

THE Brief MAGAZINE

For Individuals and Families

Edition 11 N harpermacleod.co.uk

08 Dealing with redundancy -
pitfalls and processes

16 Financial provision on
divorce during recession

18 Is inheritance tax a
target?



Time to get Scotland moving.

Getting the help you need during a pandemic ... it can be done!

Page 6

CONTENTS

5

MEET YOUR TEAM

6

THE BIG GUIDE

How can you access personal legal services during a pandemic?

8

THE BIG GUIDE

Redundancy - navigating the pitfalls and processes

13

THE BIG ISSUE

New rules come into force about the registration of Trusts

16

THE BIG ISSUE

Dealing with financial provision on divorce in a recession

18

THE BIG ISSUE

Will taxes be used to pay for the cost of the lockdown -and what can you do about it?

20

FIRM NEWS & STAFF STUFF

News and views from the world of Harper Macleod



A warm welcome from Harper Macleod

Welcome to the latest edition of The Brief, the magazine exclusively for clients of Harper Macleod. This special edition focuses on how we can help you deal with things, no matter what is happening in the world during a time like no other ...

From the very first moment of lockdown, our focus has been on the health and wellbeing of everyone we know, be they colleagues, clients, contacts or simply the communities in which we work.

As we approach the latter part of the year that hasn't changed, but we have all become accustomed to a different way of doing things, whether that's wearing a mask while shopping or continuing to limit contact with those around us.

It has been a difficult year, with many families dealing with the effects of the coronavirus both directly and indirectly. The Harper Macleod family has been affected too, and it has made us all think about what is important to us - and the answer is more often than not our loved ones.

That in turn has meant that our team has been kept busy, assisting people who have taken the opportunity to make sure that their affairs are in order.

We've been among the many people working from home, and have had to come up with some innovative ways to make sure those we advise could

achieve their goals. Our offices may have been closed and face-to-face meetings challenging, but we've found a way to deal with all the circumstances that have arisen.

Video calls have abounded, but we've also been in gardens, had conversations through windows and generally have done whatever it takes.

No matter what your situation, if you think you need some legal assistance, we are here, all round the country, ready, willing and able to help.

As you'd expect, this edition is heavily influenced by what has been going on, and we look at what the 'new normal' might mean for some aspects of you and your family's lives - from employment to inheritance tax.

On top of all that, we have some updates from our team and firm, and we hope you find this edition of The Brief a valuable read. If there are any other issues you'd like to discuss, or any topics you'd like us to cover, please don't hesitate to get in touch. A member of our team will always be on hand to help you reach the best possible outcome.



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GET IN TOUCH

THE BRIEF



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THE Big guide

Accessing personal legal services during lockdown.

It feels like a long time since the country was put into lockdown back in March, yet the impact this has had on how we provide our services continues to be felt. There have been many ways in which we have had to adapt how we carry out our work. We are however still available, ready and happy to help with your legal matters and thought it might be helpful to highlight some of the changes by answering a few of the more frequently asked questions we encounter...

How can I contact you and can I arrange to meet with you?

Our offices remain closed to visitors and the majority of our staff continue to work from home. Unfortunately office meetings are therefore not possible although socially distanced meetings at home (or in gardens!) can be arranged if necessary. Virtual meetings are also taking place regularly via facetime, Skype or otherwise as appropriate.

We have arrangements in place whereby we can still receive and send mail but due to possible delays, and in light of the situation, contact by email or phone is best if at all possible. Correspondence is being sent by email as much as possible to reduce the burden on the postal service at an already challenging time and so if you have the ability to receive emails, it would be helpful for you to let us know and provide details.

Can I still have a Will prepared?

Absolutely and there have been many recent reports of an increase in such enquiries in recent months.

Under Law Society regulations, we have previously been required to meet with clients at least once during the process when preparing a Will for them, whether this is when taking initial instructions or ultimately to assist with the signing of

the documents. In light of the current situation however, the Law Society introduced updated interim guidance. The position differs slightly depending on whether the instruction is coming from a new or existing client, but in short, meetings to confirm instructions, to satisfy client identification requirements and even to have documents finalised and signed can now take place by video call. If such facilities are not available, other arrangements may be made, which we will discuss with the client and we will look to accommodate them in the most appropriate and safest way possible.

What about signing other documents like Powers of Attorney or notarising documents?

Similarly, updated interim guidance has been put in place.

Whereas Wills must be signed in the presence of an independent witness, Powers of Attorney should ideally be witnessed and must be signed in the presence of a solicitor or doctor. Under the current guidance, both documents can be signed over video call with the solicitor being able to witness the signature (for Wills) and sign the certificate (for Powers of Attorney) at a later date on receipt of the document, on the basis of them seeing the signing and carrying out the necessary checks via the video call.

With regards to Powers of Attorney, it should also be noted that the Office of the Public Guardian is particularly busy and there is a significant backlog of Powers of Attorney in the queue for



registration. Their urgent service does however remain available for occasions where a Power of Attorney is needed to be used right away – which may be particularly common at the moment for those needing to shield or self-isolate.

For any documents which need to be notarised, this can similarly be carried out via video call, with the signing by the client carried out in view of the notary public over the video call and the document then sent to the notary for them to add their signature and seal as required.

Is lockdown delaying executry administration?

