



Vantis

Case Study 2 to be presented to Family Wealth Estate Planning Conference 2009 in Leeds on May 21st

A seminar presented
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John and Mary Brown are in their mid 70's. Mary's mother is still living aged 96 with an estate of £450,000, including her house worth £250,000. There is talk of her going into a home. Mary is the sole beneficiary under her mother's Will.

John and Mary have two children, a son Paul, aged 35, who is a successful businessman, unmarried and with no children of his own. He does not like women. The other child is a daughter Sharon, married but likely to separate soon. She has two children, aged 19 and 14, the eldest at university, the youngest at private school where the school fees are being paid by his grandparents (ie., John and Mary).



John and Mary Brown's assets are held as follows:

	Husband	Wife	Jointly
The matrimonial home (no mortgage)	-	-	900,000
Investment properties but subject to mortgages of	400,000 (100,000)	-	-
Portfolio of quoted investments	1,000,000	-	-
Cash	300,000	100,000	-
Shares in family company	4,500,000	500,000	-
Villa in Spain	-	-	250,000



The investment properties were purchased by John in the 1970's at a knock down price and produced an important part of the Brown's income. The share portfolio had been inherited on the death of John's uncle 18 months ago and has grown in value significantly since then, notwithstanding the general decline in the stockmarket in the period.



The family company – Golfstix Limited – manufactures golf clubs. It was once a thriving business but its trade has diminished with the larger golf club manufacturers coming into the market. The company now rents out a proportion of the factory and accumulates the rental. It has a cash balance of £1½ million. John has held his 60% shareholding for 10 years, but he transferred 20% to his wife a year ago now. There is a Shareholders' Agreement – and cross insurance arrangements between himself and the 40% shareholder – providing that the survivor shall buy the deceased's shareholding in due course at a value provided by the auditor. The company does not pay a dividend.



Under John's and Mary's Wills, they leave each to the other and then, on the second death, equally and absolutely between their children.



John did own a holiday cottage in Skegness (!) but gifted it to his son in 1992. John and Mary stay there for six weeks every year.



They are concerned about the impact of IHT and seek your advice. What do you advise them?



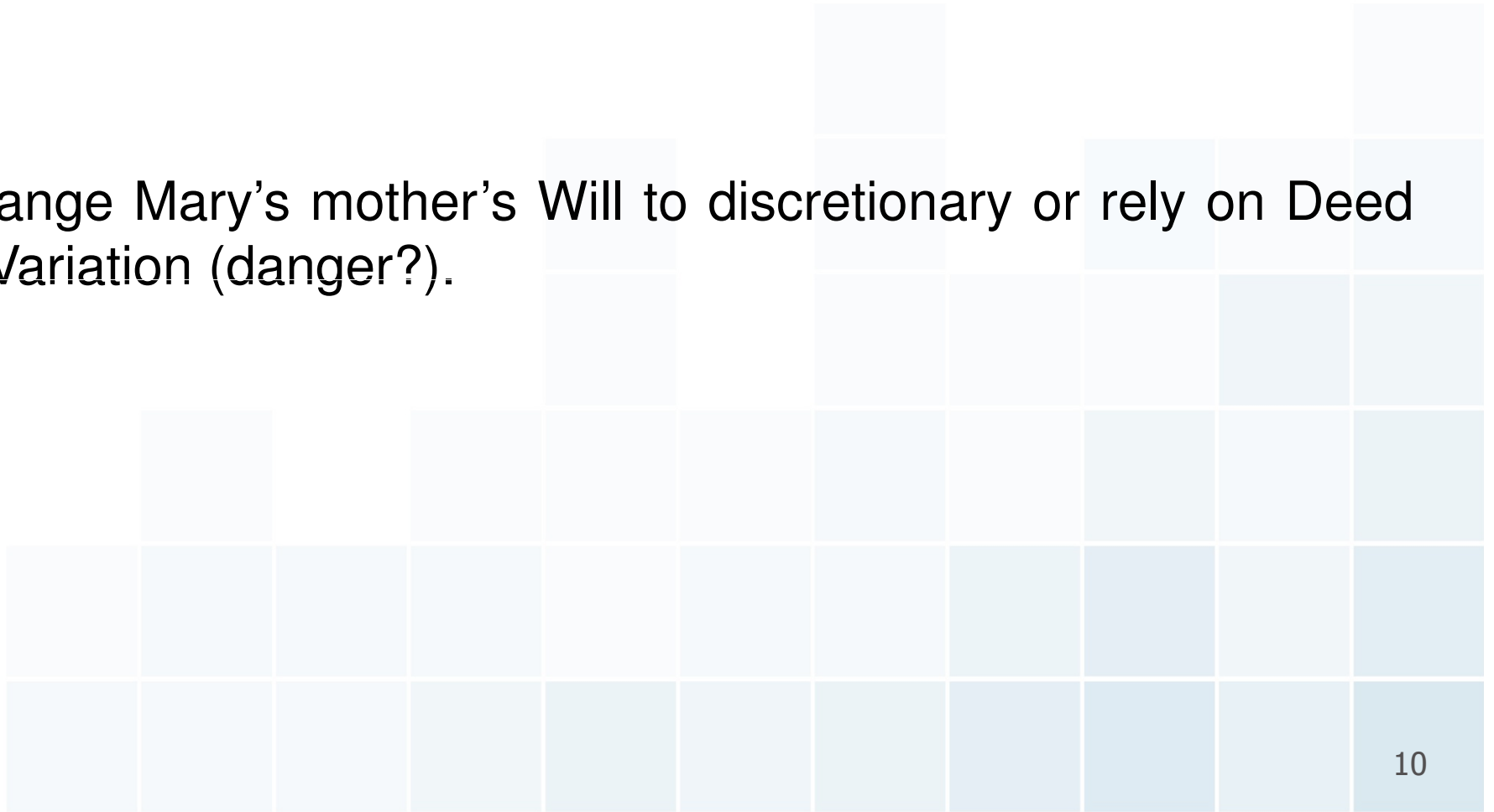
IHT Planning exercise for Mary's mother to avoid IHT bill of £50,000 (but what of her late husband's tax free threshold ...?).

