

All set for a runaway success

This year's Wright Hassall 10km Regency Run will be bigger than ever after a huge increase in places following the success of last year's inaugural event.

Spaces for the race on April 9, which is organised by the Leamington Round Table and sponsored by Wright Hassall, have been increased from 850 to 1250.

A permit from UK Athletics also means the run is now an officially recognised 10km event in the racing calendar.

Russell Hall, from the Round Table, said: "It is great that we've been able to increase numbers – over one thousand runners applied last year, which meant we had to turn quite a few away.



■ Last year's Regency Run winners Monica Williamson and Michael Moore with Russell Hall, left, and Jane Senior, right.

"We hope that the permit from UK Athletics will also encourage even more club runners to take part. There will still be a fun aspect to the race, which we will always encourage, but it means club runners can use it as a benchmark for reaching their personal best or for improving their technique."

Last year's race raised more than £10,000 for local charities.

The entry fee is £10, or £8 if club affiliated, and the closing date is April 4. Contact Russell Hall on 07890 660784 or email marketing@wrighthassall.co.uk.

SWITCH TO LLP STATUS GROWS IN POPULARITY



Kelly hopes to be a wizard in Oz

England table tennis player Kelly Sibley has been sponsored by Wright Hassall since she emerged as a budding young prospect at the age of 11. Now 17, Kelly, seen here with WH managing partner Peter Beddoes, is heading for Australia in March to represent England in the Commonwealth Games.

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Wright Hassall has helped a national company of quantity surveyors change their identity.

Wright Hassall has helped move James Nisbet & Partners, which has seven offices across the UK, from a partnership to a limited liability partnership (LLP).

The move gives the business, now known as Nisbet LLP, a distinct legal identity making it easier to deal with third parties. LLPs are growing in popularity across all business sectors, so much so that Wright Hassall has also become an LLP recently.

WH partner, Mark Lewis, said the transfer to an LLP brought several advantages.

"LLP status is particularly attractive for professional partnerships as it gives a corporate identity that enables the LLP to contract with third parties," he said. "It also preserves certain features of the partnership – notably that members of the LLP are taxed individually.

"The work with Nisbet LLP involved our commercial property team, which helped in the transfer of the partnership's premises and our corporate department."

Nisbet LLP was established in 1969. It is based in London and has offices in Bristol, Leeds, Leamington Spa, Poole, Plymouth, Southampton and Exeter.

Senior partner Jonathan King said: "We wanted to use a company with London expertise but without London prices and Wright Hassall fitted the bill perfectly.

"We did know them through our Leamington office but I also chose them because of their wonderful name. They might be called Wright Hassall – but that's exactly what they weren't."

INSIDE

THE END OF THE ROAD
What will happen to your business when you die?

IDENTITY CRISIS FOR FARMERS
In an ever-changing world the word 'farmer' is increasingly hard to define.

Ace Kelly is set for Commonwealth Games

A teenager from Leamington has made the most of long term legal aid by making it to the Commonwealth Games.

Kelly Sibley, 17, from Lillington, has harboured a dream of becoming an international table tennis player since she launched her competitive career at the age of 10.

And, with the help of Wright Hassall, who have been sponsoring her since she was 11, she will be lining up with her fellow England teammates at the Commonwealth Games in Australia in March.

Kelly, the world number 43, has generated a keen following since she was spotted by a national coach from the English Table Tennis Association (ETTA) and is being hotly tipped as a medal hope for the 2012 Olympic Games in London.

Kelly said she is very grateful for the help

Wright Hassall have given her as it has helped to maintain her confidence as a player.

"Because so many people have supported me over the years I have never had a reason to doubt my ability," said Kelly.

"I have been sponsored by Wright Hassall for over six years and throughout that time they have helped to pay my expenses. I think that I would have really struggled without their help and encouragement."

Peter Beddoes, managing partner at Wright Hassall, said that due to Kelly's success the company was inspired to sponsor other local talented youngsters.

He said: "We have been tracking Kelly's career over the years and are very proud of her achievements.

"She is considered to be among the leading young competitors in the world and is earmarked

for Olympic glory in 2012.

"At the age of 15 she was the youngest person ever to play in the senior side for the European Championships and this year she became the first girl to win the mixed, doubles and singles titles at the Junior Nationals in Doncaster."