At the start of lockdown many parts of dealing with a deceased person's estate seemed problematic and it was unclear how certain aspects might be progressed. However, new practices have since been put in place and the position is now much clearer

With regards to registering deaths, these are currently able to be carried out remotely. Moreover, from 1 May commissary applications (including applications for Confirmation and petitions for the appointment of executors) started being processed again. Many courts remain closed and have introduced a system of court hubs to which all commissary applications must be sent in hard copy by post. In light of the closures, and due to the previous halting of applications, delays should be expected although as always timescales will vary from court to court.

Other helpful alternative practices have also been put in place. For example, many banks and other asset providers have put in place alternative means of contact to notify them of a death and some now have less stringent requirements for closing accounts and selling assets. Nevertheless, practice varies and most companies are advising that delays should be anticipated due to reduced staff numbers and many still working from home.

Another previous concern was as to how properties and personal items could be valued for the purposes of administering estates. As lockdown has eased though, we have found that valuers are now able and willing to undertake property visits in order to provide valuations, provided that appropriate safety measures are put in place and followed.

HMRC have also changed some of their practices. They are no longer accepting payments by cheque and have put in place an alternative system for signing inheritance tax returns. Whereas an estate (or trust) return previously needed a wet signature from all executors or trustees, these can now be sent with electronic signatures and an appropriate declaration, confirming that all relevant parties have seen the document and agreed to be bound by it.

Although some different challenges and considerations when administering an estate remain, there are many workarounds available. However, as always, those administering estates are to an extent at the liberty of third parties and their response times and, in the current climate, it seems wise to anticipate that things might take a little longer than normal.

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Redundancy processes.

Potential pitfalls and
unusual considerations



Deborah
Alexander
Solicitor

For individuals who are now finding themselves at risk of redundancy, this is clearly a worrying time, and for employers it is essential that fair procedures are followed to ensure not only that employment tribunal claims are avoided, but also that they treat their employees – whether they are being made redundant or not – fairly and honestly.

With recent figures suggesting the UK economy has contracted by as much as a quarter since lockdown began, the economic consequences of coronavirus are beginning to take effect. Whilst many employers have made use of the Coronavirus Job Retention Scheme and placed staff on furlough to avoid the need for redundancies, as the scheme begins a gradual wind down the prospect of further redundancies appears to be a worrying inevitability. From 1 August employers have been required to contribute towards the cost of furloughed employees, and for many employers, this has meant that continuing to furlough staff until the end of October is no longer an option.

In this edition we are going to look at two specific elements of a redundancy process which, although not a feature of every redundancy situation, can feature as part of a fair process. It is important that both employers and employees are aware of their rights and obligations should these issues arise.

Bumping?

The first of these factors is the requirement placed on employers to consider 'bumping' as part of a redundancy process, and we will explain why a failure to do so may make a dismissal unfair.

Before making staff redundant employers will need to ensure they follow a fair redundancy process and where applicable this should involve 'bumping'. 'Bumping' relates to the process whereby an employee whose role within an organisation is at risk of redundancy is redeployed into an alternative role, and the individual who previously undertook that role is dismissed as redundant instead.

This can often strike employees and companies as unfair, as it culminates in the dismissal of someone whose role was not actually deemed to be potentially redundant, but not only is it a legitimate option in redundancy situations, case law has recently considered whether an employer requires to give consideration to the option of bumping in every situation.

This point was debated before the employment tribunals, and whilst it was held that the failure of an employer to consider

the 'bumping' of a more junior employee to make way for a more senior member of staff in a redundancy situation will not render the dismissal of the senior employee automatically unfair, the fairness of the dismissal will depend entirely upon the circumstances in each case and whether or not the potential of bumping has been considered, can be a relevant consideration.

The implications for employers and employees

While employers need not give consideration to the option of bumping in every situation where a redundancy is considered, it is best practice to include the option in the general consideration of alternatives to redundancy. In the case before the employment tribunal, the fact the employee concerned did not suggest the option of bumping did not in itself release the employer from their duty to consider all possible alternatives. Employers considering redundancies in light of coronavirus should consider if bumping is appropriate at the outset of any redundancy process to ensure any dismissals for redundancy are procedurally fair, and employees affected may wish to raise this as a potential means of avoiding their redundancy.

Competitive interview process

As part of a fair process, an employer carrying out a redundancy process should seek to keep the number of redundancies they have to make to a minimum. The Government are also encouraging employers to avoid redundancies wherever possible, and in order to do so, an employer must consider what, if any, opportunities exist to redeploy otherwise redundant employees into an alternative role within the organisation.

Where a large number of redundancies are required within the same team, there may well be a number of employees who are potentially qualified for the same alternative role. In such a situation, how does an employer decide which employee should be appointed to the role?

Limitations of interview process

A recent case has confirmed that an employer can reasonably use an interview process when considering redundant employees for alternative roles, particularly when the applications are not for the same or a substantially similar role to the recently redundant one. While not a new position in law, it is a helpful reminder that an employer is permitted to carry out such a process.

That said, there are a number of limitations which both employers and employees should be aware of.

The recent case of *Gwynedd Council v Barrett* concerned a number of redundancies which were required following a

reorganisation of a school support structure. The Council, rather than using a selection and scoring process, essentially required the teachers to apply for their former jobs in the new school. The unsuccessful teachers claimed unfair dismissal in the Employment Tribunal and were successful on the basis that no fair procedure had been followed and because of the manner in which they were required to “apply for their own jobs”.

