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## THE PERSONAL TAX PLANNING REVIEW

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## From the Editors

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### EDITORIAL

Quite appropriate for Christmas, this issue of the Review has “something for everybody”. Articles range from giving good practical advice on everyday issues, to penetrating analyses of some of the more difficult (and topical) aspects of personal taxation.

The Consulting Editor has contributed two articles, both of which raise important issues relating to the taxation of trusts. In the first, he considers the utilisation of capital losses by trustees, settlors and beneficiaries following the changes made by the 1998 and 1999 Finance Acts. He concludes that although the danger of losses becoming “stranded” has increased as a result of the changes made by this legislation, with a great deal of care the tax-efficient use of losses should still be possible. In his second article the Consulting Editor turns to the transitional provisions relating to “golden” (i.e. pre 19th March 1991) settlements. He asks two related questions; whether net losses realised in the transitional period can be set against actual gains realised by the trustees in 1999/2000, and whether losses actually realised by the trustees in 1999/00 can be set against gains actually realised by them in the transitional period. The Revenue’s response in each case is negative. The Consulting Editor explains why in his view, the Revenue have misinterpreted the law.

Ralph Ray, in a very practical article, reminds us of a number of important points to bear in mind and potential pitfalls when advising on the gift with reservation of benefit provisions.

Sarah Dunn, a pupil at Pump Court Tax Chambers, alerts us to a possibility of double taxation under section 13 Taxation of Chargeable Gains Act 1992 where a gain is realised by a non-UK resident subsidiary of non-UK resident close company, and the proceeds are passed up through the parent company to the UK resident shareholders. She points out that although she is not aware of the Revenue taking such an unmeritorious point, surely this is a matter for a formal declaration of Revenue practice.

In an article that must rank on the “essential reading” list Reginald Nock, the acknowledged stamp duty “guru”, offers some extremely practical thoughts on

stamp duty in the new regime, introduced with effect from 1st October 1999. With the rate of *ad valorem* duty now generally being 3.5% for conveyances on sale and lease premiums where the consideration exceeds £500,000, and the hint of further increases in the near future, stamp duty considerations are assuming an ever greater importance. Any possibility of stamp duty mitigation must not be overlooked.

Finally, the Assistant Managing Editor, Elizabeth Wilson, clarifies a possible source of confusion over the application of section 86 Taxation of Chargeable Gains Act 1992. She considers whether gains can be attributed to a settlor if non-UK resident trustees retire in favour of UK resident trustees part way through a year of assessment after having realised chargeable gains abroad. She explains why in her view they cannot.

The Editors welcome contributions, particularly on points raised in articles appearing in the *Review* (or indeed other Reviews and Journals). All articles (whether long or short), ideas for articles, and other correspondence on editorial matters should be addressed to: Andrew Hitchmough Esq, Managing Editor, *The Personal Tax Planning Review*, Pump Court Tax Chambers, 16 Bedford Row, London WC1R 4EB Tel: (0171) 414 8080, Fax: (0171) 414 8099.

Robert Venables QC   Peter Vaines   Andrew Hitchmough   Elizabeth Wilson

December 1999