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Placing assets into a Trust

Ensuring your legacy is managed according to your wishes long into the future

Trusts are a powerful tool for estate planning, providing flexibility and control over asset distribution. Properly structured, they can address various scenarios and requirements, ensuring that your legacy is managed according to your wishes long into the future.

Trusts separate assets' legal ownership from their beneficial ownership. The legal owner holds the title and is empowered to deal with and administer Trust assets, while the beneficial owner – as the name suggests – derives the benefit from them. This could be in terms of usage, income from those assets or sale proceeds.

Gaining control through Trusts

A person known as the 'settlor' places assets into a Trust, which may include money, property or other types of assets like life insurance policies and investment portfolios. This may be done during their lifetime (a Lifetime Trust) or can be triggered by death through a valid Will (a Will Trust). By placing the assets into this structure, the original owner may relinquish some of their rights and delegate responsibility to a trustee during their lifetime.

However, they can gain a lot more control in other ways. A settlor can project their wishes years into the future. Provided a Trust is set up correctly, you can determine who gets what and when with a good deal of precision. Trustees can be professionals (who work for a Trust company) or any other competent person prepared to take on these responsibilities.

Very wide-ranging powers and tasks

Trustees can have very wide-ranging powers and tasks, including settling tax bills and hiring investment management and legal professionals. If the Trust is discretionary, meaning they have discretion regarding the distribution of assets, they might also have to make certain decisions about how to use the Trust income and/or capital.

For these reasons, many prefer to have their Trust administered by professionals, paying them annual fees from the Trust's assets. However, others looking to structure family wealth may appoint a mixture of professional and family friend trustees to create a balance of objectivity and personal knowledge of the beneficiaries' situations and needs.

Emotional aspects of Trust management

Combining professional expertise with personal familiarity can ensure that both the technical and emotional aspects of Trust management are adequately addressed. Professional trustees bring technical know-how and impartiality, while family friends may offer deeper insight into the beneficiaries' circumstances.

By thoughtfully selecting trustees, you can achieve effective and empathetic management of your Trust, ensuring that your wishes are fulfilled as intended. A blend of professional and personal trustees can provide a balanced approach, safeguarding the beneficiaries' financial and personal interests.

Types of Trusts

Various types of Trust are available, and the settlor needs to decide which type is best suited for the circumstances.

A quick summary of the principal types of Trust is as follows:

Bare/Absolute Trusts – Where the settlor transfers the legal ownership of assets to the Trustee for the benefit of the beneficiary absolutely.

Interest in Possession Trusts – The beneficiary (or sometimes known as 'life tenant') holds a right to the Trust fund's income or the right to use Trust assets. The remainderman's (the person who receives the property after the death of the life tenant) entitlement relates to the underlying capital.

Discretionary Trust – This arrangement gives trustees flexibility and control over how best to use the Trust assets for the benefit of the beneficiaries. This flexibility helps in situations where children or grandchildren may not yet be born at the time the Trust is set up, as they would therefore automatically be included as a beneficiary.

Note that these are just a few examples; many other types of Trust can be used under different circumstances.

Tax planning and Trusts

It'll be of no surprise that one of the main reasons for using Trusts is for tax planning and mitigation. For example, when an individual dies, their estate (i.e., net assets) is subject to Inheritance Tax (IHT), meaning the beneficiaries may lose up to 40% of their net inheritance.

If assets are put into trust during a settlor's lifetime and they survive seven years, they are not part of the estate on death and may escape IHT at that time subject to the 14-year rule not being invoked. Trusts are used in certain IHT planning arrangements for the settlor's benefit, such as Gift and Loan plans, Discounted Gift Trusts and Flexible Reversionary Trusts.

Trusts in Wills

Trusts are frequently created in Wills, particularly where the beneficiaries are minor children who need someone to look after them financially. Any asset left to a minor under a Will is effectively held in trust for the minor by the executors until the minor reaches majority unless the Will allows payment to be made to a parent.

Trusts can be explicitly created in Wills to ensure that a beneficiary does not benefit until some other age is attained or a condition is fulfilled. There are many other reasons for setting up Trusts, notable examples being to provide a pension, provide for families, assist a charity, give property to those who legally cannot hold it, and gain protection from creditors and business protection. ■

ARE YOU LOOKING TO OPTIMISE YOUR RETIREMENT PLANNING?

If you require further information or personalised advice on setting up a Trust, please contact us. We're ready to assist you in navigating the complexities of Trust administration and estate planning.

THIS ARTICLE DOES NOT CONSTITUTE TAX, LEGAL OR FINANCIAL ADVICE AND SHOULD NOT BE RELIED UPON AS SUCH. TAX TREATMENT DEPENDS ON THE INDIVIDUAL CIRCUMSTANCES OF EACH CLIENT AND MAY BE SUBJECT TO CHANGE IN THE FUTURE. FOR GUIDANCE, SEEK PROFESSIONAL ADVICE.

THE FINANCIAL CONDUCT AUTHORITY DOESN'T REGULATE TRUST PLANNING AND MOST FORMS OF INHERITANCE TAX (IHT) PLANNING. SOME IHT PLANNING SOLUTIONS PUT YOUR MONEY AT RISK, AND YOU MAY GET BACK LESS THAN YOU INVESTED. IHT THRESHOLDS DEPEND ON INDIVIDUAL CIRCUMSTANCES AND THE LAW. TAX AND IHT RULES MAY CHANGE IN THE FUTURE.

