Focussing on legal issues important to you

ISSUE 34 | DECEMBER 2013

Rightfocus

Latimer Hinks receives endorsements from Legal 500 & Chambers UK

Anne Elliott, Marketing Partner at Latimer Hinks.

Solicitors with Latimer Hinks have received national recognition for the Firm's Commercial and Private Client work from two of the UK's most influential legal guides.

The firm has been mentioned in the latest Legal 500, which gives in-depth information and recommendations on law firms in more than 70 countries.

The UK Legal 500 says:

- Latimer Hinks has a sizeable practice led by Anne Elliott, and advises a number of high-net-worth individuals. Andrew Way is also recommended.
- Latimer Hinks is "top of the pile" locally. Nick Poole advises a predominantly SME client base
- Recent work for Latimer Hinks' Neil Stevenson includes the acquisition of a local hotel and restaurant

Anne Elliott and Nicholas Poole are also singled out in the Chambers UK Guide which prides itself on the independence and objectivity of its research and carries out thousands of in-depth interviews to assess the reputation and expertise of business lawyers. Its rankings take into account technical legal ability, professional conduct, client service, commercial awareness, diligence and commitment to clients.

Anne is referred to as having a particular expertise in agriculture work, including property and tenancy work, agricultural succession applications and advice to farming families.

Chambers' testimonial reads: "According to sources, Anne Elliott "has a fantastic understanding of the industry and her advice is always appropriate and well delivered. Her down-to-earth approach and plain-speaking manner appeal to Yorkshire farmers. She is known in particular for her expertise on inheritance tax and succession planning."Latimer Hinks has a broad agricultural practice with experience of handling succession planning issues, tax planning, and the buying and selling of land. Neil Stevenson of the Firm advises upon wind farm development. They are a "well-established and trusted firm who have been strong supporters of the farming industry in Yorkshire."

According to Clients, Nicholas Poole of Latimer Hinks "is very detail-oriented and very easy to deal with, and will tell you what you need to hear."

Anne Elliott, Partner at Latimer Hinks, said: "We are delighted to have ranked again in this year's Legal 500 & Chambers UK. The benefit, as we see it, is in having independent validation of the quality of service that Latimer Hinks provides across our specialist areas."

Welcome to the Latimer Hinks December edition of Rightfocus...

In this issue we lead with news of national recognition of Latimer Hinks Commercial and Private Client services. The Legal 500 & Chambers UK have endorsed our services saying that Latimer Hinks is "top of the pile" locally.

Inside we look at dangers lurking for farming families who may be working without a partnership agreement.

Moving on, Natalie Palmer becomes a Dementia Friends Champion and highlights the need for families to consider Lasting Powers of Attorney.

On the back page Martin Williamson delivers timely advice regarding inheritance tax planning and ever increasing house prices.

TOP RANKED CHAMBERS UK 2013 LEADING FIRM

The LEGAL 500 UNITED KINGDOM LEADING FIRM 2012

Latimer Hinks SOLICITORS

The dangers of farmers operating without a written partnership agreement

Many farming families do not have existing partnership or shareholder agreement in place which can be problematic if there is a dispute or a partner or shareholder leaves, wants to retire or dies. He and his immediate family often have no idea where they stand and uncertainty can lead to insecurity. This can affect not only the business - and potentially its viability - but also family relationships.

Increased asset values, particularly land values, and trading profits will exacerbate what is potentially an already difficult position. It is vital that families analyse where they are in terms of asset ownership and where they want to be in the future, particularly with regard to the younger generations.

A number of members of one family may well need to be accommodated - in residential terms - on the farm. Tenancies may be held by certain individual partners but the land within the tenancy may be used for the benefit of the partnership as a whole

Even if families do have partnership agreements in place they may have been signed twenty or thirty years ago and will no longer be appropriate – those agreements need to be revised.

Partnership agreements will inevitably link to the wills of the individual partners. Wills that have already been made may also be twenty or thirty years old and may need to be reviewed and updated.

An analysis of the use and ownership of the assets of the partners or the partnership should also be undertaken to establish whether the conditions and the criteria for Agricultural and Business Property Reliefs (for Inheritance Tax purposes) can be met. Increasing land values make securing these reliefs not only valuable, but crucial.

In terms of retirement provisions, it is important that these are relevant and appropriate to the size of the business and the size of the individuals' capital accounts. If a partner is to retire, what impact is that going to have on the business in the context of the business or remaining partners being able to afford to pay out a retiring partner's capital?

With partnership agreements it is never a case of "one size fits all". Each business is unique and will have its own particular issues whether in relation to personalities, the ownership of assets, the age profile of partners or the objectives of the partners and their families. It is important that these issues are addressed.

