Focussing on legal issues important to you

ISSUE 44 | 2016

Rightfocus

Latimer Hinks issues warning to parents who lend through the Bank of Mum and Dad

Latimer Hinks is warning parents thinking about helping grown-up children onto the property ladder through the "Bank of Mum and Dad" to go into any arrangement with their eyes wide open.

New research found that parents across the UK are set to lend their children a collective £5bn this year to help them onto the property ladder.

Parents will help to finance a quarter of all UK mortgage transactions this year. If the "Bank of Mum and Dad" really were a bank, it would be in the top 10 of the country's mortgage providers.

On average, parents will give their grown-up children a contribution of seven per cent of their purchase price, helping out with a total of 300,000 mortgages. In the North East, where average property prices are £155,000, that could be around £10,850.

But tax experts at Latimer Hinks say it is vital parents and children thinking about making and accepting an offer of financial help consider all of the implications.

Latimer Hinks Director, Elizabeth Armstrong said: "While most parents, so long as they can afford to do so, are only too happy to help their children realise their dream of home ownership, it's important that both sides know exactly where they stand.

"There are many different ways of financing a property with parental involvement and there are often tax implications to consider so what works for one family won't necessarily work for another."

It's important to think about all of the implications involved. Gifting money can have Inheritance Tax (IHT) consequences.

IHT is paid if a person's estate (i.e. what they own when they die) plus the value of gifts in the 7 years before death exceeds £325,000. It may well make sense to reduce an IHT liability by gifting money to grown-up children to help with their property purchase. If the donor parent

Latimer Hinks Director, Elizabeth Armstrong.

survives for 7 years after making the gift, its value will escape IHT.

Some gifts aren't liable for IHT at all. It is possible to give away £3,000 each year without any IHT implications. You can also give away £5,000 if a child is getting married. So, if your grown-up son or daughter is getting married and buying a home in the same year, then you could hand over £8,000 without fearing that they will be hit with a tax bill. But an important consideration is what will happen to the gift if your child is buying with a partner and they subsequently separate.

A decision will need to be made about whether the money is a gift or a loan. Gifts are not repayable but loans are repayable. Any loan agreement between parent and child must be disclosed to any mortgage provider to be factored into the affordability assessment. So it may be a case of giving with one hand and taking with another as lending capability can be reduced as a result of loan repayments.

Another option is for parents to act as guarantors on a mortgage application, meaning their income is also taken into account when agreeing a deal, which may allow more to be borrowed. However, a parent will have to be willing to cover mortgage payments if the child becomes unable to pay.

A further choice could be to take out a joint mortgage on the property, with a parent legally owning a share of the home and both parties jointly liable for mortgage repayments. However, that has its own issues as Inheritance Tax and Capital Gains Tax could eventually be payable on a parent's share.

There are even options involving using Trusts as a way of structuring things.

Elizabeth added: "While Bank of Mum and Dad may well be the most generous lending facility in the land, with low or no interest repayments, and often debts being written off entirely, it's important to seek advice to make sure all parties know where they stand. Changes to Wills may also be required to reduce the risk of future family disputes."

Welcome to the Latimer Hinks May 2016 edition of Rightfocus...

In this issue we lead with a warning to generous parents who lend money to their children.

Inside we congratulate the Private Client team on becoming a finalist in the Northern Law Awards - category "Team of the Year – Private Client." We also take a look at why we can learn for David Cameron's tax planning.

On the back page Martin Williamson asks the question "Would you rent our your room to strangers?"

Why we can all learn from David Cameron's tax planning

If revelations of David Cameron's tax affairs have done one good thing, it is to push the issue of tax planning to the forefront of all our minds.

The Prime Minister is still firefighting after more than a week of stonewalling, followed by partial statements and, eventually, the publication of his tax returns from 2009 to 2015.

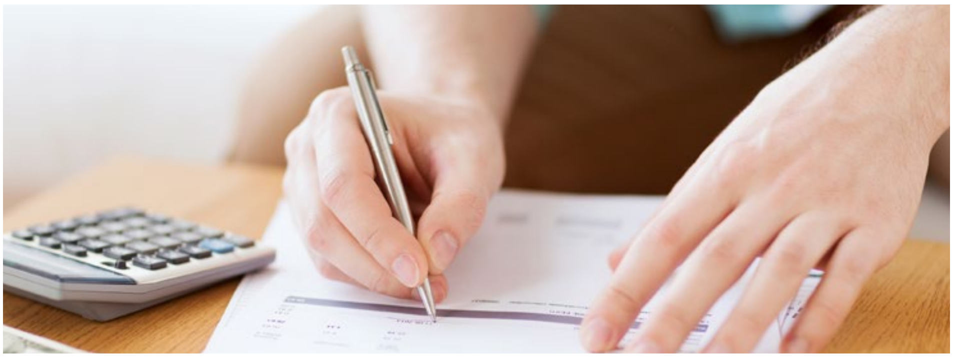
While the debate rages on over whether there has been any wrongdoing on the part of Mr Cameron, the fact remains he and his family have acted within the letter of the law.