THE VALUE OF YOUR INVESTMENTS CAN GO DOWN AS WELL AS UP, AND YOU COULD GET BACK LESS THAN YOU INVESTED.

Ways to reduce a Capital Gains Tax liability

How will you ensure more of your money will go towards your future?

From using your annual exemption to saving in an Individual Savings Account (ISA), we look at ways to reduce a Capital Gains Tax (CGT) liability potentially. Cuts to the CGT exemption mean that arranging your investments as tax-efficiently as possible is more important than ever.

The CGT annual exemption more than halved from £12,300 to £6,000 on 6 April 2023 and dropped again to £3,000 from 6 April 2024. This means many investors selling assets will face a higher tax bill. Any gains that exceed the CGT annual exemption are taxed at 20% for higher rate taxpayers and 10% for basic rate taxpayers. The rate is higher for gains on second properties, at 28% and 18% respectively.

Maximising your exemptions

The good news is that with careful planning, there are different ways to reduce CGT, ensuring more of your money goes towards your future. However, CGT can be highly complex and without expert financial advice, there's a risk you could end up paying it unnecessarily. Here are some ways to potentially reduce a CGT liability.

Use your CGT exemption

Everyone has an annual CGT exemption, which enables you to make tax-free gains of up to £3,000 in the 2024/25 tax year. This can't be carried forward into the next tax year. Despite the reduced allowance, making full use of it each year could reduce the risk of incurring a significant CGT liability in the future.

Make use of losses

You might be able to minimise your CGT liability by using losses to reduce your gain. Gains and losses realised in the same tax year must be offset against each other, which can reduce the amount of gain that is subject to tax. Unused losses from previous years can be brought forward, provided they are reported to HM Revenue & Customs within four years from the end of the tax year in which the asset was disposed of.

Transfer assets to your spouse or registered civil partner

Transfers between spouses and registered civil partners are exempt from CGT, which means assets can be transferred from one partner to the other to use each person's annual CGT exemption. This effectively doubles the CGT exemption for married couples and civil partners. The transfer must be a genuine, outright gift.

Invest in an ISA / Bed and ISA

Gains (and losses) made on investments held within an ISA are exempt from CGT, so it makes sense to use your ISA allowance each year, particularly for higher and additional rate taxpayers. In the 2024/25 tax year, you can invest up to £20,000 in an ISA. For married couples and civil partners, the ISA allowance effectively doubles to £40,000.

Considerations and professional advice

There is also an option called 'Bed and ISA', which involves selling investments to realise a capital gain and then immediately buying back the same investments inside an ISA. This enables all future gains on the investment to be CGT-free. Bear in mind that you may pay stamp duty and other costs when repurchasing investments in an ISA, and there is a risk that time out of the market, however small, will detrimentally impact your investments. It's important to obtain professional financial advice before taking such action.

Contribute to a pension

Making a pension contribution from relevant earnings could help you save on CGT because it effectively increases the upper limit of your Income Tax band. If, for example, you made a gross pension contribution of £10,000, the point at which higher rate tax becomes payable would rise from £50,270 to £60,270 (2024/25 tax year). If your capital gain plus other taxable income fell within this extended basic rate income tax band, CGT would be payable at 10% instead of 20%, provided the gain wasn't from residential property.

Give shares to charity

If you give land, property or qualifying shares to a charity, Income Tax relief and CGT relief are available. This strategy not only benefits the charity but also provides you with significant tax advantages. By giving assets directly to a charity, you can avoid CGT on any increase in value and claim Income Tax relief based on the market value of the assets donated.

Claim Gift Hold-Over Relief

Gift Hold-Over Relief could be available if you give away certain business assets or sell them for less than they are worth to help the buyer. If you're eligible, you won't pay CGT when you give away the assets, but the person you give them to might be liable for CGT when they sell them. You must meet several eligibility conditions, so if you're unsure, speak to a professional adviser. This relief allows you to defer the CGT liability until the recipient disposes of the asset, effectively transferring the tax burden to them. This can be particularly useful when you want to support a family member or business partner.

Chattels that escape CGT

Gains on possessions such as antiques and collectables, called 'chattels', may be tax-free. For example, items with a predictable life of 50 years or fewer, known as 'wasting assets', are CGT-free, provided they were not eligible for business capital allowances. Wasting assets include antique clocks, vintage cars, pleasure boats and caravans. For non-wasting chattels, like paintings and jewellery, the CGT position depends on the sale proceeds, with those £6,000 or under usually being exempt. This exemption can provide a valuable opportunity to capitalise on the appreciation of these items without incurring a tax liability. ■

ARE YOU READY TO DISCUSS MAXIMISING ALL YOUR TAX RELIEFS, ALLOWANCES AND EXEMPTIONS?

CGT is a complicated subject. We'll ensure you're maximising all your tax reliefs, allowances and exemptions, explain your options and advise on the best course of action for your individual circumstances. To learn more, contact us to structure your investments in the most tax-efficient manner possible.

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