



The Society of Will Writers

Tax - Avoidance or Evasion?

**2-Day
Introductory
Course**
18th-19th March

**Practical Will
Drafting**
12th March
Postponed

LPA Course
26th February,
Lincoln

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would like to
share?**

Our aim is to provide relevant information to you, our Members, if you would like to contribute to our newsletter or share your comments please [contact us](#).



As we know it is not illegal for a taxpayer to attempt to minimise or avoid tax by arranging their financial affairs in a certain way. It is only illegal to evade paying tax by failing to declare transactions or by declaring false amounts of income or capital. Where a

tax payer evades the payment of tax the person could be open to both civil and criminal penalties.

The revenue has previously challenged tax avoidance scheme, especially those which are complex and technical as they view them as artificial. Provisions have been put in place to deal with specific cases of tax avoidance, many of these schemes were designed to prevent income profits being treated as capital profits and therefore taxed at a lower rate. The Government has undertaken a wide review of the tax system to prevent further 'leakage' by avoidance schemes.

Historically, before 1965, the approach of the courts to tax was that every man was entitled to arrange his affairs to minimise tax. Even those plans which appeared false and artificial were permitted as long as they were genuine and properly implemented (see for example IRC v Duke of Westminster [1936]). During the 1970's a number of very technical schemes were marketed to avoid tax, particularly in relation to the highest rate of income tax on investment income which peaked at 98%.

This attitude of viewing 'form' in precedence to 'substance' was reviewed following a series of cases in the 1980's which changed the way the courts looked at the benefit received by an individual under a 'scheme'.

The current position

The Finance Act 2004 introduced some new anti-avoidance legislation which has been extended since August 2006. It has a tough approach which requires tax planners to notify the Inland Revenue Anti Avoidance Group of any tax avoidance schemes. This provision currently covers income tax, capital gains tax, corporation tax and stamp duty land tax. The legislation does not yet cover inheritance tax schemes but there have been recent recommendations that it be included.

The objective of the tax avoidance disclosure rules is to deter the use of tax schemes that are abusive or rely on artificiality and to ensure that when these schemes are marketed they are disclosed to the Revenue.

Under the current rules a scheme must be disclosed where it enables (or is expected to enable) a person to obtain a tax advantage and that this tax advantage is the main benefit.

Not every tax strategy amounts to a 'scheme' and the Anti Avoidance Group have said that they do not wish to obstruct a taxpayer in seeking tax advice to minimise payment of tax. Essentially advice that is tailored to an individual client may not be caught but the marketing of general schemes may be.

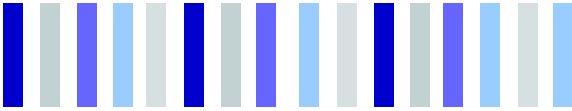
Missing Will

Kisnasamy Ramalingum

Date of Birth 21/10/1946

Last known address: 2 firs house,
acacia road, wood green N22 5SA

**Please contact us with any
information and don't forget to
check the 'Finders' Forum notice
board for other missing wills.**



Contact Us:
Eagle House
Exchange Road
Lincoln
LN6 3JZ

Tel: 01522 68 78 88
 Fax: 01522 69 46 66
 E-mail: info@willwriters.com

Further information is
 available at:
www.willwriters.com

March 2009

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Events Calendar

- 25th February - Drafting for Success—Sure Will Course
- 26th February - LPA Course. Lincoln
- 27th February - Shropshire & Staffs Region Meeting
- 6th March - Sussex Region Meeting
- 18th-19th March - 2 Day Introductory Course

Incorporation of Other Documents into a Will

The provisions of a Will are normally contained in one properly executed document and if changes or additions are to be made to the Will then this should be done by codicil or the execution of a new Will but an unexecuted document can be incorporated into a Will at the time it is written.



If a document is validly incorporated into a Will it becomes part of it and is admitted to probate despite the fact that the document itself does not comply with s.9 of the Wills Act.

In order for a document to be incorporated in this way certain conditions must be satisfied. Firstly, the document must be clearly identified in the Will itself. Secondly, the document must be in existence at the date of the Will and finally, but most importantly, the document must be described in the Will as already being in existence. For example, if the Will states "I leave £10 to each of the people named in the list now to be found in my safe" the third condition will be satisfied. If however the Will had said "I leave £10 to each of the

people named in the list which a will write before my death" the condition is not satisfied.

Incorporation of documents should be avoided wherever possible because of the danger of failing to satisfy the conditions or the loss of documents before death.

SURREY REGION MEETING

Ripley Village Hall (GU23 6AJ)
 Wednesday 11th March, 10.00-12.30.

Guest Speaker: Richard Petty of the BNI, on

"How Networking can help Will Writers grow their Business."

New and visiting Members welcome.

Please confirm attendance
 (email lioneldeadman@talktalk.net
 or ring 020 8330 7425)

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