The Council appealed to the Employment Appeal Tribunal (EAT), arguing that the Tribunal had adopted too rigid an approach to the guidelines for assessing fairness.

The Council's appeal was unsuccessful.

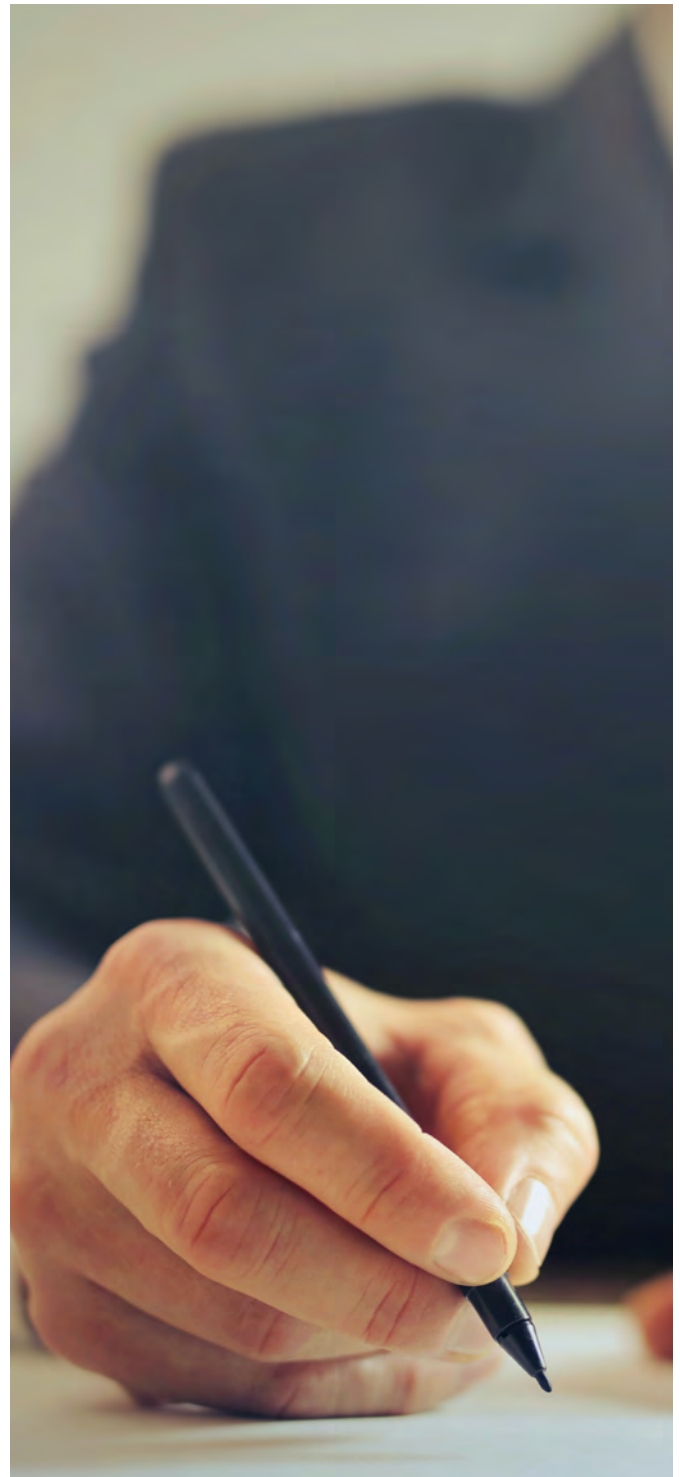
It was determined that the Council had acted unfairly in requiring the teachers to apply for their jobs. This was clearly a different from redundancy processes where 'forward looking' selection processes are used, and where generally, competitive interview processes will be acceptable. The EAT made reference to previous case law which pointed to the use of competitive interviews where the post involved was a new post, requiring a different skill set.

In the Barret case, the teachers were effectively asked to apply for the same or substantially the same job, rather than a new post. This is clearly distinguishable from interviews to ascertain who best could fulfil a new role. The unfairness came not from the mere fact that interviews had been carried out, but rather the employer's approach to alternative employment, which was effectively to require the Claimants to apply for their own jobs, with no consultation or appeal.

Get in touch

Redundancy processes are complex and full of potential pitfalls which employers must attempt to navigate. Given that redundancies are most commonly required to prevent a business from experiencing financial hardship, employers must ensure that all possible steps are taken to safeguard from potential claims. For employees facing a redundancy situation in the midst of a global pandemic, it is crucial to ensure that fair and consistent treatment is being applied.

Our team are experienced in handling redundancy situations across all sectors, and deal with both small and large scale collective redundancies. Please get in touch if we can be of any assistance to you or your business in this period.



GET IN TOUCH

If you would like to speak to someone about any employment matter, please get in touch with a member of our team.

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THE Big issues



Trusts - what needs to be done to comply with the new rules on registration?



Amber Heron
Personal Tax
Director

The taxman has finally published new rules in relation to the type of trusts that require to be registered on the Trust Registration Service to meet the requirements of European anti-money laundering regulations. Here we look at what that means in practice for trusts and trustees

Trusts allow specific assets to be transferred to someone else – Trustees – to be used for a particular purpose and to benefit specific people – the beneficiaries.

