarded in the event of a divorce, preventing the potential division or forced sale of farmland.

Can a prenuptial agreement protect future acquisitions and income generated from the farm?

Yes, a prenuptial can include provisions to protect both the existing farmland and any future acquisitions/income generated from the farm. This ensures that all agricultural income and any new property purchased with farm income remains protected.

Is a prenuptial agreement suitable for all types of farming operations?

While a prenuptial agreement is beneficial for many types of farming operations – it is particularly crucial for family-owned businesses with significant assets. It is advised to consult a legal expert to determine the best approach based on your specific farming operation.

For further help with this, contact a member of our family law team who will work alongside our agricultural team to handle your matter directly.

If you want additional information about pre-nuptial and post-nuptial agreements, we have a full comprehensive [guide](#) which covers everything you need to know.

What should be included in a prenuptial agreement to protect a farm?

Key elements to consider including within a prenuptial agreement are:

- A detailed list of all farm-related assets and their current value.
- Clear distinction between marital property and separate property.
- Provisions for how the farm will be managed and divided in the event of divorce.
- Addressing the inheritance of the farm – particularly if it is part of a family-owned business.

What are the potential challenges of enforcing a prenuptial agreement in relation to farmland?

Prenuptial agreements must meet certain legal standards to be upheld in court. Both parties must fully disclose their assets and be fair and reasonable. They should each have independent legal advice to ensure the agreement is entered into voluntarily and with a clear understanding. Failure to meet these requirements may result in challenges regarding enforcing the agreement.



James Myatt
James.Myatt@shma.co.uk
07906 714422

House Selling Myths

When selling a property, it's easy to come across common misconceptions that can cause confusion and unnecessary stress. This guide debunks popular myths about residential conveyancing, providing sellers with accurate information to help you navigate the process with confidence.

I've renovated so surely, I'll reap the benefits in my sale?

Not always. While renovations may enhance your home's appeal and potentially increase its value, the return on investment isn't always guaranteed to cover the costs. It's essential to weigh the expenses of renovations against the potential increase in the property's value.

Pricing my property higher will ensure I get better offers right?

No. Pricing your property higher than its market value may deter potential buyers, leading to fewer inquiries and offers, as buyers may perceive the property as overvalued. Pricing competitively based on market conditions and comparable sales is more likely to attract serious buyers and generate multiple offers.

They're buying my property, not my belongings so I don't need to do anything

While buyers are primarily interested in the property itself, the presentation and condition of your home can significantly impact their perception and willingness to make an offer. Decluttering and staging your home can help potential buyers see your home more clearly and envision themselves living in the space, making it more appealing and memorable. Additionally, addressing any maintenance or cosmetic issues demonstrates that the property has been well-maintained, instilling confidence in buyers.

I need to wait for perfect market conditions

Incorrect. Market conditions are influenced by various factors, beyond your control. Instead focus on factors you can control, such as preparing your home for sale, pricing it competitively, and working with a skilled real estate agent who can help navigate market fluctuations effectively. By being proactive and adaptable, you can maximise your chances of a successful sale regardless of market conditions.

I can't accept the first offer I get

Incorrect. While it's important not to rush your decision, you don't want to wait for every single offer to come in otherwise you may find that process takes longer, or your buyer has had another offer accepted elsewhere. You also don't want to completely disregard your first offer based on the fact it is the first to come in. Working closely with your real estate agent can help you evaluate each offer to help you make informed decisions that align with your needs.



Amit Patel
Amit.Patel@shma.co.uk
0116 257 4438

Guardianship Orders: Dealing with the Property and Financial Affairs of a Missing Person

When a person is missing, they are assumed to be alive unless it can be proven otherwise. That will remain the case until:

- 1. they are found; or
- 2. seven years have passed since they were last seen (in which case a declaration of their presumed death can be obtained from the courts).

Why does seven years need to have passed?

