

Let's chat

Passing of a life tenant – July 2021

With:

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Information provided is general in nature; precise application depends on specific circumstances

Life interests generally

- Providing income stream to person whilst that person is alive, with such entitlement defaulting to others upon death of that person
- Complex tax

Life interests generally

- Annuities for the life of a person
- Life interests in the proceeds or profits of a business
- Interests in the general income or capital of a trust fund for life

- Useful in ensuring adequate provision is made to spouse during lifetime, before defaulting to children (think blended families)

Life interests generally

- ‘Life tenant’ does not obtain beneficial interest, but rather an entitlement to the income
- Doesn’t protect from estate challenges
- Reducing risk of mischief means appointing the right trustee for the job
- May need independent trustee where if untrusting of family members
 - i.e. spouse has a conflict to manage and children have a conflict to maximise what they receive on death of spouse

Tax consequences

- Complex – not even 100% on top of them
- Tax triggered from life tenant to remainder beneficiaries
- Why not testamentary trust
 - Simpler
 - More flexible

Terminating life interest

- Disclaimer:
 - Made in real time
 - No tax if done properly
- Surrendering life interest
 - Tax?

Keep it simple ‘silly?’

Contact details

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