A tax-efficient trust can be an important tool when looking to protect assets for the future, and there are many good reasons for setting up a trust, including: asset protection; reducing inheritance tax liabilities; tax efficient inheritance for children; protection against business failure; protection against division of assets on separation and/or divorce; dealing with personal injury compensation awarded; and protection of assets for those who are disabled or suffer from reduced capacity. As well as setting up trusts, our team can take care of the day-to-day administration, acting as Trustees and winding up trusts once the remaining assets have been distributed.

Changes to the system

The taxman has finally published new rules in relation to the type of trusts that require to be registered on the Trust Registration Service (TRS) now extended to meet the requirements of European anti-money laundering regulations.

Among the main issues, which were the subject of extensive consultation, HMRC has clarified the details and rules regarding the exceptions list, the information requested for those involved with the Trust and the bodies with whom that information might be shared.

These rules took effect on 5 August 2020.

Which Trusts will now have to register?

Previously, only Trusts with a tax liability arising in a tax year were required to register. The scope was extended following the EU Directive to include "all express trusts", and the consultation sought to establish what exceptions, if any, should be applied to that broad genre, as it is thought that the number of registrations could extend from 200,000 to over two million without further guidance. The result is a list of confirmed exceptions below.

Exceptions

- UK charitable trusts
- trusts that arise as a result of statutory requirements – for example, statutory trusts arising for minor children under the UK intestacy rules
- trusts for a bereaved child set up under the Will of a deceased parent of the child where the child will become absolutely entitled to the trust property on or before attaining the age of 25
- trusts created by a will which only hold assets forming part of the deceased estate and are wound up within two years of the deceased's death
- 'pilot' trusts – trusts created before the Regulations come into force where the value of the property held by the trust does not exceed £100 (if further funds are added to the trust so that the trust fund exceeds £100 the trust will have to be registered at that point)
- trusts created by, or to satisfy, a court order – for example, on divorce or the dissolution of a civil partnership
- co-ownership trusts that exist solely for the purpose of jointly owning UK land
- trusts that exist where two or more people co-own an asset legally and beneficially for themselves – for example, a bank account or shareholding
- pension scheme trusts
- trusts of life insurance policies or policies solely for the payment of retirement death benefits – which only pay out on the death, terminal illness or permanent disablement of the insured, or to meet healthcare costs
- trusts incidental to commercial transactions
- Authorised unit trusts.

The list above will only apply where no tax liability to Capital Gains Tax, Inheritance Tax, Land Tax under either LBTT or SDLT or Stamp Duty Reserve Tax arises. Should a liability arise, the exception will not apply and the trust will need to be registered with TRS in order for the required trust tax return to be issued.

Information required for registration

HMRC currently require a considerable amount of information when registering a trust, including personal information about all of those involved with the trust. At present this includes name, date of birth, National Insurance number or passport details for each of the Settlor, Trustees and in some cases beneficiaries. It is now confirmed that nationality and country of residence will be added to that list. This will be disappointing for some who lobbied that the amount of personal information requested exceeded that required by companies house and other similar bodies, but it seems HMRC are not for budging.

Sharing private information with third parties

Concern was also raised around HMRC's suggestion that the information contained on the register would be shared with "interested parties". The consultation outcome confirms that third parties will be able to apply for access to information on TRS as part of the new rules. Under a "legitimate interest" request an applicant can ask HMRC to disclose personal details of the beneficial owners of a trust if this relates to an investigation into money laundering or terrorist financing.

Law enforcement agencies have always had access to such data, but it was feared that this new gateway will open up private information to journalists and other campaigners. The government has confirmed it recognises the importance of ensuring that registered information should not be shared where doing so would create a disproportionate risk to the beneficial owner. The intention is that information will not be shared where doing so could lead to a disproportionate risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation; or where the beneficial owner is a minor or otherwise legally incapable. It remains to be seen how this protection will work in practice.

Timescales for Registering

For unregistered Trusts, should an income tax or capital gains tax liability arise the Trust must register by 5 October following the end of the tax year in which the liability arose. If the Trust has a liability for Land tax, Inheritance tax or stamp duty it must

Digital handshake.

In addition to the TRS, HMRC have installed a new process in order for the Trustees of a Trust to authorise their Agent to assist with the Registration. The process is purely digital and requires Trustees to take several steps themselves before their Agent can assist. Although an initial registration can be carried out by an agent without the digital handshake, in order to manage the Trust information annually allowing the Trust Return to be completed, the process set out below must be undertaken. The steps detailed are necessary regardless of whether by the Agent registered the Trust in the first place, holds a 64-8 mandate on file with HMRC, or has Self-Assessment authorisation. So in fact the authorisation process to allow an Agent to deal with all aspects of a Trust in terms of Tax and money laundering now extends to a triple mandate procedure with TRS introducing a fully digital element.

Steps for TRS authorisation

1. The Trustee will need to register for a Government Gateway account with Organisation credentials which will allow them access to the Trust

Registration Service.

2. The Trustee will use these credentials to access the Register and "Claim" their Trust. This involves answering multiple questions about the Trust and those involved with it. This is best done in conjunction with the Agent who initially registered the Trust as the details must match exactly.

