Welcome to the January 2019 edition of our Private Client newsletter

We continue to live in interesting times with Brexit discussions firmly underway and political changes all over the world. The most immediate changes will be felt in the UK as a result of the latest Budget, which we cover in this newsletter and will talk to you directly about how it might affect you.

We have been joined by a number of new recruits over the past few months in various practice areas. Patrick Malone has joined the Private Client team and quickly went on to be named in eprivateclient’s Top 35 under 35 Awards 2018. The Top 35 Under 35 list is designed to recognise the rising stars of the private client professions. Christopher Butler joins as a Consultant in our Family team. Kaajal Nathwani joins our quickly growing Employment team as an Associate and David Conway is our new Senior Tax and Compliance Manager. You can read more about them and their roles on page 6.

Our International Private Wealth team is growing from strength to strength as we continue to act for clients both in the UK and internationally. Tulin Hamit strengthened current relationships and forged new contacts during a recent week-long business trip to Dubai, and Jonathan Shankland is organising a similar visit to China in the New Year.

We were delighted to be acknowledged as a leading private client firm by a number of respected establishments this year. We are listed in The Times Top 200 Law Firms for 2019, which is a list based entirely on the professional opinions of our legal peers. We were named one of eprivateclient’s Top Law Firms for 2018, further establishing ourselves as one of the top UK law firms providing high quality private client services to wealthy individuals and families. We were again listed in the Chambers & Partners High Net Worth guide, winning praise for our ‘phenomenal customer service’, and both Jonathan and Tulin were recommended as notable practitioners in the Private Wealth Law category. In addition, Christopher Butler is also ranked in the Family/Matrimonial: High Net Worth section.

In this issue we cover:
- Budget 2018
- Getting onto the property ladder as a first time buyer
- An update on Owens v Owens
- Immigration update
- HMRC tax return deadlines

We hope you find this newsletter interesting and informative. Would you like us to feature any topics or have questions answered in the next edition? If so, please let us know.

If you would like to discuss any matters we would be pleased to hear from you.

In this issue:
- Employment
- Property
- Family
- Immigration
- Private Client

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Getting onto the property ladder as a first time buyer

In the UK there are two main types of legal ownership of a property: freehold and leasehold. As a first-time buyer, it is possible that you might be looking to purchase leasehold property. If you are looking to buy a flat, for example, then it is likely to be leasehold, because it makes it simpler to manage the shared spaces and common facilities within a block of flats.

Recent research highlights that some property buyers are unaware of the implications of purchasing leasehold property. Many leaseholders can also be unaware of the terms of their lease. This article will help explain what it means to purchase leasehold property and what to expect during the term of your lease.

What is leasehold?

Leasehold ownership of a property can be described as a long tenancy. The leaseholder owns the right to occupy the property for a fixed period of time. The leaseholder does not own the building itself or the land on which it sits, as this remains the property of the landlord. The length of time that the leaseholder owns the right to occupy the property will be set out in the lease. A lease is usually granted for in between 99 and 999 years.

A lease is the legal contract between the leaseholder and the landlord which sets out all of the terms of the agreement, including the rights, responsibilities and burdens. The lease is likely to impose certain conditions on the leaseholder’s use and occupation of the property. The lease will often restrict the leaseholder from doing certain things, such as making alterations or subletting, without the landlord’s permission.

The lease will also set out the extra expenses that the leaseholder will incur during the term of the lease. These will include the payment of yearly ground rent, if applicable, and the payment of a service charge to contribute towards the costs of maintaining, repairing, insuring and managing the building.

When leasehold property is sold, the seller will ‘assign’ the lease to the buyer so that the buyer inherits all of the rights and responsibilities of the lease.

When purchasing leasehold property, it is important to consider how long there is left to run of the current lease. The value of the leasehold decreases as the lease nears the end of its term. This will impact directly on the selling price of the property should the leaseholder try to sell it in the future. It can also be much harder to obtain a mortgage offer from a lender if the lease is close to expiring. There are mechanisms for the lease to be extended, albeit at an extra cost.

What advice you should receive before purchasing leasehold property

It is very important to understand the specific terms of your lease and their impact on the time that you live in the property. Before a buyer decides to exchange contracts, solicitors should report in layman’s terms on:

- the particular rights and burdens of the lease
- the management of the block or estate of which the property forms part of, and
- the costs involved for the owner. Every lease is different, so it is important to fully understand the specific obligations of your lease.

