ASSET TRANSFERS: HIDDEN TAX TRAPS AND TREASURES

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Asset Transfers: Hidden Tax Traps And Hidden Tax Treasures –
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About Alan Pink

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Introduction

As the rather strange old saying has it, there's more than one way to skin a cat. There are also all kinds of reasons why a person might want to transfer assets to someone else: and very often, as we will see, there's a choice between methods of achieving this transfer, some of which trigger large tax liabilities, and some of which don't. This report is all about tax efficiency, rather than aggressive tax avoidance via 'schemes'. But the difference in the ultimate tax result can be very dramatic, even by applying a few basic and straightforward rules.

What we don't propose to do here is set out these rules as if this was some kind of encyclopaedia or accountancy students' manual. Instead, we look to provide a practical guide to how to save tax when transferring assets, and to illustrate these tax saving ideas by way of a series of scenarios. Whilst we're obviously using made-up names in these case studies, most of them are actually based on real-life situations.

1

Why Transfer Assets?

Before coming on to the 'how?' of asset transfers, it's useful to consider the various answers to the question 'why?' Motives, like methods, come in all shapes and sizes, and they can be related to tax planning or not. Here are a few reasons why property is transferred from one person to another in the real world:

- increasingly, the older generation is wanting to help the younger. Rather than waiting until the parents are dead, and transferring wealth, businesses, etc., in the old person's will, assets are being transferred down the generations by way of lifetime gifts;
- often, the wealthy, and business owners, are worried about their personal financial security or the financial security of their business; and wish to transfer valuable assets out of harm's way;
- having built up a business, possibly from nothing, or having inherited it from earlier generations, preservation, and continuity of the business is often dear to the owner/manager's heart. So, rather than allowing the business to go to rack and ruin, or close down in the current owner's old age or in the event of their death, they look to pass the business on to a worthy successor;
- moving on to tax planning, making lifetime gifts of assets is obviously a classic form of inheritance tax planning – providing, in most cases, the donor survives the gift by seven years;
- sharing ownership of assets, or even making outright transfers, can be a good way of 'spreading the load' in terms of the income tax and capital gains tax liabilities that arise from the ownership of assets; and
- even more straightforwardly, the income tax, etc., burden of a business or other income-producing asset may be less in the hands of a transferee than in the current ownership.

2

Helping The Next Generation

So, on to some actual situations. The first one considers the right and (disastrously) wrong way to transfer an investment. The second considers how to apply common sense in one's choice of gift; and we finish this part of our report with a 'cake and eat it' situation with regard to providing a friend or relative with somewhere to live.

2.1 Gifts Of Investment Assets

Wilhelmina belongs to the older generation of ladies who tended to leave financial matters to their husbands. In her case, she has been a