Under the Presumption of Death Act 2013, a person is thought to have died if a missing person has not been known to be alive for a period of at least seven years. It may be necessary to wait seven years if there is no clear evidence to suggest the missing person has died, however waiting seven years does not provide anyone with an automatic right to resolve the missing persons affairs, an application will still need to be made to the court. The judge does not need to be satisfied 100% that death has occurred but on the balance of probabilities, (more than 50%) that it is more likely than not that the missing person has died.

A person's disappearance will naturally cause a great deal of distress to their family and loved ones. However, this can be exacerbated if nobody has the authority to deal with the missing person's property and financial affairs, which may go unmanaged for up to seven years. This is a significant amount of time and can cause serious problems for the missing person themselves, their family or dependants, particularly if the missing person:

- 1. owns property in their sole name, in which case it may become uninsured, fall into disrepair and if subject to a mortgage, be repossessed;
- 2. owns property jointly, in which case their co-owner may be unable to deal with, re-mortgage or sell the property without the involvement of the missing person;
- 3. owns a company, in which case their absence may have an impact on shareholders, directors, employees, creditors and any other stakeholders;
- 4. is in debt, in which case creditors will be awaiting repayment with increasing amounts of interest.

Therefore, given the complexities that can arise, it is often sensible to appoint a person to manage

a missing person's affairs. That person is known formally as a 'guardian.'

Guardianship orders

In order for a guardian to be appointed, the court must make a guardianship order pursuant to the Guardianship (Missing Persons) Act 2017 ('the Act') and Part 57 of the Civil Procedure Rules.

This is generally achieved by the proposed guardian issuing a claim in the High Court with supporting evidence and a judge then listing a hearing to consider the matter. The court will expect the claim to deal with various aspects of the missing person's circumstances and therefore it is recommended that legal advice is obtained.

The claim must also be advertised in a newspaper local to the area in which the missing person was last known to have lived. This allows anybody who wishes to contest the guardianship order to come forward.

If the claim for a guardianship order is urgent (for example, because the missing person's house is going to be repossessed), the court should be made aware and they may choose to expedite the matter.

Before the court is able to consider granting a guardianship order, they will need to be satisfied that:

- 1. the missing person has been missing for at least 90 days;
- 2. the appointment of a guardian is in the missing person's best interests;
- 3. there is a sufficient connection between the missing person and the jurisdiction of England and Wales; and
- 4. there is a satisfactory person who could be appointed as guardian.

In determining who is most suitable to be appointed guardian, the court will consider whether the proposed guardian (who must be over the age of 18) has a 'sufficient interest' in the missing person's estate for them to successfully undertake the role. Those automatically considered to have a sufficient interest are the guardian's:

- 1. spouse or civil partner;
- 2. parent;
- 3. child; and
- 4. sibling.

If a proposed guardian does not fall into one of the above four categories, they will need to demonstrate that they have a sufficient interest in the missing persons' affairs. That may be because they are a business partner, step-relative or long-term partner of the missing person.

Responsibilities and power of a guardian

The guardianship order itself will set out the full extent of a guardian's powers. However, the act provides that the rights and powers of the guardian may include:

- 1. selling, letting or mortgaging the missing person's property;
- 2. executing deeds and other documents;
- 3. recovering money owed to the missing person;
- 4. discharging debts and other obligations of the missing person;
- 5. bringing or conducting legal proceedings; and
- 6. resigning trusteeships held by the missing person.

It is clear that a guardian's role involves a great deal of responsibility and therefore, should not be taken lightly. If a guardian proposes to take an action but is unsure whether their powers extend to that action, it is important to seek legal advice and/or directions from the court. It is likely that the court's direction will always be required where a guardian seeks to make a gift on behalf of the missing person.

Given the onerous responsibilities afforded to a guardian, it is important that all decisions they make are in the best interests of the missing person. This means that the guardian should consider, so far as is reasonable, any relevant wishes, beliefs, values or feelings expressed by the missing person at any time.