■ A young Kelly with Peter Beddoes.

Will your demise signal the end of your business?

George Bernard Shaw wrote that life was not to be likened to a brief candle but to a "lasting torch" that could be passed on to the next generation. Although he probably didn't have business succession planning in mind, his comment is certainly applicable to the process of ensuring that a family business outlives its founders.

An estimated two thirds of family businesses do not survive beyond the first generation of owners. A proportion of these failures can be directly attributed to inadequate succession planning. It is not only death but also disability or retirement that can destroy a business and interfere with plans for its successful continuation. Ensuring the right arrangements are put in place will help.

Sole traders

Businesses run by sole traders must be sold as a going concern by the people who administer your estate when you die (often referred to as the Personal Representatives, or PRs). If you have made a valid Will they are also referred to as Executors. Your PRs are usually only granted a 'reasonable period' in which to dispose of your business and having to sell in this restricted time period may not be in the best interests of your dependents. This 'reasonable period' usually lasts for one year. You should have a Will drawn up appointing responsible Executors and give them an express power to continue the business for however long is necessary to avoid a forced sale.

In your Will you should also give your Executors the power to use other assets in your estate to support the business. If they are not given this express power they can only use assets which comprised the business at the time of your death.

Partnerships

Where a partner dies the PRs do not usually have the power to become involved in the management of the business. Typically they are empowered only to arrange the sale of the

What will happen to your business when you die? MICHAEL OSBORNE considers the options and how to make the most of your assets.

deceased partner's interest in the business.

It is critical therefore to ensure you plan ahead and take legal advice during your lifetime. A partnership agreement should be drawn up to provide for the business to continue after the death of one of the partners, often with an option for the surviving partners to buy the deceased's share. If there is no formal partnership agreement then the business will automatically be dissolved.

We can advise you if you are unsure about what your partnership agreement says, or if you would like one drawn up.

Limited companies

If you own shares in a private limited company, the business will automatically continue after your death. However, there may be real difficulties if a major shareholder dies. The survival of the business will depend on who manages the company. Your PRs will need to consider whether the company's articles of association provide any other shareholders with pre-emption rights or an option to purchase your shares. It is possible for the company to buy back the shares, subject to certain legal formalities. It is important from an Inheritance Tax perspective that the other shareholders are given an option and not an automatic right to buy the shares from your estate, since you could be at risk of losing valuable Inheritance Tax (IHT) relief.

What is clear is that the business owner needs to think carefully about what provision to make for the continuation of the business after his or her

death. In your Will you can appoint business trustees specifically to manage your business affairs. Even if you do not anticipate the business continuing for long – or you simply wish to gift your interest in it outright to your spouse or children – the sale proceeds of the business can be adversely affected if not managed correctly when you die.

Inheritance tax and business property relief

IHT is levied at a flat rate of 40% on the value of an estate, less certain exemptions. The most important of these exemptions is a tax-free allowance of £275,000 (known as the 'Nil Rate Band'). A taxable estate typically includes the value of the family home. An estate is liable for tax on assets owned worldwide if the deceased was UK domiciled or deemed domiciled.

Business Property Relief is an important IHT relief which is aimed at reducing the value of 'relevant business property' transferred on death or on an earlier transfer. Relief can be available at 100% of the value transferred on certain business assets. Relief at the lower rate of 50% can be available on assets owned personally and which were used wholly or mainly for the purposes of running a business. Typically, relevant business assets must have been owned by the transferor for at least two years prior to the transfer. The business must not be one dealing in securities, stocks, shares or buildings: property investment or letting businesses are generally excluded from BPR relief. However, relief can now be obtained in certain circumstances on furnished holiday lettings.

On the whole it is true that present tax legislation can treat business assets very well. However, do bear in mind the rules that determine what relevant business assets are.

Call 01926 880722 for more information.

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ONE BY-PASS YOU MAY WISH TO HAVE

In today's sophisticated financial market many people have death-in-service benefits through their employment or death benefits via their pension scheme. These benefits are generally not considered an estate asset and are regarded as free from inheritance tax (IHT). However, even though these death benefits are not treated as estate assets, there is a potential IHT problem.

