

RPC

# Spotlight on private wealth

the latest developments in the  
private wealth world



FEBRUARY 2025

# Welcome to spotlight on private wealth

This update is designed to keep you on top of developments in the private wealth world. In this edition, we explore a broad range of topics including the raft of proposals in the autumn budget, AI authentication of art work and an important Supreme Court decision on costs recovery.

We hope you find this update helpful and interesting. As always, if you would like to find out more about the issues covered or discuss anything else, please do get in touch.

**IF YOU WOULD LIKE TO RECEIVE A HARD COPY OF THIS GUIDE, PLEASE GET IN TOUCH WITH YOUR USUAL RPC CONTACT.**

Spotlight on private wealth is printed on Fedrigoni Arena, an environmentally sustainable paper made with 100% recycled FSC® fibres. It is completely biodegradable and recyclable.

#### Disclaimer

The information in this publication is for guidance purposes only and does not constitute legal advice. We attempt to ensure that the content is current as of the date of publication but we do not guarantee that it remains up to date. You should seek legal or other professional advice before acting or relying on any of the content.

## The big question

### Is there such thing as a moral claim?

The High Court in Northern Ireland has denied a “moral” claim brought by the son of a property mogul for a share of his father’s estate, which had been left entirely to his mother<sup>1</sup>.

The claim was brought under the Northern Irish equivalent of the Inheritance (Provision for Family and Dependants) Act 1975, which permits adult children (and certain other individuals) to make claims for reasonable financial provision from their parents’ estate for their maintenance.

In this case, the son believed that he had a “moral claim” and was entitled to receive an equitable share of his father’s business because they had spent many years working alongside each other in the business. He also claimed that he had unmanageable debts and that orders for possession had been made against two of his properties, such that he needed the financial support.

The court rejected his claim. It decided that the son had no relationship with his father and commented that the son’s conduct had been “quite appalling”. As a result no “moral claim” could arise. The son also did not need any maintenance from his father’s estate – he was able to work, ran multiple businesses and had a substantial property portfolio (including an amusement arcade and bingo hall). It also noted that he did not struggle to pay a £10,000 cash bail charge for a “high profile” applicant in October 2023. The court concluded that “there is nothing in this case to justify a claim by an adult son who is entirely capable of earning an independent living”.



1. *McQuaid v McQuaid* [2024] NICH 9.

## What's new?

### Supreme Court decides success fees are not recoverable in 1975 Inheritance Act proceedings

The Inheritance (Provision for Family and Dependents) Act 1975 enables certain individuals to bring a claim for reasonable financial provision for their maintenance from a deceased person's estate. If the claim is successful, the court can make a variety of orders, including the payment of a lump sum.

The legal costs of 1975 Act claims are dealt with in the same way as most other claims. Once the substantive claim has been decided, the court will usually make a costs order requiring the losing party to pay the winning party a portion of their legal costs.

Some parties bringing civil claims enter into a conditional fee arrangement or "CFA" with their legal advisers. CFAs provide that if the claim is successful the legal costs will be uplifted by a particular percentage, a "success fee". Legislation provides that a costs order cannot be made requiring a losing party to pay a winning party's success fee.

The Supreme Court had to decide whether a success fee could nonetheless be awarded to a winning party in a 1975 Act claim as part of the lump sum awarded to them for their maintenance<sup>2</sup>. In that claim, a daughter succeeded in her 1975 Act claim and was awarded a lump sum from her father's estate. Her mother, who had resisted the claim, was ordered to pay some of her daughter's legal costs, but because of the legislative ban this costs order could not include the success fee the daughter was obliged to pay to her solicitors.

The Supreme Court decided that the success fee could not be included in the lump sum. It considered the rationale behind the ban on including success fees in costs orders. The ban was introduced because the obligation to pay a success fee placed too great a burden on the losing party and provided no incentive on the winning party to control their legal spend. If success fees were instead recoverable as part of a lump sum, then this would undermine the objective of the ban. The Supreme Court considered the impact on settlement discussions if success fees could be recovered as part of a substantive award. A party set to recover their success fee has less incentive to settle and disproportionately high sums may have to be offered to address the risk that the offering party may be obliged to pay the success fee.

### Court considers claim on a Devon farm

The High Court recently ordered parts of a farm in Devon to be transferred to a son and his wife given his parents' assurances that he would inherit it on their death<sup>3</sup>.

The son worked on the farm for minimal pay, and the court agreed there was a "positive understanding" that if he committed himself to the farm then he would, in due course, inherit it. In reliance on that understanding he was discouraged from taking, and turned down, higher paying work. Despite this, his mother changed her will so that he would not inherit anything and claimed that a trust document that she signed in his favour was invalid. The court ordered the transfer of some of the farm to the son, and held off deciding what should happen to the balance whilst it was determined whether his mother had enough income to pay for her care.



2. *Hirachand v Hirachand* [2024] UKSC 43.

3. *Cleave v Cleave* [2024] EWHC 2492 (Ch).

## RPC asks

### Can "children" include non-biological children?

The High Court has decided that a trust which benefitted the settlor's "children" was intended to benefit a man who was not the settlor's biological child<sup>4</sup>.

The trust, which held shares in the family toy business, was created to mitigate tax. After the settlor died, his wife revealed that he was not the father of one of her two sons. The settlor's biological son brought a claim seeking to prevent his half-brother from benefiting from the trust.