Latest details to emerge as a result of the tax return disclosure were that Mr Cameron's mother Mary has given him two separate lump sums of £100,000 in 2011.

That led to calls from Labour leader Jeremy Corbyn for a possible fresh look at Inheritance Tax rules because, provided that Mrs Cameron survives for seven years following the gift, "it does actually reduce the level of inheritance tax that is available for the Exchequer as a whole".

Mr Cameron's now public tax returns have thrust tax planning into the public consciousness. But, do we really want his tax issues to lead to more stringent rules for all of us?

The tax regime in which Mr Cameron and his family have acted is not just the preserve of the rich and famous. Whether the law changes under this Government or the next, Mary Cameron's actions are perfectly legal as it stands and can be a sensible way to pass on hard-earned money and assets to the next generation, rather than it going into the Treasury's coffers. Helping our children out financially, is something most parents wish to do.



Mr Cameron inherited £300,000 from his father in 2010, before receiving the two sums of £100,000 from his mother.

It was a generous (and tax efficient) move which can be emulated by many families, whether they have a modest amount to pass on, or they fall into the same capital and income bracket as the Camerons. The tax treatment for Mr Cameron is the same as other UK taxpayers.

Inheritance tax may be payable if a person's estate, including their property, money and possessions together with the value of certain gifts made within seven years of death, is worth more than £325,000 when they die. The rate is 40% on anything above the threshold. Married couples and civil partners are able to pass their possessions and assets to each other tax free.

From April 2017, parents will each be offered a further "family home" allowance (initially £100,000 rising to £175,000 in 2020/21). But, given property prices, even taking this extra tax-exempt allowance into account, many families will find themselves facing hefty inheritance tax bills.

When it comes to passing assets to children, grandchildren and other loved ones, cash gifts given over a period of time can be a sensible way to reduce the inheritance tax burden.

Under current rules, £3,000 per year in gifts can be given away tax free, as well as £5,000 as a wedding gift for your child, or £2,500 as a wedding gift to your grandchild. There are also small gift exemptions.

Individuals can, of course, make other lifetime gifts but these gifts may still count (for tax purposes) as part of the estate for seven years and could be subject to Inheritance Tax if the donor dies within that seven year period.

Downing Street defended Mary Cameron's payment as "the kind of sensible, legal and perfectly proper tax-planning millions of us do". It's perhaps only natural that Mrs Cameron wished to help out her son and his young family with a cash gift.

Whether we agree with the current Inheritance Tax regime or not, it is the one we have, and families who wish to pass on their hard-earned wealth should be able and encouraged to do so. This is especially relevant today when for example some young people's only chance of getting on the property ladder is by virtue of loans or gifts from parents or grandparents.

Delayed flight compensation claims beginning to take off

More people are taking up the right to claim compensation of up to £430 for flights delayed by over three hours.

However, compensation company, Flight Delays, have revealed that, with thousands of passengers still unaware of their rights, a total of £8 billion goes unclaimed every year.

Budget 2016: how it could affect household spending and savings

The 2016 budget included a number of new initiatives that it's worth taking a note of, from a new way to save for retirement, to costs that could impact day-to-day household finances.

Spending

The headline grabbing sugar tax could add a few extra pennies to grocery bills, particularly for families with a sweet tooth. Manufacturers who produce sugary drinks will be taxed, with the extra cost expected to be passed onto consumers.

A less high-profile change that could nevertheless impact costs for many homes is the 0.5% increase in Insurance Premium Tax. While not as big an increase as the insurance industry feared, this will still push up the price of many home and car policies.

Saving

In addition to a new Personal Savings Allowance, the Chancellor announced a tax-free allowance of £1,000 for those making money through the 'sharing economy', such as by renting rooms out on Airbnb.

Another significant change is the introduction of a new Lifetime ISA, available from April 2017.

This will allow people under 40 to save up to £4,000 a year, plus a 25% contribution from the government, until the age of 50.

Latimer Hinks team shortlisted in Northern Law Awards

Northern Law Awards 2016 Finalist Team of the Year – Private Client www.lawawards.co.uk

Anne Elliott, Chief Executive at Latimer Hinks.

Latimer Hinks has been shortlisted in the prestigious Northern Law Awards 2016.

The firm is a finalist in the Private Client Team of the Year category and will now go forward to the next stage before the Awards ceremony takes place in June.

Latimer Hinks CEO Anne Elliott said: "We're absolutely thrilled to have been named as one of the Northern Law Awards finalists.

"Our private client work is absolutely crucial to us. It's a privilege for us to be involved in helping our clients whether in relation to happy events such as buying a home or helping children do so, or in respect of a gift for their wedding, or in the sad times when we help with the financial and emotional issues which come with the loss of a loved one.

"To have been shortlisted is testament to how committed the Team is in helping our clients, many families having been with us for generations."

Northern Law Awards project manager Sonia Hernandez said: "We received an overwhelming number of nominations this year, making the selection of finalists a challenging process."