Duties of a guardian

There are various general duties a guardian owes to a missing person. For example, they must:

- 1. familiarise themselves with the property and financial affairs for which they are responsible;
- 2. act with due care and skill;
- 3. not take advantage of or profit from their situation without authorisation;
- 4. not delegate duties unless authorised to do so; and
- 5. act in good faith.

Duration and renewal of guardianship orders

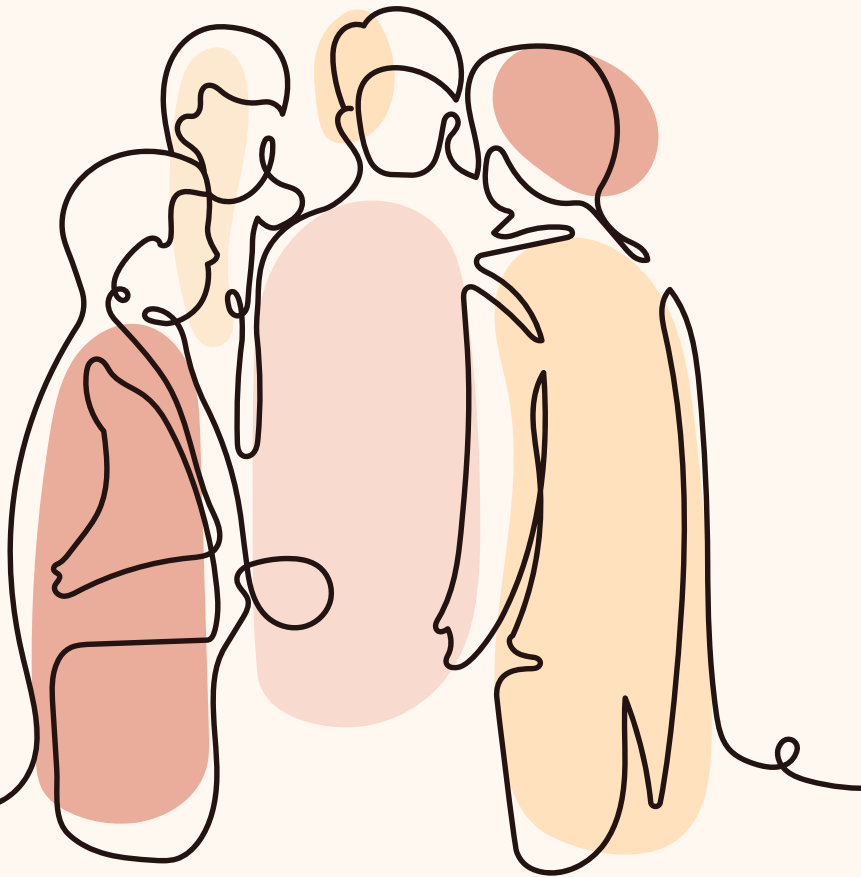
Once granted, a guardianship order can last for a maximum of four years (though the court will determine the appropriate length of time for each individual guardianship).

If the missing person has not been found upon expiry of the order, the guardian will either need to re-apply for a guardianship order or, if seven years have passed since the missing person was last seen, apply for a declaration of presumed death.



Meg Edwards
Meg.Edwards@shma.co.uk
0117 906 9221

Tax Planning Guide



Tax planning is the strategic approach of organising your financial affairs to minimise tax liability within the bounds of the law. It involves analysing your financial situation and making informed decisions to ensure that you pay the least amount of taxes possible while remaining compliant with tax regulations.

Effective tax planning is crucial because it not only helps individuals and businesses retain more of their hard-earned money but also supports better financial stability and growth by maximising savings and investments.

High-net-worth Individuals

High-net-worth individuals are those with substantial financial assets, often requiring expert management to navigate their

complex personal tax affairs. Balancing compliance and privacy is crucial as they must adhere to stringent tax regulations while safeguarding their financial information from public exposure.

