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Financial Health

MONTHLY UPDATE SEPTEMBER 2007

Arctic Systems – Lords Ruling

People who complain about paying their income tax can be divided into two types: men and women.

Finally we have it. The long awaited House of Lords ruling on Jones v Garnett – otherwise known as the Arctic Systems Ltd case.

In 1992 Geoffrey and Diana Jones set up a company called Arctic Systems Ltd, and on the advice of their accountants subscribed to one £1 share each. Geoffrey was the only income producer in the company, and his wife dealt with administration. Both were employed by the company as well as being shareholders. As is quite common in a small, family business, in some years Geoffrey took a salary well below what might reasonably be regarded as the market rate. In those years a dividend was declared and this was, naturally, shared equally by Geoffrey and Diana as they were equal shareholders. The Revenue claimed that this arrangement meant that Geoffrey was effectively transferring some of his income to his wife, and that this was caught by Section 660A of the Income and Corporation Taxes Act 1988.

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The good news is that the Law Lords agree that the Revenue had no right to tax Mr Jones as if his wife's dividend income were his own. A conclusion that most right thinking individuals who knew the facts of the case had already drawn in 2004, when Dr Nuala Brice bizarrely used her casting vote as chairperson at the Special Commissioners hearing and found in favour of the Revenue.

The bad news is that the Treasury has announced that it will consider amending the law so that in future cases the Revenue can do this without fear of challenge from the judiciary.

So what does all this mean to us in the real world?

Before Arctic Systems it was generally understood that husbands and wives could share the income from their business however they wished, simply by issuing each other the right number of shares - provided they did not try to be too clever by using special categories of share with limited rights etc

Arctic Systems introduced doubt that dividend income could be divided as required between spouses without possible penal tax consequences, even when ordinary shares without any special restrictions were used

The House of Lords decision puts us right back to our first understanding – if you want to issue ordinary shares to your spouse in order to share the dividend income, this should not be a tax problem.

But be aware that if you are looking at an aggressive dividend strategy to transfer income to your spouse this year, there may be a change in legislation shortly, which could outlaw this.

Changes to Enduring Powers of Attorney

After many years changes to the Power of Attorney rules come into effect on the 1st October. This is, generally speaking bad for pretty much every one.

At the present time anyone can set up an Enduring Power of Attorney. The objective of the EPOA is for someone to set out who can deal with their affairs if they are incapacitated. This is different from a Power of Attorney, which appoints someone who can deal with your finances on your behalf. This is typically used when you know you will be unavailable and financial decisions have to be made. For example you may be moving house, and yet out of the county, in which case you may leave a Power of Attorney for someone else to be able to sign documents on your behalf.

With an EPOA, it is designed to come into play only if you are incapacitated, perhaps after an accident, or illness.

The thing here is that when you really need an EPOA you can't get one, as you do not have capacity to appoint an attorney! To do so requires approval of the Court of Protection. If any of you have ever dealt with the Court of Protection you will know this is easier said than done, and will always cost your thousands of pounds in legal fees.

On 1st October EPOA's will no longer exist and they will be replaced with a Lasting Power of Attorney. The LPA will be broken down into two types: Personal Welfare and Property & Affairs.

The Personal Welfare is designed to allow the Attorney to make decisions about the Donors personal welfare. This could include deciding where someone lives or what medical treatment they receive.

The LPA for Property and Affairs allows the Attorney to make decisions over the Donors financial and physical assets.

The LPA is an excellent document but it is very costly to put in place and requires certification. This means that you will not be able to set up the document on a "pull it off the internet" DIY way. The costs suggested by many people seem to be around £300-£400 each! Compared to around £100 now.

When the new LPA comes into place existing EPOA will still stand and no changes will need to be made. So the advice is, get them in place now.

The Markets are falling, Commercial property is no good and gilts are worse!

Those of you who have been receiving the Wealth Management Update, and its for-runner The Garden Gate, since we have been writing them back in 1992 will see some repeats, and the biggest repeat is about investments. For those of you to whom this applies let me apologies for repeating this message. Unfortunately every year more people subscribe to the Update, and each year we have new clients.

Unfortunately new clients make the mistake of reading, and even worse believing the media.

If you have read the Telegraph, the Times, the Mail, or watched the national news over the last month or two you will have noticed reporting, not just of the facts, but on the emotion caused by the facts.

It is absolutely true that the markets fell in August (and rose!) but unfortunately; the press see this as an ideal opportunity to spice up the news. In these days of quick editing, short attention spans and the sound bit, the media has come to rely more and more on emotive language in its reporting. The result of which is to cause panic in many people.

The root of the problem is that the media, and indeed many investors do not understand that having an effective asset allocation strategy means that it does not matter if markets fall and rise, because the asset allocation strategy is designed to take account of this, and over time produce returns better than just investing in one asset class or holding the funds in deposit.