3. Once the Trustee has "claimed" the Trust, the agent will be able to send a link to send to the Trustee to allow them to authorise.

4. If the Trustee confirms, via the link, their authorisation, the Agent will then be able to access the Registration for the Trust and make any amendments as may be required, or complete the annual declaration of the Trust details. This will allow the Trust Self-Assessment return to be completed also as it must reflect that the Register is up to date.

Our experience so far with this process is that it is taking a considerable amount of time to get clients through the handshake process. With the deadlines clear, we will continue to work with clients in getting these completed for our existing Trusts before 31 January 2021.

register by 31 January following the end of the tax year in which the liability arose.

For Trusts already registered, any changes which took place before 6 April 2020 must be reported by 31 January 2021. This applies if the trust was liable to tax for any of the three preceding tax years. Changes in the tax year 2020/21 must be reported by 31 January 2022, if the trust was liable to tax in that year.

Trusts which have not previously been registered as no tax liability has arisen to date, but now must register due to the change in rules will have until 10 March 2022 to do so, or 30 days from the creation of the trust. Moving forward, if any of the information changes TRS must be updated within 30 days of the change.

GET IN TOUCH

If you or someone you know needs any advice in relation to trusts and the obligations of trustees, please get in touch with a member of our team.

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Financial provision on divorce – the effect of recession on valuation and distribution of assets

At the outset of the lockdown many agents raised concerns around valuation of matrimonial property and settlement of cases. What, if anything, should family law practitioners do to discharge their obligations to their client having regard to the extraordinary circumstances thrust upon us as a result of the pandemic? The importance of taking advice from an experienced and trusted adviser is more pertinent now than ever.

The notion of fairness underpins the provisions of the Family Law (Scotland) Act 1985. Financial advice may be useful in relation to valuation of matrimonial property, as well as at the stage of exploring the specific nature of proposed settlements or orders.

Recession and assets

At the time of writing the UK is not technically in a recession but a recession is anticipated. What will be the effect on separation and divorce?



Amanda Masson
Partner
Head of Family law

In considering financial provision, the starting point is to identify the nature and value of assets at the date of separation, the "relevant date". This enables a family lawyer to prepare a balance sheet showing the net value of the matrimonial property at the relevant date. An integral part of the process is to ascertain the value of assets. A downward turn will inevitably reduce the value of the pot to be divided, but also the wealth available for division.

For many clients the main assets to consider are the family home, pensions and savings. As things stand, we have not seen significant reductions in the value of these assets, but the picture may well change as recession bites.

Markets could fall at any time between the relevant date and the date at which transactions are actually undertaken to move matrimonial property between spouses. We anticipate that things may begin to change in a negative way as the furlough scheme unwinds, with the consequence of redundancies and company closures.

The family home

When it comes to the housing market, many experts predict a reduction in values with recovery beginning in 2021. There may be merit in separating spouses either making the decision to sell now, or, alternatively, deferring a sale until the market has balanced out.

There is little by way of case law to guide us on how the Courts might approach the issue of financial provision in a recession. It is the responsibility of the solicitor to be mindful of the potential issues and to guide clients in the direction of specialist advice where appropriate.

In the case of *Wallis v Wallis*, back in 2003, the value of the family home had risen significantly between the value at the date of separation and the date of divorce. The Court held that the fact that the value of the family home had risen substantially between the relevant date and the date of decree of divorce was not

One of the major sources of stress around separation is the finances. Not knowing the potential position ("am I going to be ok financially?") can cause individuals to make less than rational decisions when it comes to agreeing a settlement.

per se a special circumstance justifying an unequal division of the matrimonial property. This led to unfairness, because the spouse who was receiving the property was effectively receiving a windfall. The solution came in the form of the Family Law (Scotland) Act 2006, which introduces the concept of the "appropriate valuation date". Section 8 of that Act provides as follows:

In its application to property transferred by virtue of an order under s 8 (1) (aa) of this Act this section will have effect as if

a) In subsection 2 above for relevant date there were substituted "appropriate valuation date" ... going on to specify that the appropriate valuation date will be :

The date agreed by parties to the marriage;

The date of the making of the order;

Or, if the court considers that, because of the exceptional circumstances of the case, s(2A) (b) should not apply, the appropriate valuation date shall be such other date as the court may determine.

It is a provision worth remembering when considering what should happen to the family home in the context of financial provision on divorce. Valuations provided prior to March of this year may bear little resemblance to values in a recession.

Looking to the future

Responsible solicitors should do their best to make sure that the settlement is not only fair, but in their client's interests. That can include making sure, as far as is reasonably possible, that they have at least considered what their financial future may hold post - divorce.

One of the major sources of stress around separation is the finances. Not knowing the potential position ("am I going to be ok financially?") can cause individuals to make less than rational decisions when it comes to agreeing a settlement. This anxiety is likely to be heightened in a recession. Already we are seeing a rise in enquiries from clients concerned that their income has dropped as a result of the pandemic, and those concerned that their estranged spouse may be looking for more financial support for a longer period of time. The phenomenon of the so - called "silver separator" is real, with the older client tending to be concerned about provision for adult children, retirement planning and inheritance tax planning.

The number and nature of the issues raised by the pandemic in relation to valuation and distribution of assets highlights the importance of appropriate expert input.