At Latimer Hinks we have a checklist intended to help clients and potential clients compile an accurate and comprehensive summary of their requirements which is essential before any farming partnership agreement can be prepared.

This checklist is available at no charge and can be provided by email if you would like to contact me on aee@latimerhinks.co.uk or visit our website http://www.latimerhinks.co.uk/downloads-factsheets.asp to download the checklist.

By Anne Elliott, Partner and agricultural law specialist at Latimer Hinks Solicitors.

Small companies payment scheme 'not working'

A government-backed scheme to ensure small companies get paid on time has been described as a 'failure' by business leader and former trade minister Lord Digby Jones.

The Prompt Payment Code was established in December 2008 to help small suppliers recover the £30.2bn owed to them by some of the UK's largest companies.

Around 1,500 firms have signed up to it – a number of them in the FTSE 100. Signatories promise to abide by the terms set out in their contract – and not to change them retrospectively. Suppliers are also guaranteed the right to complain if they are unhappy.

The scheme is supposed to be further strengthened by the European Directive on late payments, which says business to business payments should be made within 60 days and public sector bills paid within 30 days.

However, the Federation of Small Business says some code signatories have managed to stretch settlement periods to 120 days – far longer than the limit set by the European Directive.

SMEs aiming to 'keep it in the family'

Research by Close Brothers Asset Management indicates that almost half of UK small and medium-sized business owners look to pass the company on to their children.

'LPAs may prevent family breakdowns' – says Latimer Hinks solicitors

Latimer Hinks is urging people to be aware of the importance of Lasting Powers of Attorney (LPAs) in the wake of a number of distressing cases.

Natalie Palmer, Solicitor & Partner at Latimer Hinks, highlights the case of veteran broadcaster Jimmy Hill who is suffering from Alzheimers. Several of his children are now embroiled in a legal battle with his third wife. He signed an Enduring Power of Attorney in 2005 to give her and a lawyer joint power to control his financial affairs. The children were not aware of it until 2008 when Mr Hill was first diagnosed with Alzheimers.

In 2007 two types of LPAs were introduced to replace Enduring Powers of Attorney. They allow an individual to give a friend, relative or adviser the ability not only to manage financial affairs but also to make decisions about health and welfare should the individual be unable to make those decisions for himself.

Natalie explained: "The Hill case and the many other cases we deal with on a regular basis highlight the need for both types of LPA (Property and Affairs and Health and Welfare) to avoid financial and administration issues, confusion and even family break-ups. When people plan for the future, they often wrongly assume that they have plenty of time to put in place retirement provisions. They may even sign a new will but they often fail to consider what would happen before they die if they are affected by dementia or another condition which impacts on their capacity to make vital decisions. If Jimmy Hill had reviewed his affairs, say after 2007 or before the onset of his dementia he could have perhaps made a Health & Welfare LPA naming, for example one of his children with his wife as attorney. They could then together have been able to dictate the arrangements for his care."

"It is important however that the Attorneys appointed can agree the arrangements. I cannot stress enough the importance of LPAs and of talking to your family. Before having to face conditions such as dementia, parents should consider telling their families about how they want to be looked after and who they want to be in control of their lives – both financial and personal. Having these conversations can avoid potential problems which can prove not only distressing but expensive if family members decide to consult lawyers. What most families want is to know that they are respecting the individual's wishes and signing LPAs can remove any doubt as to what those wishes are."

Latimer Hinks Solicitors becomes champion for dementia sufferers

Natalie, a partner in the private client department is a fully-fledged Champion after completing her Dementia Friends training course. She is now responsible for creating a dementia-friendly environment in the local community.

A Dementia Friends Champion is a volunteer who encourages and offers their advice to people living with dementia in their community. 'Friends' must attend a training session, which is run by Alzheimer's Society, and anyone over the age of 18 and who lives in England can become a Champion.

Natalie said: "I am delighted to have become a Dementia Friends Champion as it is something that I am very passionate about. I intend to follow on from my training and raise awareness to people in the community about dementia, which will go a long way to making a difference to those living with the disease.

"Dementia is a condition that currently affects 670,000 people in England, so it is important to help raise awareness and help combat it by any means possible."

Andrew Way, apartner and manager of the Private Client department at Latimer Hinks Solicitors, said: "It is fantastic that Natalie has completed this training and is willing to go the extra mile to try and make a difference for people living with such a terrible disease. This just goes to show what a thoughtful and committed person Natalie is.

"We would like to congratulate Natalie on becoming a Dementia Friends Champion, and wish her all the best in promoting a positive difference to those living with dementia in the community."

