



PRIVATE CLIENT MATTERS

CARE COSTS

Living in a care home can be expensive. Some people are able to pay their own care fees, others may need help. To figure out how you will pay your care fees, you should know what type of assets you own and their value. This along with knowledge of the eligibility criteria means that you can plan for your future timeously.

If you need to go into care, the council will usually carry out a 'needs assessment'. If you are over 65, the council will pay £171 per weeks towards personal care needs and an additional £78 per week towards nursing care needs in a care home (from April 2015). If you take the former, you lose your entitlement to Attendance Allowance or the care component of the Disability Living Allowance.

After the needs assessment, a 'financial assessment' will usually be carried out to ascertain what, if any contribution you may receive towards your accommodation costs. If you have savings or capital of less than £16,250, you will not have to use any of this money towards you care home fees.

If your savings and capital are worth between £16,250 and £25,250 and you are eligible for personal and or nursing care payments, your council will contribute towards the accommodation costs of your care home fees. You will however have to pay a 'tariff income' charge of £1 for every £250 between £16,250 and £26,250 in savings you have.

If you have savings and capital worth over £26,250, you will have to pay all your care home fees until your savings and capital reduce to the limit discussed above.

Rachel Alexander a Senior Solicitor based in the firm's Dundee office commented: " Trying to work out what you are entitled to can be very complicated. It is important to know that you will be assessed as an individual and the council does not have the right to ask your spouse, civil partner or partner to give details about their income or savings. "

She added: "Savings and capital means bank and building society accounts, national savings accounts, premium bonds, stocks and shares and property. Any joint property will be divided into equal shares unless you can show that it was held in unequal shares. Savings and capital that are ignored are the surrender value of life insurance policies, money held in a personal injury trust and personal possessions."

If you live with someone, the value of that property (if it's in your name) will not be counted as capital. The value of your home is ignored if a relative or family member who lives with you is incapacitated, under the age of 16 and you are responsible for them or if they are aged 60 or over. They will also ignore the value of property if someone has given up their own property to move in with you to care for you. If you own properties other than your main home, their value will be taken into account.

The system for funding care is complex. You may be able to retain ownership of your property by speaking to us before the issue becomes urgent. This will allow us to explain your options and you to take the most appropriate planning steps.



The Will to Make a Difference

Proving that where there's a will there's an opportunity for charity, Tayside based solicitors and estate agents, Miller Hendry is celebrating a successful collaboration with the campaign Will Aid.

Miller Hendry raised £6925 through the annual Will Aid drive, which asks solicitors to waive their usual fees and have clients make a donation to Will Aid instead. The donations are then divided among nine Will Aid charities, which include Save the Children, Christian Aid and British Red Cross.

The money raised through the latest Will Aid campaign, which is held every November, puts Miller Hendry fourth highest in Scotland in terms of donations.

Presenting a certificate to staff at Miller Hendry's offices in Perth, Katy Williamson of the British Red Cross, said:

"Since being founded in 1988, Will Aid has enabled legal firms to raise more than £17 million for charity, and at the same time has encouraged thousands of people to write their will. Miller Hendry's efforts have been very impressive and will make a big difference to the lives of those helped by British Red Cross and the other charities served by Will Aid."

Caroline Fraser, Associate with Miller Hendry in Dundee, said:

"We pride ourselves on giving back regularly to our local community, and in this case we have spread our charitable net even wider, donating almost £7,000 to some top nationwide charities. We're proud of our staff for not only winning a spot as one of the top 4 donors in Scotland, but for raising awareness about the need to write a will. The more people realise how important a will is, and that having one prevents a lot of unnecessary legal complications, the better."

For more information about how Will Aid works, visit willaid.org.uk

The Importance of Granting a Power of Attorney

We hope that we will always be able to deal with our own financial affairs and make decisions regarding our welfare, and never have to rely on another individual to make decisions for us; however, sadly, this isn't always the case. More and more clients are becoming aware of the importance of granting a Power of Attorney.

A Power of Attorney is a formal document authorising someone you trust to act on your behalf. It can only be granted when you have full mental capacity therefore it is crucial that the document be prepared as early as possible. Many people believe that Powers of Attorney are only required for the elderly. While the urgency to grant a Power of Attorney may be due to the onset of any degenerative illnesses such as dementia, they are also extremely important where an individual becomes mentally incapable due to an accident or illness.