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Plugging the gap.

Might tax be the answer to the cost of Covid?

As we are all well aware the coronavirus, and in particular the resulting lockdown, have had a significant impact on the economy, with the government spending billions to support us all through this unprecedented situation. Many may well have wondered how these costs will ultimately be recouped and to what extent tax will be seen as the solution to raising much needed additional sums. With this in mind, we asked two members of our team (Leigh Beirne and Tax Manager Lynsey Calvert) for their thoughts ...



How much is lockdown thought to have cost our economy?

A lot! Recent estimates have suggested it could cost the government anywhere from £263 billion - £391 billion by the end of the current financial year. The furlough scheme alone has come at an estimated cost of almost £32bn so far and the country's GDP took a historic 20.4% plunge in the second quarter of this year. It will be a daunting amount whatever the final bill is and the government will have to borrow enormous amounts of money to try to recover.

Might inheritance tax be a way to raise funds and plug the gap?

The government has to rebuild the economy somehow over the long term and raising taxes is one option. It is currently borrowing record amounts on the financial markets to plug the gap, but that may not be enough. There may have to be tax hikes, but it's a politically awkward matter, particularly as the Conservative 2019 manifesto promised

not to raise income tax, national insurance and VAT - which may mean inheritance tax is more vulnerable to change.

There hasn't been a significant shake up of the inheritance tax rules for some time. The nil rate band threshold, currently £325,000, has been frozen at the same amount since 2009 and is unlikely to increase any time soon in the current financial climate. The most recent relief that was introduced a few years ago has actually reduced the inheritance tax take - this was the additional allowance for the family home of £175,000, known as the residence nil rate band, which applies if certain conditions are met.

Looking at the bigger picture, inheritance tax has generated more than £5bn in each of the last three tax years which is a very small part of the total revenue collected by HMRC. As it tends to be more of a political matter rather than a revenue raising tax, and the proportion of estates that pay inheritance tax in the UK is very small, something completely different could be introduced such as an annual wealth tax rather than making slight adjustments to the current rates (bearing in mind that the Chancellor's



Leigh Beirne
Associate



Lynsey Calvert
Tax Manager

As the future of inheritance tax is uncertain, we would recommend taking advantage of the current rules and planning opportunities while they're still here.



predecessor Savid Javid went on record at the Tory Party conference last year saying that he could consider scrapping the tax completely).

There is an ongoing review of inheritance tax and reform is on the cards, but this could all change in view of the unexpected deep hole in the economy. As the future of inheritance tax is uncertain, we would recommend taking advantage of the current rules and planning opportunities while they're still here.

Have there been any changes to tax brought into place yet or planned as a result?

It seems like a million years since the 2020 Budget in March and therefore it is hard to even remember what the Chancellor announced five months ago. Prior to the pandemic the Government had already started reducing relief.

From 11 March 2020 business owners making disposals are only eligible to claim entrepreneur's relief on the first £1m of gains (this was previously £10m), the

level it was at in 2008 when it was first introduced. This reduction is expected to save the Treasury £6bn over the next five years.

In addition, from July the threshold at which LBTT begins to be paid has risen from £145,000 to £250,000 in a bid to get the property market moving again. This threshold will remain in place until 31 March 2021.

Finally, the government has introduced a temporary 5% reduced rate of VAT for certain supplies of hospitality, hotel and holiday accommodation and admission to certain attractions. This cut will remain in place until at least 12 January 2021.

There are reports of possible changes to CGT, what are these?

On 14 July the Chancellor advised that he had commissioned the Office of Tax Simplification (OTS) to undertake a review of the Capital Gains Tax (CGT) regime to consider how the chargeable gains of individuals and smaller businesses are treated. CGT currently brings in around £9bn a year and it is anticipated that this could almost half to around £4.6bn per year following a fall in share prices over the last few months.

It would be fair to say that the CGT rates have reduced significantly over the years, but the reductions in the rates were thought to be aimed at compensating for the removal of valuable reliefs such as Indexation Allowance, Taper relief and other specific reliefs which have been withdrawn over the years.

In recent budgets the restriction of available reliefs has continued with extensions to the qualifying period for Entrepreneurs Relief and a significant reduction of the amount of lifetime relief available to business owners who sell up. Further reporting obligations and short deadlines have also, from 5 April this year, been placed onto those who invested in property.

So the CGT regime has not exactly been void of change over the years. With a drop in employment income expected though it would seem capital taxes may

well be the route to recover at least some of the Covid costs.

Is income tax looking like a possible source of additional funds?

Raising income tax would be the quickest and most far reaching way of raising revenue as it accounts for nearly one quarter of the total tax receipts, however, it would also be politically controversial. There is undoubtedly pressure for any income tax increases to target the highest earners, but calculations published by HMRC highlight that small income tax rises for large numbers of people stand to raise much more than bigger tax rises concentrated on the highest earners.

A more palatable option could be to increase national insurance contributions (NICs). With different rates applying to bands of earnings and categories of employment, the government has long wanted to reform NICs. Again, subject to the Conservative manifesto, increased national insurance contributions may well be considered for the self-employed, perhaps bringing them in line with the rates for employees. Another way to achieve higher NIC receipts would be to reduce the number of people who are eligible to be taxed as self-employed. This is the purpose of the new IR 35 legislation. The effective date of these rules has now been postponed until April 2021 and the government is under pressure to reconsider aspects of the draft rules. It is not inconceivable that revamping the IR35 legislation could be the opportunity the Chancellor seeks to categorise even more people as employees thus drawing them into the Class 1 NIC's tax net.

