The risks of late estate planning

Imagine you are named as the executor and a beneficiary of your wife's wealthy aunt. You learn that she is suffering from terminal cancer and has 'a very impaired lifespan'. What do you do?

This is what happened in the case of *Nader and others v Revenue & Customs*. The executor/beneficiary, a Dr Nader, decided to consult a leading firm of accountants about inheritance tax (IHT) mitigation options for Miss Dickins (the aunt).

The accountants put forward an offshore trust-based scheme, provided by a third party, which would remove the IHT liability on £1,000,000 of Miss Dickins' estate. The scheme was highly complex, involving multiple trusts and short-term loans. It cost a total of £100,000 in fees and its first stage was triggered on 6 December 2010, three weeks before Miss Dickins' death.

Dr Nader received grant of probate on 4 July 2011 and a little over a month later the scheme was wound up, with IHT-free payments being made to Miss Dickins' beneficiaries. However, subsequently HMRC opened an enquiry into the IHT return and by February 2015 – a little over four years after Miss Dickins' demise – tax demands were issued to the beneficiaries.

Wind forward another three years and at a First Tier Tribunal (Tax), Dr Nader, together with his fellow beneficiaries, made an appeal against the tax bills they were facing. In a 51-page judgement, the Tribunal dismissed the scheme as ineffective, and the beneficiaries were also left with the appeal legal costs on top of the bill for IHT plus outstanding interest.

The case is a reminder of the risks, costs and protracted timescales that can be involved in deathbed estate planning.

There are many ways to mitigate the impact of IHT, but the sooner planning starts, the better. It is all too easy to defer such planning – as with writing a will – but delays can carry a high price.