Our team of personal tax specialists offers tailored services to meet the unique needs of high net worth individuals, including;

- Personalised tax planning
- Compliance management
- Estate administration
- Strategic advice to optimise tax efficiency

These services ensure that high net worth individuals can confidently manage their wealth while maintaining the highest levels of discretion and security.

Homeowners

As a homeowner, the new found responsibilities and considerations can be daunting, but understanding key aspects can ensure your investment remains secure and valuable.

- Home maintenance is key, you should consider scheduling regular repairs and inspections to maintain the safety and functionality of your property, preventing minor issues from escalating into costly problems.
- Ensuring you have the right insurance coverage by periodically reviewing and updating your policy to protect your home against unforeseen events, providing peace of mind and financial security.
- Stay on top of property taxes by setting reminders for due dates and exploring any available exemptions or discounts to avoid penalties and ensure compliance with local regulations.
- Manage mortgage payments diligently by setting up automatic payments or reminders to maintain ownership and protect your credit standing. If you are in the financial position to do so, consider early repayments to reduce the interest fees on your property.

By proactively addressing these core responsibilities, homeowners can effectively safeguard their homes and investments.

Business owners

Effective tax planning is essential for business owners to maximise their financial efficiency and ensure compliance with tax laws. One key strategy is utilising self-assessment tax returns, which allow business owners to declare their income and claim any eligible reliefs accurately.

To optimise this, individuals need to ensure they meet all deadlines to avoid penalties and consider seeking advice from a tax professional for complex situations. Maintaining precise and comprehensive record keeping is crucial for substantiating claims and avoiding penalties; use accounting software to streamline this process and keep digital copies of receipts and invoices.

Implementing dividend programs can be a tax-efficient way to distribute profits to shareholders; however, it's essential to balance dividends with salary to minimise overall tax liability.

Company-funded pension contributions provide tax relief and support retirement planning (by aiming to maximise contributions within the annual allowance to benefit from significant tax savings).

Additionally, offering tax-deductible employee benefits such as health insurance, childcare vouchers, and company cars can reduce the overall tax burden while enhancing employee satisfaction and retention. Regularly reviewing your tax planning strategies and staying updated on tax law changes will help ensure your business remains tax-efficient and compliant.

Self employed

For self-employed individuals, understanding tax planning is crucial, especially with the recent basis period reform. This reform changed how profits are allocated over tax years, significantly

impacting how taxes are calculated. During the transitional year, self-employed individuals may face variations in their reported profits, leading to changes in their tax obligations.

Effective tax planning strategies include;

- Comprehending income tax rates: understanding the UK's income tax brackets and how your earnings fall within them is essential for accurately predicting your tax liability and planning accordingly.
- Identifying deductible expenses: recognising which business expenses, such as travel, office costs, and professional fees, can be deducted from your taxable income helps reduce your overall tax burden.
- Managing National Insurance Contributions (NICs): being aware of the NIC rates and how to calculate them ensures you set aside enough funds to cover this additional tax obligation.
- Making timely payments on account: regularly calculating and making payments on account helps manage your tax liabilities and prevents underpayment penalties.
- Exploring pension contributions: contributing to personal or stakeholder pensions not only secures your financial future but also provides immediate tax relief on your contributions.

Retirement

Retirement is a crucial aspect of financial planning, ensuring that individuals can maintain their standard of living in their later years. Contributing to a pension plan offers significant tax advantages, as contributions are often tax-deductible, reducing taxable income. Additionally, the growth within a pension fund is typically tax-free until the funds are accessed. Upon reaching retirement age, individuals can access their pension savings, with a portion potentially available as a tax-free lump sum, while the remaining funds are taxed as income.