Ground rent

Particular attention should be paid to the ground rent terms and whether they could affect resale values. The issue of increasingly onerous ground rents within leases has been brought to light in recent years. It is acceptable for ground rents to periodically increase by a reasonable amount to account for inflation, but some leaseholders have been left with ground rents that double every 10 years. In practice, such rapidly increasing ground rents can lead to property becoming unsaleable.

The Government has proposed to introduce new legislation so that ground rents on new long leases, for both houses and flats, will be restricted to a peppercorn (zero financial value) and continue to review unfair practices within the leasehold system.

Immigration update

During the 2010 General Election the public was introduced to the idea of reducing net migration from the ‘hundreds of thousands’ to the ‘tens of thousands’. This political target has been reflected in the Home Office’s strict policies and overwhelming number of changes to the Immigration Rules.

Work visas

The eligibility criteria for work visas have become more restrictive, and the sponsorship of migrant workers much more demanding. In April 2011 the Home Office imposed a cap on the number of employer-sponsored skilled workers, which has on several occasions been a binding constraint on worker-based migration because the number of applications has been higher than the limit. In practice this meant a shortage of doctors, nurses and other specialists.

Two routes were closed: Tier 1 General and Tier 1 Post Study Work which allowed skilled migrants and former international students to work in the UK without a specific job offer. Instead, new visa routes were introduced: Tier 1 Graduate Entrepreneur and Tier 1 Exceptional Talent, which are so restrictive that only a small number of applicants could be admitted.

Refusing applications

The Government dealt the biggest blow in the Immigration Act 2014, by abolishing appeal rights. This means that since enactment, immigration applicants have no right of appeal to an independent decision-maker; the decision is final. The Home Office has made thousands of changes to the Immigration Rules since 2010, making the official documents near-impossible to navigate for the inexperienced. The immigration system has become very complex and visa renewals are complicated, which has had the effect of increasing demand for specialised legal assistance. Particularly in light of the abolition of appeals, it is important to get the application correct right from the start.

We keep up-to-date with all changes to immigration law and are happy to advise or assist on any matters causing you concern.
Budget 2018 – The highlights

We have summarised the key points from the Budget 2018 which you should be aware of and act upon. For the full breakdown of the changes, please visit [INSERT WEB LINK]

- The personal allowance will be raised to £12,500 from April 2019, one year earlier than previously planned. At the same time, the higher rate threshold will rise to £50,000, also a year ahead of schedule. Both the personal allowance and higher rate threshold will then remain unchanged in 2020/21 before being increased in line with the consumer price index (CPI) thereafter.
- The pension lifetime allowance will increase to £1.055 million for 2019/20, with no change to the annual allowances.
- The minimum period throughout which the qualifying conditions for entrepreneurs’ relief must be met will be extended from 12 months to 24 months from 6 April 2019.
- The proposed shared occupancy test for rent-a-room relief has been abandoned and the existing tests will continue to apply.
- From April 2020, the final period capital gains tax (CGT) exemption for owner-occupied residential property will be reduced from 18 months to 9 months.

Income tax

The personal allowance will increase to £12,500 and the higher rate threshold will rise to £50,000 for 2019/20. From 2021/22, the personal allowance and higher rate threshold will increase in line with inflation.

National insurance contributions

As announced in September, Class 2 NICs will not be abolished during this Parliament. Reforms to the treatment of termination payments and income from sporting testimonials will be legislated for in the National Insurance Contributions Bill, with changes taking effect from April 2020.

Individual savings account (ISA) subscription limits

The ISA annual subscription limit for 2019/20 will remain at £20,000. The annual subscription limit for junior ISAs (JISAs) and child trust funds (CTFs) for 2019/20 will rise to £4,368.

Lifetime allowance for pensions

The lifetime allowance for pensions savings will increase to £1.055 million for 2019/20. There is no change to the annual allowances.

Venture capital trusts (VCTs) and enterprise investment schemes (EISs)

The rules for approved EIS funds will be amended to require approved funds to focus on knowledge-intensive companies with effect from April 2020. The funds will also have a longer period in which to invest capital. Investors in these funds will be allowed to set this income tax relief against their liabilities in the year before the fund closes.

Capital gains tax: annual exempt amount

The annual exempt amount for individuals and personal representatives will rise to £12,000 for 2019/20, while the amount for most trustees will increase to £6,000 (minimum £1,200).

Entrepreneurs’ relief

From 6 April 2019, the minimum period throughout which the qualifying conditions for the relief must be met will increase from 12 to 24 months.

From 29 October 2018, shareholders claiming entrepreneurs’ relief must be entitled to at least 5% of the distributable profits and net assets of a company, in addition to the current requirements on share capital and voting rights.