How many people will you hear say, "I could have earned more if I put it in the building society?" Well that may be true of a single point in time, but over a year, over three years, over a decade, you would not have.

Those of you that use our Advanced Investment Strategy would have produced the following returns since we launched this Strategy.

Low risk	9.32% return
Medium Risk	15.42% Return
High Risk	16.32% return

(All figures are after charges and are since January 2000 to July 2007)

Sir John Templeton, the highly respected investor and economist said "to be wealthy you need only buy when everyone else is selling and sell when everyone else is buying". This is a simple statement but very true. Ignore the media and continue with your investment strategy. If it is sound it will always produce good returns.

APCIMS follows our lead

For the last few years we have wondered why stockbrokers have stayed away from property investments. I am sure there has been good reason, not least of which they can make very little by holding property in their portfolios!

In June, The Association of Private Client Investment Managers and Stockbrokers (APCIMS) added commercial property to their model portfolios. Something that we have done for the past 6 years.

Interestingly, they do not seem at all worried about the recent poor media about commercial property -I am pleased to see they view it as I do.

Best Savings Selection

To get the best from your deposit based savings you often need to move the money around. Use these rates to help you with your arrangements.

Top Three No Notice Accounts

Name	Contact	£1 Gross %	£500 Gross %	£1,000 Gross %
Anglo Irish Bank	0845 455 2222	6.10	6.10	6.10
Heritable Bank	0845 6071212	N/A	N/A	6.06
Birmingham Mid-shires	www.askbm.co.uk	6.10	6.10	6.10

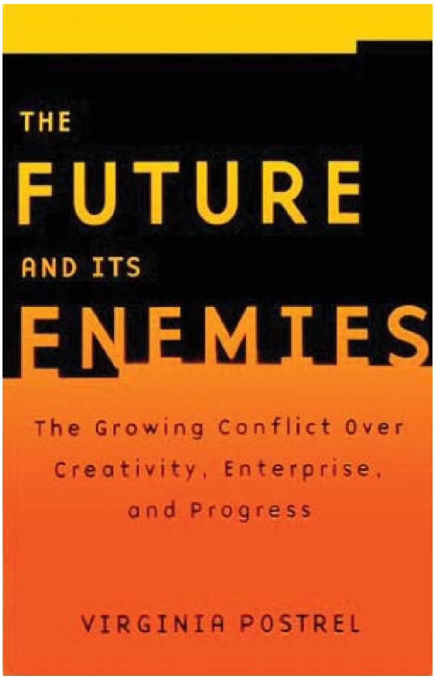
Top Three Monthly Interest Accounts

Name	Contact	£1 Gross %	£500 Gross %	£1,000 Gross %
Chelsea BS	0800 4320088	6.22(£250 minimum)	6.22	6.22
Manchester BS	0161 8338880	N/A	N/A	6.05
Icesave	www.icesave.co.uk	6.03	6.03	6.03

Top Three Cash ISA's

Name	Contact	£1 Gross %	£500 Gross %	£3,000 Gross %
Tipton & Coseley BS	0845 757 3749	N/A	N/A	6.40
National Savings & Investments	www.nsandi.com	N/A	N/A	6.30 (minimum £1,000)
National Counties BS	0845 603 4876	6.26	6.26	6.26

Please check with the terms and conditions before opening any account. If in doubt consult with your financial adviser directly as the above are for information only.



Book of the month

The Future and Its Enemies *by Virginia Postrel*
(ISBN 0684862697)

This month's book is a challenging read. But, if you can stick with it, it is an interesting essay on what shapes our future.

In the book, Postrel looks at the two forces that she believes shapes our future. The first is the processes, people and cultures that want to keep the world the way it is. She calls these the stasis. The second force is those people, ideas cultures and groups that want the world to move forward. She calls these the dynamism.

The book gives a genuine analysis of many social theories and how these can be both right and wrong, and interestingly she completes this analysis from the open position of being in the dynamism camp.

Ultimately the book draws few conclusions other than change can be both good and bad. But, if you're interested in what makes society (and thus ultimately the economy, and thus your investments) tick. This is an interesting read, though not one for the poolside.

National Savings Up

As Rates increase so do returns on National Savings, the only truly risk free investment, (Banks and Building societies can always go bust). The best of the bunch for most people is their Cash ISA, which now pays 6.3%.

Chargeable Transfer Up

At last the HMRC has realised the extra work it created for itself following the trust rules change last year and has increased the declaration on chargeable transfers from £10,000 to £210,000, provided transfers in the previous 7 years did not exceed £255,000.

What does this mean to the man in the street? Probably nothing as it affects few people. It does however affect those who are putting money in trusts. A gift to a trust is called a Life Time Chargeable Transfer. However, it does not have to be for a lifetime and it does not have to be chargeable! That aside, you can now put up to £210,000 into a trust without having to file an IHT 100 form. For those of you who have seen the form, this really is a good thing.

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