Latimer Hinks will now go before a judging panel at the end of April.

The Northern Law Awards will be presented at the Crowne Plaza Newcastle on June 23rd.

Budget 2016: SME 5-point checklist

The March 2016 budget was dubbed the 'small business budget'. As well as widely reported benefits such as extending business rate relief, a number of other changes have also been proposed that could affect everyone from the self-employed to growing businesses.

1. Cut to corporation tax

The main rate of Corporation Tax will fall from 20% to 17%. This will make it the lowest rate in the G20, and benefits over 1 million UK businesses.

2. Class 2 National Insurance contributions (NICs) to be scrapped

From April 2018, self-employed people will no longer have to pay Class 2 NICs of £2.80 per week if they make a profit of £5,965 or more a year. This means they will only have to pay Class 4 NICs if they make over £8,060 annually.

Class 4 NICs will also be reformed from 2018, to ensure self-employed people can continue to make strong contributions towards their state pension.

> *"Class 4 NICs will also be reformed from 2018, to make sure self-employed people can continue to make strong contributions towards their state pension"*

3. New stamp duty rates for commercial property

Before March 2016, stamp duty was calculated based on the whole transaction value of a commercial property, whereas now the rates will only apply to the value of the property over a series of tax bands.

The new tax rates are:

- 0% on anything up to the value of £150,000
- 2% on anything between £150,001 and £250,000
- 5% on anything above £250,000

Buyers will also pay a lower rate of stamp duty on commercial property up to the value of £1.05 million.

4. More funding to protect businesses from flooding

After the devastating effect of winter storms on businesses in the North of England, an increase in Insurance Premium Tax will be used to fund new flood defences.

5. Fuel duty frozen

Fuel duty was frozen again for the sixth consecutive year, representing an average annual saving of £75 per car.

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, Jennifer Quayle, Claire Conway, Julie Porter, Abigail Noone, Toni-Ann Galvin, Nikita Noel

Residential Conveyancing Team: Nicola Neilson, Martin Williamson, Jonathan Sturgeon

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, Jennifer Quayle Claire Conway, Julie Porter, Abigail Noone, Toni-Ann Galvin, Nikita Noel

Contact details for Latimer Hinks:

Tel:01325 341500

lh@latimerhinks.co.uk

www.latimerhinks.co.uk

Would you rent out your spare room to strangers?

It seems the Chancellor wants to encourage us all to be micro-entrepreneurs. In his latest budget, George Osborne announced tax breaks for those renting out their homes or rooms on sharing holiday websites, or selling items on the internet.

Homeowners who rent out a room through the likes of Airbnb won't need to declare or pay tax on the first £1,000 they earn on the platform per year.

The move was described by Osborne as a tax break for the digital age, with at least half a million people nationwide set to benefit.

It could be good news for those who want to earn a little extra money to put towards their mortgage or their household bills, along with bringing economic benefits to communities which encourage tourism.

A quick search of Airbnb reveals rooms in Darlington from around £30 a night, rising to around £200 for a night renting an entire family home in the Durham Dales. The new tax break, set to come into force in April 2017, will benefit those with homes of their own to let, but it is not without its complications.

For those who are still paying off their mortgage, it may be that their lender will not give them permission to let out the property for a week or two.

Martin Williamson, Head of Residential Property.

Lenders generally tend to be lenient when it comes to owners renting out rooms, providing that they are still living in the property so they can keep an eye on tenants.

However, they are more stringent on the rules for those who rent out their entire property for the weekend or when they are on holiday themselves.

Those with second homes, which have been bought with buy-to-let mortgages also usually have restrictions on letting out homes to holidaymakers rather than long-term tenants.

Even those lenders who do allow holiday lets are likely to charge a fee to homeowners for the privilege, which will eat into their bottom line.

There are also insurance implications. If you don't tell your insurer that you are renting out your home, then you could have claims turned down, but if you do tell them, then your premiums may increase. You also need to think about what would happen if a holidaymaker injured themselves on your property. Who would be liable?

But, could income from sharing your home help you to get a first mortgage, or to re-mortgage? Every mortgage lender has different criteria, but many won't take into account lodgers' income as part of an application.

The new rules may well cause more people to consider taking in holidaymakers or business travellers, but they are most likely to benefit those who already own their home outright, who don't need to inform or check with their lender before going ahead and offering a room or entire home to let.

It can be a great way to supplement retirement income, particularly for those who have empty nest syndrome but aren't ready to downsize, or who spend large parts of the year on holiday themselves.

For further information: visit www.latimerhinks.co.uk or call 01325 341500.

LawNet

LawNet © 2016. This newsletter summarises the law on issues which we believe may be of interest to our clients. It is not a comprehensive review of the subjects and accordingly is published without responsibility for loss occasioned to any person(s) acting or refraining from action as a result of the information published. LawNet Limited 93/95 Bedford Street, Leamington Spa, Warwickshire CV32 5BB. Tel: 01926 886990 email: admin@lawnet.co.uk. www.lawnet.co.uk