Generally speaking most people nominate their death benefit to be paid directly to their spouse or partner. As a result, because the benefit is not treated as an asset of the estate, on the first death there is no liability to IHT. However, IHT liability arises on the second death. For example, on the death of the first spouse, the death-in-service pays a lump sum to the survivor. This is outside the estate for tax purposes. Once the benefits of the policy have been paid to the survivor they become an asset of their estate. Subsequently, when the survivor dies their estate (which would include any death-in-service benefit monies) is subject to IHT at 40% on the value of the estate in excess of the IHT threshold.

This tax problem can be avoided by nominating the death-in-service benefit or pension death benefit into a trust. The trust is held outside



JOHN ROUSE looks at the oddly-named but eminently sensible spousal by-pass trust that may enable you to sidestep inheritance tax.

the survivor's estate; (and therefore not subject to IHT on the survivor's death) however the survivor can be a beneficiary of the trust and receive funds. Even more beneficially the trust can be drafted with power to loan monies to the survivor. As a result the survivor will have the full use of the funds to invest or spend, or live off the income as they see fit. However, as a loan has been made from the trust, a liability has been created which can be paid out of the survivor's estate on their death thereby reducing the value of the estate for IHT purposes.

By using a spousal by-pass trust, not only can the survivor have the full benefit of the monies payable but an IHT saving can be made at the same time!

Spousal by-pass trusts are not limited to death in service benefits and pension benefits. They can be used in conjunction with any form of life insurance. Therefore anyone with any type of term life insurance or mortgage protection insurance should consider placing the benefit of the policies into such a trust. The surviving spouse can still be a trustee and therefore control how the funds are used. This way considerable IHT savings can be made.

Many pension and life insurance companies offer precedent trust documents. Whilst some of these contain the necessary powers to make loans, not all standard form trusts have the necessary powers and are limited in their usefulness. If you decide to use these standard forms, do make sure they are completed correctly as putting the wrong name in the wrong box can cost you literally tens of thousands of pounds in IHT.

Alternatively we can draw up a "made to measure" trust for you incorporating the appropriate powers tailored to your own personal circumstances.

For more information contact John Rouse by email or call 01926 880743.

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Help at hand in case of an accident

It is an unfortunate fact of life that people are involved in accidents every day whether at work, on the road or while walking along the pavement, to say nothing of sporting or holiday related mishaps.

The most obvious consequence of an accident is injury to the individual but there are other, less obvious, consequences for both the individual and their employer.

Employment contracts can provide that, in the event of the employee being absent from work, due to injury, salary payments will continue i.e. sick pay. However this means the employer is effectively paying the employee with no work being carried out in return, which can have an effect on the business.

To counter this, employers can include an obligation in the contract of employment that, in the event of an employee being absent, (due to an accident which did not occur at work) salary payments will continue for a limited period. Such payment is made on the basis that if the employee pursues a successful claim as a result of the accident, the payments are to be regarded as a loan and are then repayable to the employer.

The employee does not lose out because the monies are recoverable from the insurers who deal with the claim and the employer is able to recover the outlay. If an employer has such a term in a contract of employment it is always worthwhile reminding the employee of that in case a claim is made.

Following an accident the individual concerned may require extensive medical treatment, possibly including surgery, before they are in a position to return to work. For most people, particularly those whose terms of employment do not contain sick pay benefits, a speedy return to full health is the top priority.

Unfortunately treatment on the NHS is not always particularly prompt but by virtue of the Law Reform (Personal Injuries) Act 1948 a person may be able to recover the costs of private treatment as part of a claim even though treatment may have been available free of charge on the NHS.

Before incurring any private treatment costs it is essential to check that the insurers of the individual, or body responsible for the accident, accepts liability for the accident. If they do then

there is, in principle, no reason why costs of private medical treatment should not be paid by the insurer.

Where injuries are such that the individual requires care from others it may be possible to make a claim for the financial value of the care provided even if the care was provided gratuitously by friends or family.

The court will apply a range of tests when considering whether to allow any compensation for care but the principle, that gratuitous care has a financial value which can be included in a claim, is well established.

Those are just three examples of the financial implications of accidents which may not be immediately obvious to the injured person or their employer.