As announced at the 2017 Autumn Budget, individuals can qualify for entrepreneurs’ relief where their shareholding is diluted below the 5% qualifying threshold by fund-raising events after 5 April 2019.

Private residence relief

From April 2020, lettings relief will only apply where the owner of the property is in shared occupancy with the tenant.

The final period exemption will be reduced from 18 months to 9 months. There will be no changes to the 36-month final period exemption available to disabled individuals or to those in a care home.

Inheritance tax (IHT)

The IHT nil rate band remains at £325,000 for 2019/20.

The residence nil rate band (RNRB) will increase to £150,000 from 6 April 2019 as already legislated. From 29 October 2018, minor technical amendments to the RNRB will take effect relating to downsizing provisions and the definition of ‘inherited’ for RNRB purposes.

Stamp duty land tax (SDLT)

First-time buyers’ relief in England and Northern Ireland will be extended so that all qualifying shared ownership property purchasers can benefit, whether or not the purchaser elects to pay SDLT on the market value of the property. The change will apply to transactions with an effective date of 29 October 2018 and will also be backdated to 22 November 2017.

The government will publish a consultation in January 2019 on an SDLT surcharge of 1% for non-residents buying residential property in England and Northern Ireland.

Annual tax on enveloped dwellings

The annual tax on enveloped dwellings (ATED) for 2019/20 will be increased in line with inflation.

Non-UK residents’ gains

Gains that accrue to non-UK residents on non-residential property will be subject to tax. Non-UK residents will also be subject to tax on gains in diversely-held companies, those widely-held funds not previously included, and life assurance companies. They will also be taxed on gains on interests in UK property-rich entities, such as shares in companies that derive at least 75% of their value from UK land. The measures which have been previously announced will take effect for disposals made after 5 April 2019 and there will be an anti-forestalling rule for arrangements entered into after 21 November 2017.

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Off-payroll working in the private sector

Following consultation and the roll-out of reform in the public sector, responsibility for operating the off-payroll working rules in the private sector will move from individuals to the organisation, agency or other third party engaging the worker. The change will take effect from April 2020, with an exemption for small organisations.

Rent-a-room relief

Following consultation, there will be no new ‘shared occupancy test’ for rent-a-room relief and the existing qualifying test of letting in a main or only residence will remain.

Saver

Don’t lose your personal allowance. Your personal allowance of £12,500 in 2019/20 is reduced by 50p for every pound that your income exceeds £100,000. You could make a pension contribution or a charitable gift to bring your income below £100,000.

Think ahead

The lifetime allowance will rise by £25,000 from 6 April 2019.

If you plan to draw from your pensions and already have funds exceeding the current £1.05 million lifetime allowance limit, you may want to wait before taking your pension benefits.

Think ahead

The dividend allowance and personal savings allowance will freeze for 2019/20.

Your ISA allowance is £20,000 (minimum £1,200).

Think ahead

IHT simplification is on the agenda.

Now may be a good time to review making lifetime gifts before the tax rules are “simplified” into something less generous.

Think ahead

From 6 April 2020, CGT on residential property will be payable within 30 days of sale.

If you are thinking of selling buy-to-let property, the existing rules can give you up to almost 21 months before any tax bill arrives.

Stamp duty land tax (SDLT)

First-time buyers’ relief in England and Northern Ireland will be extended so that all qualifying shared ownership property purchasers can benefit, whether or not the purchaser elects to pay SDLT on the market value of the property. The change will apply to transactions with an effective date of 29 October 2018 and will also be backdated to 22 November 2017.

The government will publish a consultation in January 2019 on an SDLT surcharge of 1% for non-residents buying residential property in England and Northern Ireland.
An update on Owens v Owens: The difficulty in divorce

**Background**

Mrs Owens petitioned for divorce in May 2015. In order to demonstrate that the marriage had irretrievably broken down, she relied on Mr Owens’ unreasonable behaviour. It was such that she said she could not reasonably be expected to live with him anymore. Mr Owens defended the petition on the basis that his behaviour had not been unreasonable in the context of their marriage.

The Judge at first instance said that Mrs Owens had exaggerated the context and seriousness of the allegations and that they were at a kind to be expected in a marriage. The Court found no behaviour that Mrs Owens could not reasonably be expected to live with and, therefore, the marriage could not be said to have irretrievably broken down. Mrs Owens’ petition was dismissed.

**Supreme Court**

Mrs Owens appealed the decision. However, the Court of Appeal returned to the question enshrined in statute: has the respondent behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent? The Court of Appeal was satisfied that the judge at first instance had correctly applied the law and Mrs Owens’ appeal was dismissed.