Financial planners play a vital role in this process, offering expert advice to maximise available allowances and structure finances in a tax-efficient manner, ensuring that individuals can enjoy a secure and comfortable retirement. They can assist in selecting the right pension scheme, making the most of employer contributions, and planning the timing of withdrawals to minimise tax liabilities.

Moreover, they can help diversify retirement savings through various investment options, manage risks, and ensure compliance with changing tax laws, thereby optimising the overall retirement strategy.



Julia Rosenbloom
Julia.Rosenbloom@shma.co.uk
0121 214 0014

High Net Worth Families

Estate planning stands as a pivotal element within the financial strategy, especially when it comes to high-net-worth individuals and families. Given their significant wealth and intricate financial situations, these individuals encounter distinct challenges and opportunities that necessitate a specialised approach to safeguard and transfer wealth efficiently.

We understand that clients dedicate their lives to building a strong income or expanding their businesses. The daily demands of work can frequently divert attention from one's own financial assets. In some cases, individuals may inherit assets during challenging times of bereavement, making it hard to assess the financial value of the inheritance. Regardless of how you acquired your wealth, pausing for a moment to contemplate the scope of your assets and the implications for both you and your family is the initial and essential step.

With help from professionals, there are several lawful methods for reducing the inheritance tax liability on your estate. These methods include leveraging your available allowances, structuring your will with tax efficiency in mind, and considering charitable donations as part of your estate plan.

Wealth Preservation: High net-worth individuals often face significant inheritance tax (IHT) liabilities. Estate planning strategies can help minimise IHT, ensuring more of your wealth passes on to your heirs and beneficiaries.

Asset Protection: Estate planning can include the creation of trusts and other structures to protect assets from creditors, lawsuits, and potential financial risks, safeguarding your wealth.

Control Over Asset Distribution: You can specify how your assets are to be distributed among heirs and beneficiaries, ensuring that your wealth is distributed according to your wishes and not subject to default inheritance laws.

Business Succession Planning: If you own a business, estate planning can facilitate a smooth transition of ownership, ensuring the continuity of the business and protecting its value.

Charitable Giving: Estate planning allows you to include charitable donations as part of your legacy, supporting causes that are important to you and your family.

Tax Efficiency: High net-worth individuals can use various strategies to minimise income taxes, capital gains taxes, and other tax liabilities, preserving wealth and optimising its distribution.

Peace of Mind: Knowing that you have a comprehensive estate plan in place can provide peace of mind, reducing stress and uncertainty for both you and your loved ones.