Cannot rely on seven years survivorship after gift so raise monies on security of home to invest in AIM shares?

Or John and Mary to buy freehold reversion to Mary's mother's house ... ?



Change Mary's mother's Will to discretionary or rely on Deed of Variation (danger?).



think success



Long term nursing care costs

Financial security





Paul to execute a simple Will to avoid his estate passing under his intestacy to his parents were he to pre-decease them.



An “equalisation” exercise, to better exploit Mary’s separate IHT “identity”, to use her nil rate band and enable her to make gifts (after a decent interval). John to transfer assets to a value of £300,000 ish to his wife **and** sever the joint tenancy on the matrimonial home.



Consider a Deed of Variation of the late uncle's Will, either creating a discretionary trust in which John, Mary, their children and grandchildren can benefit or bypassing John entirely and setting up a trust for his children/grandchildren.



IOU debt structure

How does it work?

The Stamp Duty/Stamp Duty Land Tax downsides

The IHT saving upsides

Valuation advice



Does Golfstix qualify for business property relief at 100% for Inheritance Tax purposes? Why should it not? (Shareholders' Agreement, cash mountain, lets out part of factory, wife's shares held for less than two years).

Can it be "converted" back to a trading company? Otherwise, gift the shares into a discretionary trust (holding over the gain and suffering an IHT "cost"). Base value?



John and Mary should put in place new tax effective and flexible Wills, with the nil rate band at death (if available) being held on discretionary trusts, with an IOU arrangement possibly, (how does this work?) with the residuary estate held on life interest trusts in favour of the spouse.



John might raise cash on the security of his company shares and quoted portfolio to fund a payment into a trust for the grandchildren, to better fund school and university fees (and retain some of the raised cash for liquidity and financial security).



Could Paul buy his parents' home subject to their right to live there for their lives? Or might John and Mary gift the property to their children and pay rent for a few months, then buy back the right to live there for the rest of their lives.



John and Mary to each set up a discretionary trust (as to John's trust, see above re. Golfstix Limited shares) because of inherent capital gain, son's and daughter's respective matrimonial circumstances and transfer – in Mary's case, after an interval – assets to a **total** value in each case of £500,000 to the trustees. Power to add beneficiaries, survivor to be added to spouse's trust as eligible beneficiary as widow/widower. IHT/CGT implications? If John transfers (some of) his investment properties, what problems arise because of the mortgages?

What of infant unmarried children in class of eligible beneficiaries?



Maximise exemptions, including annual gifts, gifts not exceeding £250 to any one donee, charitable gifts, normal gifts out of income. How does this work? What about a charitable trust?



Consider the role of an Inheritance Tax Protection policy, the premiums payable by the trustees of the two discretionary settlements.



Two yearly review of the structures put in place with fresh advice, depending on revised financial and personal circumstances.



What sort of fees would you be looking to charge here?

Fee sharing arrangements



We're here to help

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