GET IN TOUCH

If you require any assistance with advice on personal tax issues, please get in touch.

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Big news



Independent recognition makes good reading

We are delighted to say that our team has been ranked among the leading Scottish law firms for advice for High Net Worth clients by one of the UK's leading independent legal directories.

Chambers UK says that Harper Macleod are regarded as "professional, trustworthy and easy to deal with", and "they come across as very proactive, client-centric and forward-thinking."

The Head of our Private Client team, Pamela Niven, gets special mention as a notable practitioner, with the comment that she "makes clients feel comfortable and explains things to them in a straightforward way."

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From now on, we will be producing four editions of The Brief each year – two in print and two online. If you would like to have a digital copy of The Brief emailed to you rather than receiving a hard copy, or to be notified when the latest online edition is published, please email MyComms@harpermacleod.co.uk and we will add you to our digital distribution list.

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We're helping to get Scotland moving - literally!



Julie Doncaster shares her experience of living and working in the Highlands during lockdown

Estate agency

Our teams have been available to help people deal with any issue that has arisen throughout the lockdown period.

However, for much of that time some things just weren't possible – such as moving house. But our residential property specialists still put the time to good use and, as soon as the government relaxed the restrictions on estate agency our team was ready to go.

We operate as Solicitor Estate Agents across the Highlands, Islands and Moray and to help get the area moving again, we launched a great new fixed price package from £995 to sell a home in these areas



Here to help

Of course, it's not just moving home that people have needed our help with. Our team advising individuals and families has been extremely busy during lockdown and has found new and interesting ways of complying with distancing rules while still getting the job done for our clients.

Julie Doncaster, the Partner who heads up our team in the Highlands, Islands and Moray has made a great video of her own experiences, out and about with her dogs and helping clients despite the obstacles that have had to be overcome. It's all part of our Getting Scotland Moving campaign.

You can see the video on the Harper Macleod Youtube channel or by using this link: <https://www.youtube.com/watch?v=DHoV6oqV6dc>

Staff stuff

Sarah tops the class in STEP Awards

Sarah Stewart, a Senior Solicitor in the Private Client team at Harper Macleod, has received a clean sweep of top awards from the Society of Trust and Estate Practitioners (STEP).

Sarah, who specialises in advising individuals and families, was recently awarded the Worldwide Excellence Award in the STEP Advanced Certificate in Taxation of Trusts and Estates (Scotland) – the fourth time she has received a Worldwide Excellence Award which means she has achieved the top mark in Scotland for each of the four exams she sat to obtain her overall award.

Previously, Sarah had been recognised for her accomplishments in the Wills & Executries – Law & Practice, the Taxation of Trusts and Estates, and the Trusts: Law and Practice exams.

Harper Macleod is a Gold Employer Partner of STEP, the global professional association for practitioners who specialise in family inheritance and succession planning. Members of the firm's team are constantly learning and developing through the STEP Programme, gaining their individual STEP qualifications. Pamela Niven, Head of the Private Client team, said: "Achieving



full STEP membership involves an enormous amount of hard work and having consistently topped the rankings in every exam, Sarah deserves to have her dedication recognised in this way."

Exam success all round



The summer saw some great results for the firm's Private Client team, with four other colleagues getting news of passing exams.

Luke Eaton passed his Paralegal exam with flying colours and deserves congratulations for a great result (though he won't get to enjoy his graduation event until 2021!). A special mention for Cinzia Duncan, a Senior Solicitor in our team, who helped Luke prepare.

The LSS Accredited Paralegal Scheme



was set up in 2010 to provide a defined professional status and a career path for paralegals and sets a high standard for paralegals to attain.

The other 'students' have all been sitting STEP exams, and Leigh Beirne is now fully TEP qualified having passed her fourth and final STEP exam - Trusts and Executry Accounting – with distinction.

Our Highlands and Moray team is in close pursuit, with Catriona Rowantree and Lauren Wright also having passed



STEP exams, taking them a 'step' closer to the end.

Pamela Niven, Head of the Private Client team, said: "These achievements are great news for the individuals concerned, for the team and for all of the individuals and families we advise. We are committed to helping all of our colleagues achieve professional excellence so that our clients get the best advice possible and STEP is a globally recognised benchmark of quality in private client matters."

Getting to know our team.

Lockdown edition

We know that you've missed seeing our smiling faces throughout 2020, so we thought we'd double down on our insights into team members from around our offices ...



Leigh Beirne

Leigh is an Associate in our team, having joined the firm in 2014. She specialises in the administration of complex estates, and is a regular visitor to our office in Shetland.

Q What is your current setup for working from home - and your advice for keeping productive?

A I have converted a section of my living room into a make-shift office. I find it really helpful to have a fixed workspace at home as it makes it easier to manage the work life balance - I have a clear area that I use for work, and the rest of my house is for me. The temptation when working at home is to sit in front of the computer all night but I have tried to mirror my office routine as much as possible.

Q What are you currently missing most about the office?

A As a people person who loves a chat, I definitely miss seeing everyone in the office. We have all been making a real effort to keep in touch remotely but it's not quite the same!

