

## Seminar 16<sup>th</sup> February, 2005: "Defence Studies – Trusts and Tax"

Andrew Cosedge and Gilead Cooper will speak against the background of the following problem:-

- 1.1.93 Mrs Chase (a widow) consults Messrs Wolfram & Hart, solicitors, about inheritance tax saving. Following their advice, she makes a gift of her holiday home (then valued at £150K) to her daughter, Cordelia, to live in. Wolfram & Hart advise that, since the gift is within the nil-rate band, no IHT will be payable (nil-rate band was then £150K), and advise that in any event the gift is what is called a PET, so again there could be no IHT. Heartened by this news, Mrs Chase decides to let out her own home and to move in with Cordelia. Wolfram & Hart advise that that is "not a problem". At this stage Wolfram & Hart make no enquiries about Mrs Chase's testamentary dispositions or intentions, but in fact she has a Will that leaves all her estate to her son, Richard.
- 1.1.97 Mrs Chase decides to move back into her own home and again consults Wolfram & Hart about "updating the situation", mentioning that her son died the previous year. By now Cordelia's house (the erstwhile holiday home) is valued at £220K. By now Wolfram & Hart have woken up to the idea that there might have been a gift with reservation of benefit in 1993 but advise that there is no problem about terminating the reserved benefit because everything is still a PET. Mrs Chase gives a further £100,000 to Cordelia having been advised that that too is a PET, and makes a new Will (prepared by Wolfram & Hart) appointing Cordelia as sole executrix and leaving her estate to Richard's two infant children.
- 25.12.01 Mrs Chase dies leaving her estate of £1m to her two grandchildren. The nil-rate band is now £242,000. (Cordelia's home is by now valued at £300,000 for all the difference that makes).
- 1.4.02 Wolfram & Hart apologise to Cordelia and explain (correctly) that because Mrs Chase died within 7 years of making the 1997 PETs, Cordelia will have to pay IHT, calculated at 60% of the full death rates because of taper relief. £320,000 of failed PETs less death nil-rate

band of £242,000 = £78,000 which at 24% (i.e. 60% of 40%) = £18,720. They also explain that the actual estate will have lost the benefit of the nil-rate band, so that the estate's tax bill is £96,800 greater than it would have been had the full nil-rate band been available.