As well as becoming a Dementia Friends Champion, Natalie is also heavily involved with other charities, as she is a trustee of Age UK Darlington and a member of the Alzheimer's Society Referral Panel. In addition to her charitable commitments, Natalie is a member of the Society of Trust and Estate Practitioners (STEP) and the joint regional coordinator of Solicitors for the Elderly (SFE) North East branch.

Natalie Palmer, Solicitor and Partner at Latimer Hinks.

For more information on Dementia Friends and on how to become a Dementia Friends Champion, please visit http://dementiafriends.org.uk

Latimer Hinks
SOLICITORS

Solicitors for families, businesses, farmers & landowners

Contacts and services

you & your family

An understanding approach to house buying and selling, long term care and retirement, wills, trusts and probate.

Private Client Team: Anne Elliott, Andrew Way, Elizabeth Armstrong, Natalie Palmer, Helen Thomas, Gillian Ibbotson, Nadine Kilvington, Kelly McLoughlin, Daniel Williams, Claire Conway, Julie Porter

Residential Conveyancing Team: Nicola Neilson, Martin Williamson

business & commercial

Advice on commercial property law, employment and contract law, selling a business and succession planning.

Commercial Team: Nick Poole, Anne Elliott

Commercial Property Team: Tim Haggie, Neil Stevenson, Nicola Neilson, Adam Wood

farmers, landowners & landed estates

Knowledgeable legal expertise in land sales and purchases, land option agreements, tenancy agreements, succession planning, diversification schemes and renewable energy developments.

Agricultural Team: Tim Haggie, Anne Elliott, Neil Stevenson, Nicola Neilson

Private Client Team: Anne Elliott, Andrew Way, Elizabeth Armstrong, Natalie Palmer, Helen Thomas, Gillian Ibbotson, Nadine Kilvington, Kelly McLoughlin, Daniel Williams, Claire Conway, Julie Porter

Contact details for Latimer Hinks:

Tel:01325 341500

lh@latimerhinks.co.uk

www.latimerhinks.co.uk

House price rises pushing up numbers subject to inheritance tax

House prices are rising at their fastest level in years however, rather incongruously, the Inheritance Tax (IHT) threshold has remained rigidly fixed.

Martin Williamson, Head of Residential Property.

The current level of £325,000 per person is expected to remain until at least 2019. All estates above that limit are taxed at 40 per cent. This poses some interesting, and worrying, questions, particularly in the current legislative climate. Help to Buy, which is enabling people to buy houses up to the value of £600,000 could arguably lead to a house price spike. A housing boom is less likely outside the environs of the capital, however the scheme will, inevitably, put prices on an upward trajectory.

The figures, unfortunately, speak for themselves. The taxman's IHT receipts have climbed for the third year in a row, according to official figures, and many homeowners are now being forced to prioritise reducing their tax liabilities. The IHT threshold has been frozen since 2009 which has meant property prices have a major effect on rises and falls in the level of IHT being paid to the Government. Revenues reached their highest level of £3.8bn during the housing market peak of 2007-08, before falling back when the market crashed. For the tax year which ended in April 2013, IHT income was £3.1bn, according to the Office for National Statistics; up from £2.9bn the previous year.

While the IHT rate remains fixed, many people - or rather their estates in that their families/beneficiaries will pay the tax - will increasingly find themselves the subject of this tax for the first time. However, there are ways to mitigate the impact of IHT by following a few straightforward rules of thumb:

Knowledge is power

Find out what your property is worth, as it may have passed within the ambit of IHT by a whisker. Without some clear idea of the value of an estate, or how that value is spread across housing or other assets such as savings, families cannot plan.

Plan ahead

An up-to-date will is vital to the planning process. Problems generally materialise where a surviving spouse or a single person dies. A valuable concession allows ones spouse's unused tax-free allowance to be transferred to the survivor. So executors of a surviving spouse can add the unused percentage of the allowance of the first to die (up to 100%) to their own allowance. At today's threshold, this permits each couple to leave £650,000 tax-free (subject always to deduction of the value of gifts made within seven years of death).

Start giving it away

When it comes to house purchases we all know about the increasing popularity, and necessity, of the Bank of Mum and Dad. Early planning from a tax perspective could be worth considering.

If the parent making the gift dies within seven years of making the gift, then the gift is added to the value of the deceased's assets and tax calculated on the total. These possibly taxable gifts are known as "potentially exempt transfers". There is however a £3,000 per person annual exemption deductible from the amount of the gift.

For further information: www.latimerhinks.co.uk or call 01325 341 500.

LawNet