The judge accepted the mother's evidence, supported by a report from a DNA testing firm, that her sons were only half-brothers. Notwithstanding this fact, the judge went on to decide that the non-biological son was still a "child" of the settlor such that he could benefit from the trust. He was raised as a child of the family, the settlor believed he was his son and the settlor had no reason to treat him differently to his biological son. The court considered the meaning of the trust by reference to the circumstances which existed when it was set up, and it did not matter that the settlor may have changed his mind if he had learned the truth during his lifetime.

### What are the implications of the autumn budget for private individuals?

There were few surprises in the Autumn Budget as the government had already made it clear that they considered businesses and wealthy "non-doms" to have the "broadest shoulders" with which to bear the heaviest tax burden.

#### The "non-dom" regime

The Chancellor confirmed that the 'non-dom' regime will be abolished and the "outdated concept" of domicile will be removed from the UK tax system entirely from April 2025. The regime will be replaced by an "internationally competitive" residence-based regime which will "close loopholes". It is claimed that the new regime will generate an additional £12.7bn in tax over the next five years. However, many are sceptical about this claim and predict an exodus of high-net worth individuals from the UK, taking their investments and businesses with them.

The government has also gone beyond the plan first proposed by the previous Conservative government and confirmed that:

- non-UK assets held in trusts settled before 6 April 2025, will not be exempt from inheritance tax, and
- the plan to provide a 50% tax reduction on foreign income received in tax year 2025/26, has been abandoned.

The only positive news for non-doms was the decision to extend the Temporary Repatriation Facility from two to three years. This allows those who previously claimed the remittance basis to remit foreign income and gains that arose before 6 April 2025 at a reduced tax rate of 12% for the first two years, and 15% for the third.

#### Inheritance Tax

The Autumn Budget extended Business Property Relief and Agricultural Property Relief so that up to £1m of assets will benefit from 100% relief from inheritance tax. However, many medium to large farms and businesses will exceed this threshold and will therefore be limited to 50% relief on assets in excess of that threshold. Family-owned farms and businesses may seek to break-up and sell their farms and businesses to avoid large inheritance tax liabilities.

Another key change, that affected individuals will need to consider, is the change to personal pensions. From April 2027, personal pensions will be subject to inheritance tax.

#### Capital Gains Tax

Investors will be impacted by substantial increases to the rate at which CGT will be charged. From 30 October 2024, the lower rate of CGT will increase from 10% to 18%, and the higher rate from 20% to 24%.

Those who invest in property will also be hit with an increase in the higher rate of Stamp Duty Land Tax for additional dwellings, from 2% to 5%.

The lifetime limit for Business Asset Disposal Relief (BADR) will remain at £1m and the rate of relief will remain at 10%. However, BADR rates are to increase to 14% from 6 April 2025 and 18% from 6 April 2026.

4. *Marcus v Marcus* [2024] EWHC 2086.

## RPC asks continued

### Additional points of interest

Although Air Passenger Duty will increase by a modest £2 for those flying to short-haul destinations in economy class and £12 for long-haul destinations, the higher rate which applies to private jets will rise by a further 50% in 2026-27 and will increase in line with inflation from 2027 onwards.

Approximately 7% of people in the UK are privately educated in the UK. There are two changes that will affect this group. From 1 January 2025, private school fees have been subject to VAT at the standard rate of 20% and from April 2025 private schools will no longer be eligible for charitable rate relief.

### HMRC

The Autumn Budget provides for an investment of £1.4bn over the next five years to recruit an additional 5,000 HMRC compliance staff. It is therefore likely that HMRC will increase the number of enquiries it commences into wealthy individuals and, in particular, any offshore activities.

### How do you unlock the power of natural capital?

In the latest episode of Taxing Matters, our host, Alexis Armitage is joined by Daisy Darrell, a Senior Associate in Birkett's Agricultural and Estates team to discuss all things natural capital.

Natural capital is the planet's natural wealth and the world has a stock of natural assets which provide "ecosystem services" such as clean air, fertile soil and pollination of crops.

Join Alexis and Daisy as they explore:

- opportunities that natural capital can create for landowners
- examples of recent environmental enhancement and restoration projects
- the environmental benefits of such projects
- tax considerations for farmers and landowners
- potential impacts of ESG on natural capital markets.

Listen [here](#).



## And finally in the art world...

### AI authentication – the future?

The Swiss auction house, Germann Switzerland, has added AI authentication to its processing systems. The Zurich based auctioneer employed the expertise of Art Recognition, also a Swiss based company, to authenticate the listed works by Louise Bourgeois, Marianne von Werefkin and Mimmo Paladino.

To appraise the works, Art Recognition applies both computer vision techniques and machine learning. The AI model is trained to evaluate the authenticity of a work, by analysing a photographic reproduction of a piece against a variety of both authentic and counterfeit pieces.

Several other companies offer the authentication of art work in a matter of minutes. The removal of subjective analysis is said to offer more consistent conclusions and reduce the likelihood that attempts are made to counterfeit works.

Whilst there is significant excitement about these processes, there are also concerns about the ability to train models using a sufficient number of example works.

It remains the case that examination by a human expert is still (for the moment at least) the primary means of authenticating art work. Art Recognition itself suggests works are manually checked where the probability of the work being authentic is below 80%.