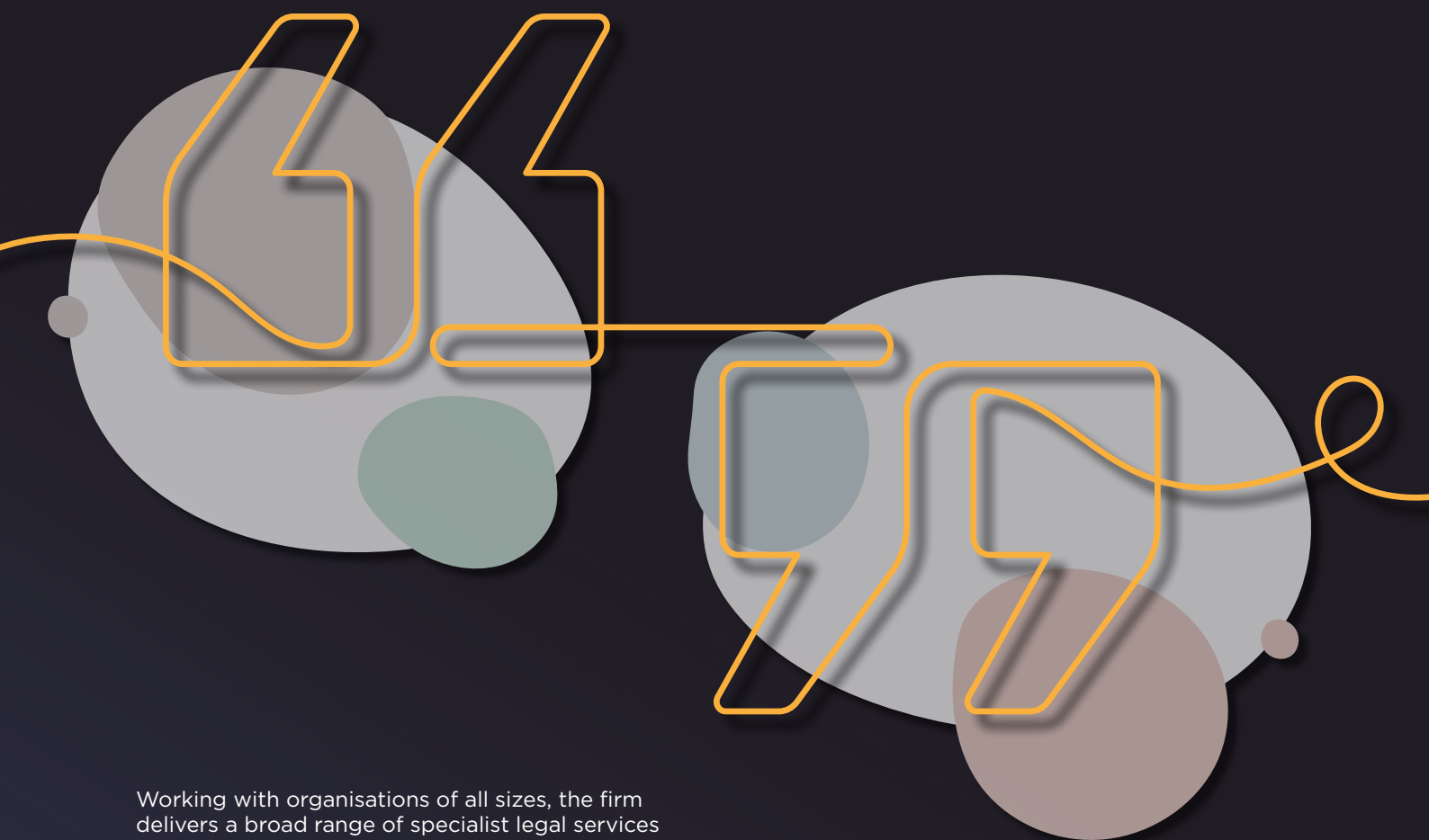
Common misconception “It is too much effort to estate plan.”

FALSE: Honestly, estate planning is a time-consuming, complex process and talking about death is never a pleasant conversation. However, improper or no planning can lead to family disputes, assets getting into the wrong hands, long court litigation and excess money paid in taxes. With this in mind, we would always advise you to take expert guidance to ensure the process is simple and much less stressful than you anticipate.



Lesley Davis
Lesley.Davis@shma.co.uk
07900 056739





Working with organisations of all sizes, the firm delivers a broad range of specialist legal services and has particular expertise across areas including but not limited to: energy, education, banking & finance, healthcare, investment funds, manufacturing, agriculture, family business, Islamic finance, later living, social housing and real estate. Shakespeare Martineau also provides services for families and private clients.

The firm's purpose is clear; to unlock potential, and its ambitions are unlimited; aiming to become one of the most admired top 30 law firms by 2025.

Shakespeare Martineau has been listed in Best Companies 2022 for top 25 law firms, top 75 East Midlands and West Midlands businesses and top 50 large London businesses.

With more than 1100 people, Shakespeare Martineau has offices in Birmingham, Bristol, Edinburgh, Leicester, Lincoln, London, Milton Keynes, Nottingham, Sheffield, Solihull, Southampton and Stratford-upon-Avon.

in Shakespeare Martineau

☎ 03300 240 333

➔ www.shma.co.uk