Wright Hassall's Uninsured Loss Recovery team are always happy to advise anyone unfortunate enough to be involved in an accident, or their employer, on the most appropriate way to proceed.

For further information contact Adam Brain by email or call 01926 880721.

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■ Jane Senior (Wright Hassall), Vicky Weavill (Sea Cadets), James Hawkesford (Malcolm Hawkesford).

Sea Cadets seek corporate help

Wright Hassall and Malcolm Hawkesford are helping to keep the Leamington and Warwick Sea Cadets afloat.

Recent donations from the two local businesses have been a big help to the cadets who survive purely on donations. They are seeking further corporate input, however, if they are to ensure their long-term future.

Around 30 youngsters gain a variety of skills associated with nautical training and leadership qualities as well as taking part in sporting activities.

Jim Weavill, of the Sea

Cadets, said: "We are extremely grateful to Wright Hassall and Malcolm Hawkesford.

"The money will help keep us going in the short-term but in the long-term we do need assistance to survive.

"We do a lot of work with youngsters from Leamington and Warwick and give them some superb life experiences. Ideally, we would like to find a corporate sponsor that could support us for a whole year."

Anyone interested in supporting the Sea Cadets can contact Jim Weavill on 07968 663798.

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FARMERS BECOME HARD TO DEFINE

What constitutes a farmer?

As you would expect from a lawyer, the answer is – "it depends"!

Traditionally such a question would have had a simple and obvious answer. However, with the change in the market for agricultural produce most, if not all farmers, are considering other, non-farming, income streams. In addition the number of "lifestyle" farmers is increasing and so the above question is being more widely asked and the answer is less clear.

Two things have occurred within the last year that have raised the profile of this question. The introduction of the Single Payment Scheme (the SPS) under the revision of the Common Agricultural Policy; and the ruling of the Lands Tribunal that agricultural property relief for a farmhouse under the Inheritance Tax (IHT) regime would only apply to its value as agricultural property (the Antrobus case).

Under the SPS a farmer is defined as someone who exercises an agricultural activity. This in turn is defined as the production, rearing or growing of agricultural products, including harvesting, milking and breeding animals and keeping animals for farming purposes or keeping land in good agricultural and environmental condition (GAEC). This definition has had a number of consequences. These include the fact that people who keep horses on grassland can be regarded as "farmers" as can those who simply keep agricultural land in GAEC. Thus the owner of the old farmhouse with two one-acre paddocks, one of which is kept topped and the other of which is used to graze a retired racehorse is, for SPS purposes, regarded as a farmer.

However, just because in one circumstance a person is regarded as a farmer, it does not follow that this will occur for all purposes. For instance in the above case, if a decision is made to erect a permanent stable, planning permission would in all probability be required. Generally, permission is not required for the erection of agricultural buildings, but the planning authorities do not regard the keeping of horses as an agricultural activity.

The Antrobus case considered to what extent a farmhouse



Agriculture has changed dramatically in recent decades with more and more farmers having to opt for alternative forms of income. PAUL RICE considers who, or what, is a farmer.

could attract 100% agricultural relief under IHT. The courts held that any value in excess of a farmhouse's agricultural value may attract tax at the rate of 40%. In addition it was suggested that the relief would only apply if the owner, or spouse, was farming land on a "day to day" basis, or was doing so prior to retirement. Thus there is a chance that a "lifestyle" farmer, who has a large house, with say 50 acres, all of which is farmed by a contractor and on which no day to day management decisions are made, could end up with the entire value of the farmhouse attracting IHT, even though it was, in fact, associated with land that was being worked.

A traditional farmer growing crops or rearing animals is treated as having a business by HM Customs and Revenue. That farmer could decide to become a park-keeper, keep the land in GAEC and simply take the SPS. In such circumstances, although a farmer for CAP purposes, the Revenue could take a contrary view and deem any income as unearned and any agricultural property relief on the farmhouse, even if the house was commensurate with the associated land, could be at risk.

There are other situations where an activity could be regarded as farming by one authority but not by another. The above are illustrations of how this might arise. Therefore if you own land and carry out any form of activity on it, I would strongly recommend keeping a weather eye on how that activity is going to be regarded and by whom. If there is any doubt whatsoever, we'd be happy to advise. For more information email or phone 01926 880777.

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