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## Pre-owned asset tax: Unmarried co-owning couples caught unawares

Pre-owned asset tax was introduced in order to discourage Inheritance Tax avoidance. For a summary, please see our publication in September 2005. With this in mind, it must be recognised that it is a stand-alone tax with serious income tax implications.

The charge is effective now and catches the benefit that people obtain from the enjoyment of assets which they have owned since 17 March 1986 but have since given away. This benefit is quantified and treated as an addition to their taxable income.

### The Income Tax Position

An unmarried couple who contributed unequally to the purchase price of a home will be caught by this tax. The value given to the enjoyment of living in the home is typically 8% of the total value (the "Rental Value").

**Example:** Mr Blue and Miss Pink decided to live together in 1992. They buy a house for £100,000 which they own in their joint names. The full £100,000 was provided by Miss Pink. Miss Pink has therefore effectively given Mr Blue £50,000. She has given away an asset which she had previously owned (£50,000) and continues to enjoy a benefit from it (living in the home).

In 2000 they got married. The property is now worth £400,000. If Miss Pink were to continue to pay the running costs of the property she will be liable under the new rules for an income tax charge. This charge will be calculated as 8% (the Rental Value) of the current value of the portion of the house which she originally gave to Mr Blue. In the example, where the house is now worth £200,000 and Miss Pink 'gave' Mr Blue 50% this amounts to:

$$40\% (\pounds 200,000 \times 8\%) = \pounds 6,400 \text{ per annum}$$

Where:

£200,000 being the share given to Mr Blue reflecting increase in value;  
8% is the Rental Value; and  
Miss Pink is a top bracket earner

### Possible Resolutions

#### *(a) Tax Return Declaration*

Partners who hold properties in this way should consider whether a declaration should be made on the 2005/06 tax return.

#### *(b) Future Purchases*

Until the law is confirmed, all new purchases between partners should be made as tenants in common rather than as joint tenants. By holding a property as tenants in common, each partner holds the share of the property which they paid for and the pre-owned assets difficulties do not arise.

However, because the property will not automatically pass to the partner on the first death it is **imperative that each partner makes a new will**. Failure to do so where the property is held as tenant-in-common could result in your property passing to inappropriate members of family.

Married couples purchasing new properties together are exempt from the tax.

If you would like any further information on any of the issues raised above, please contact:

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