In Scots law there are two types of Powers of Attorney:

Continuing – This covers financial and business affairs and can be brought into operation at any time, i.e. before you lose capacity with your consent.

Welfare – This covers personal affairs and can only be brought into operation once capacity is lost.

What happens for those who have left it too late to grant a Power of Attorney?

Leann Brown a Senior Solicitor in our Dundee office confirmed: "If a client has lost capacity (which can be confirmed by a doctor), and ongoing financial and welfare decisions need to be made for them, a Guardian will need to be appointed through the Court. This is a time consuming and costly process, and best avoided at the outset by putting a Power of Attorney in place."

Tax Summary for 2016/2017

The Higher Rate Threshold is increased from £31,785 to £32,000

From 2016/17 onwards, all individuals are entitled to the same personal allowance of £11,000 regardless of their date of birth.

In addition, the 10% dividend tax credit will be abolished and replaced with a new £5,000 tax free Dividend Allowance.

Tax will be charged on earned income:

- Basic Rate - 20% on taxable income up to £32,000
- Higher Rate - 40% on taxable income between £32,001 and £150,000
- Additional Rate - 45% on taxable income in excess of £150,000

Capital Gains Tax Rates:

- 10% and 20% tax rates for individuals (not including residential property and carried interests); and
- 18% and 28% tax rates for individuals for residential property and carried interests

Inheritance Tax Rates:

- Nil Rate Band—£325,000 (frozen until 2020/21)
- Anything above the threshold taxed at 40% (36% for those who leave 10% or more of their net estates to charity)

Miller Hendry offer tax advice and assistance in relation to Personal Tax advice, Capital Gains Tax planning, Inheritance Tax planning and taxation during the administration of Estates and Trusts, Please contact our tax specialist, Lesley Rance 01738 637311.

Succession Bill



The Succession (Scotland) Bill 2016 has had its third reading in the Scottish Parliament and we currently await notification of a date when this Bill will come into force. Donnie MacLeod an Associate in our Perth office commented: "This is the first significant reform of the law relating to succession to a person's estate on death in more than 50 years and is part of an even more wide ranging programme which will make major changes to the law of succession in Scotland."

The main provisions which are about to become law are:-

- To exclude an ex-spouse or civil partner from inheriting or being appointed as Trustee, Executor or Guardian under a Will which was made before a divorce or dissolution (there is an exception where the deceased's Will explicitly states otherwise). Under the existing law, a Will which made provision for a spouse to benefit was still valid following the breakdown of a relationship by divorce or dissolution and this led to some unintended and undesirable outcomes if no steps were taken to update a Will. This change brings Scotland more into line with the position elsewhere in the UK.
- To provide that in a Will which includes a special destination i.e. property passing automatically to a former spouse on death, such a special destination will be revoked on divorce. This applies not only to houses and land but also bank accounts and investments held in joint names.
- To modify the survivorship rule to state that where both spouses die in the same accident, neither is treated as surviving the other.
- To provide that a court, under certain conditions, can rectify a Will that does not reflect the deceased's intentions.
- To remove the requirement for Executors to obtain a Bond of Caution i.e. an insurance policy, where an estate is not contentious and small.
- To provide that where a beneficiary who is a direct descendant of the deceased and is due to receive a bequest under their Will dies between the Will being made and receiving that bequest, the beneficiary's children would take whatever the beneficiary would have taken. This is not to apply if it is clear from the Will that the deceased intended otherwise.

There is to be further consultation on the law of succession which will deal with a variety of matters including estates where no valid Will has been left, the entitlement of co-habitants and protection from disinheritance. Donnie added: "These are major changes to the laws of succession and we will need to consider with our clients how these changes will impact on their individual circumstances."

First and Foremost

Your Interests

Miller Hendry is a long established legal and estate agency practice which has served individuals and businesses in the Tayside and Strathearn area for generations. The firm has grown to be one of the largest legal practices in the area. Our staff include highly professional solicitors and legal staff, trust and tax specialists, property valuation managers and sales negotiators who are all equipped to provide a complementary blend of specialist and more general expertise in various fields.

We continue to try to shape in a proactive way the services we provide to meet the ever changing needs of our clients. Whatever the problem, be it personal or business, large or small, routine or complex, it will be given individual attention and will be handled according to the highest professional standards.

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This leaflet is a general discussion document and is for guidance only. It is not a substitute for legal or financial advice.

Each situation must be looked at its own right. You cannot rely upon points raised and should always seek advice specific to your own circumstances.



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