

## **Article for New Model Adviser**

### **Q and A Tax**

#### **Stamp Collecting**

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#### **1,023 Words**

A gust of wind shook the car as Ben Dawson pulled into the dark car park at the Halfway Inn. “What a horrible night”, thought Ben, “but things will soon look better!”

Ben leapt out of the car and ran through the rain and into the pub. This was one of his favourite places for informal meetings, especially at the height of winter and a table close to the blazing log fire was free.

Ben ordered a pint and sat down to wait for Tim Harmer, an old friend who runs an IFA practice in the next town about 10 miles away. Ben and Tim make a point of meeting every 3 months to discuss their client experiences and to share business opportunities. Both had established fee-based practices over the last couple of years, but each seemed to work differently and by sharing their experiences, Ben and Tim found that they both learnt something new as well as supporting each other.

The door opened and Tim came into the bar. Ben jumped up, welcomed him and after buying him a pint, they sat down and warmed themselves in front of the fire.

“So, Ben, you look well, have you been busy?” said Tim.

“Yes, business has been steadily increasing over the last few months. How about you, Tim?”

“Well, much the same really, but things do look as if they could get tighter this year with the credit crisis and associated problems. Are you and Amanda still thinking of moving?”

“Yes, we’ve found an old farmhouse with an orchard and a bit of land. It has everything that we were looking for. Our offer has been accepted and we should have all the necessary work on the house finished before we get married next year,” replied Ben.

“Wow, fantastic. You must be really excited.”

“Well, yes, but even with both of us working, we’ll be stretched. It’s not until you move that you realise quite how much it costs now, especially since Gordon put stamp duty land tax up to 4%. That alone is going to cost us £32,000 and on top we’ve all the other costs of moving costs as well as the work we’ll need to do to the house. It all adds up to use up a great chunk of the equity that we’ll realise on selling our present house.”

“I know how you feel – what’s worse is the fact that SDLT is charged on the full value of the property, so if, say, you’ve borrowed half of the purchase price, you’re paying tax at an effective rate of 8% on the portion of the house you actually own!” sympathised Tim. “Have you ever considered using one the stamp duty planning schemes that are around?”

“To be honest, Tim, I don’t really know anything about them, but you can see the attraction if they save having to pay tens of thousands across to the Treasury at a time when one is stretching oneself financially. Have you come across them?”

“Yes, Ben, a client I saw a couple of weeks ago did one a year or so ago and he was over the moon. He’d bought a house for £1.6 million and has ended up paying less than £6,500 in stamp duty.”

“But that’s a saving of about 90%”, interrupted Ben, “how did he do it?”

“Well, apparently, a friend of his brother’s is a tax adviser who specialises in stamp duty planning. Based on each individual’s circumstances, he designs a scheme to be implemented before exchange of contracts. The scheme is then passed to a QC for Counsel’s Opinion to ensure that it is legal and likely to work. This also, as I understand it, gives the purchaser a defence against charges of fraud or negligence if the scheme is challenged by the Revenue.”

“But surely they challenge all these schemes don’t they?” said Ben.

“They may challenge some, but the schemes are designed specifically around deficiencies in stamp duty legislation and are therefore legal in both principle and practice. Apparently, this legislation also only allows a Revenue challenge within 9 months of the date of submission of the SDLT1 form unless the transaction is fraudulent. If there is a challenge then this is usually of a technical nature and is resolved with the Revenue by the tax adviser, for no additional cost to the purchaser. Even if a challenge is successful, the fact that Counsel has been involved means that penalties are unlikely to be payable, and the only additional costs over and above the stamp duty that would have been payable without any planning is any interest that the Revenue charges for late payment of the tax.”

“It certainly sounds interesting”, said Ben, “but how much does the scheme cost?”

“As I understand it, surprisingly little compared to the stamp duty savings made”, replied Tim. “There is an initial fee payable on acceptance of the scheme, and then

there is also a success fee payable 9 months after the SDLT1 has been submitted, when the scheme is deemed to have worked. The purchaser also has to lodge an amount in escrow to cover the full stamp duty payable to cover a successful challenge by the Revenue, but this amount is returned, less the success fee, once the 9 month period has passed.

Ben leant back and took a long drink. “You know, Tim, I would be interested in looking at this myself. If I can save £15 or £20,000 in stamp duty, that would go a long way towards paying for the work on the house. There is a risk that the scheme may not work, but the very fact that these schemes are marketed by tax advisers and lawyers must mean that they have a very real chance of success and it seems worth a small risk. Do you know who your client’s brother is?”

“I don’t have his details at the moment, but let me call you tomorrow”, replied Tim. “Now let me get you another drink and then you can tell me how you think investment markets will perform over the next year or two...”

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