The decision highlights the need for Parliament to seriously reconsider the long standing campaign for ‘no-fault divorce’ and amend the statute accordingly. Until such time, the risk remains that family solicitors are forced to use more extreme examples of unreasonable behaviour in order to cross the threshold, thereby unnecessarily increasing the animosity between the parties, or that a party remains trapped in a loveless marriage long after they believe it has broken down.

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HMRC tax return deadlines

As the nights draw in, it is time to consider whether you need to complete a Self-Assessment Tax Return either personally or for an entity for which you are responsible. The deadline to submit such Returns and pay tax for the last tax year ended 5 April 2018 (2017/18) is 31 January 2019 if you submit online, so there is not long to act.

**Personal tax returns**

HM Revenue & Customs have a long list of examples where you are required to prepare a Tax Return. Broadly speaking, you need to consider whether you have an additional income tax or capital gains tax liability. Examples include having an active self-employment or rental business; receiving untaxed interest or dividends (including from bare or income in possession trusts); having a taxable gain from selling assets or receiving proceeds greater than £45,200 in the tax year; having income over £50,000 and either you or your partner has claimed Child Benefit; having income over £100,000; being a company director; having overseas income; having certain UK income and not being resident in the UK; or wishing to claim certain reliefs or losses. This should by no means be considered a full list.

You are also required to complete a Tax Return if you have already been issued with a demand for one, or you need to ask for it to be cancelled if you do not believe one is required.

Failure to submit a Tax Return will lead to automatic penalties regardless of whether any tax is due, with additional interest and surcharges levied on unpaid tax.

**Other self-assessment tax returns**

If you are an Executor of an Estate or Trustee of a Trust, you may also need to consider whether you need to prepare a Trust and Estate Tax Return for 2017/18. The same applies to partnerships and LLPs, and also offshore companies renting UK property, which each have their own special Tax Returns to complete by 31 January 2019.

New joiners

We are delighted to welcome new joiners to the firm.

**Christopher Butler**

We have strengthened our Family team with the appointment of Consultant, Christopher Butler.

Christopher specialises in the negotiations arising in high value divorce cases with a particular focus on complex financial and trust issues. He acts for internationally based clients – often household names in the political, media, sports and industrial arenas. Christopher has served as a Deputy Family Division Judge since 1999.

**Patrick Malone**

Patrick joins our Private Client team as an Associate. Patrick advises on the full spectrum of Private Client issues including tax, succession planning, estate administration, trusts and mental capacity. Patrick also assists the contentious estates team and provides private client planning and technical support on high value, complex, contested estates and trusts.

Patrick has been named in eprivateclient’s Top 35 Under 35 Awards for 2018. The Top 35 Under 35 list is designed to recognise the rising stars of the private client professions, and eprivateclient is the leading website and news service for private client practitioners.

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David, our newly appointed Senior Tax and Compliance Manager, has a background working in the private client teams of major accountancy firms.

David’s role will include running the firm’s tax compliance offering, dealing with all personal tax requirements for the firm’s client base and overseeing the tax reporting requirements for trusts and estates. David will also support the firm’s International Private Wealth team, having spent many years advising international private clients on their tax residency and domicile position and the reporting requirements and planning around the same. David has extensive experience in international tax matters relating to UK non-domiciled individuals, international investors and the reporting requirements for offshore entities, including those holding UK property.

The role will provide additional skills and technical ability to the firm’s complex client base, complementing the wider estates, tax planning and wealth structuring services.

**Kaajal Nathwani**

We are delighted to announce that we have strengthened our Employment team with the appointment of Associate, Kaajal Nathwani.

Kaajal is an accomplished litigator and helps both individuals and businesses resolve disputes in the Employment Tribunal and Employment Appeal Tribunal. She has achieved excellent settlements and victories for clients affected by unfair dismissal, discrimination, harassment, equal pay and whistleblowing.

How we can help

Our dedicated Tax Compliance team can assist with completing any of these Returns or reviewing your situation to determine what you should be doing. We can also assist if you think you have an issue with the reporting of older tax years or in completing many other Returns such as non-resident Capital Gains Tax Returns for non-UK residents selling UK residential property, ATED Returns for offshore companies holding UK residential property and ATED Capital Gains Tax Returns for such companies selling UK residential property. For more information or guidance, please do not hesitate to contact us.

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We have strengthened our Employment team with the appointment of Kaajal Nathwani. As an accomplished litigator, Kaajal helps both individuals and businesses resolve disputes in the Employment Tribunal and Employment Appeal Tribunal. She has achieved excellent settlements and victories for clients affected by unfair dismissal, discrimination, harassment, equal pay and whistleblowing.