Q What are your top tips for enjoying some downtime?

A I live by the seaside in Largs and with some of the lovely weather, I've enjoyed a daily walk along the beach. I think a lot of people have used lockdown as an opportunity to do a little bit more exercise or enjoy the outdoors.

Q If you could go out anywhere and do anything just now, what would it be?

A Like many, I missed a holiday this year so I would like a break away - not necessarily abroad, even a staycation would feel like such a treat. It's in my plans!!

Q Who would be your perfect lockdown companion?

A As a way of keeping myself motivated, I signed up to Joe Wicks' 90-day diet and exercise plan in May and it's the best decision I've ever made. I've also discovered that I'm a terrible cook so I wouldn't mind having Joe himself as a companion - it would save me a lot of time in the kitchen!



Kathleen Martin

Kathleen is a Senior Associate based in our Glasgow office and helps people with a wide range of matters, including those with international roots or connections.

Q What is your current setup for working from home - and your advice for keeping productive?

A My home office is in our third bedroom, our two-year old's nursery! I find tidying away the teddies helps! Having a routine of when to stop for coffee and leaving the room to stretch your legs helps with productivity.

Q What are you currently missing most about the office?

A Definitely my colleague's chat - something that you would never think you'd miss!

Q What are your top tips for enjoying some downtime?

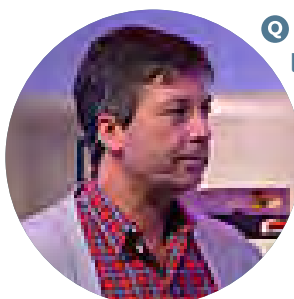
A Tidy away your work station, shut the door and have a defined period you don't think about work. Also, don't obsess over the news, and go with the flow of what each day brings.

Q If you could go out anywhere and do anything just now, what would it be?

A Drinks with friends. Being in a vibrant environment in close proximity to people and enjoying their chat is the thing I currently miss most.

Q Who would be your perfect lockdown companion?

A John Torode from MasterChef. He could deal with providing us all with delicious food, and he seems to have a laid-back nature, meaning he could cope with being stuck in with my boisterous boys.



img source: [wikimedia commons]



Lindsay MacEwen

Lindsay is a Senior Associate with more than a decade's experience advising on personal legal issues. As well as her professional qualifications, she is a council member of the Royal Glasgow Institute of the Fine Arts.

Q What is your current setup for working from home - and your advice for keeping productive?

A I've been lucky enough to have a spare room to use as an office which looks out onto the garden. I was initially working in the kitchen, but was 'politely' requested to vacate as my calls were interfering with tea breaks. Moving to a quieter space has definitely helped in the longer term and helps me to focus on my work (and keep the peace with my co-worker!).

Q What are you currently missing most about the office?

A My colleagues, the chat and meeting clients – 100%.

Q What are your top tips for enjoying some downtime?

A Lots of fresh air, dog walks and watching the odd boxset when the weather's miserable.

Q If you could go out anywhere and do anything just now, what would it be?

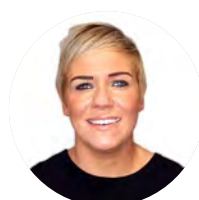
A I'd love to be able to go away with friends to the Mediterranean and enjoy some food, drinks and laughs in the warm evening sun.



Q Who would be your perfect lockdown companion?

A Monty Don to sort out the garden.

img source: [wikimedia commons]



Lynsey Calvert

Lynsey is a Tax Manager within the private client team at Harper Macleod, specialising in taxation for individuals, trusts and estates.

Q What is your current setup for working from home - and your advice for keeping productive?

A My spare bedroom has been transformed into an area that very closely resembles my messy office desk in Glasgow. I think it is important to ensure you remember to take plenty of breaks from your computer and stretch your legs. I always eat my lunch away from my desk and either sit in the garden or go for a walk to break up the day.

Q What are you currently missing most about the office?

A Without a doubt the people and being able to pop over to a colleague's desk to discuss an issue rather than over the phone or via email.

Q What are your top tips for enjoying some downtime?

A With a four and three-year old downtime is something I can only dream about! However, I do ensure that I do some form of exercise each day, whether it is a run, cycle or an online workout. The children and I love gardening and with plenty of time these days at home our garden is blooming with flowers and herbs.

Q If you could go out anywhere and do anything just now, what would it be?

A As a massive music fan I have really missed live music especially all of the summer festivals. There is nothing better than watching your favourite band with a group of friends in the sunshine (or rain normally).

Q Who would be your perfect lockdown companion?

A I think it would have to be Liam Fray from The Courteeners. He loves football (like me) and could entertain me with all of their tunes!

We are Harper Macleod.

Our lawyers provide the full range of services that you and your family will require at every stage of your personal and professional lives. We are trusted advisers on a full range of personal, legal and financial issues to individuals and families across Scotland. Our main focus is to help you acquire, manage, safeguard and pass on your family wealth, and to help guide you through any difficulties that you and your family may face.

From senior figures in the business and professional communities, to someone who has suffered a personal injury, our specialist solicitors deliver an efficient, quality service. And with offices in Glasgow, Edinburgh, Inverness, Lerwick and Thurso, we are always on hand to offer the best legal advice for every aspect of your life.



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