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Chartered Financial Planners

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FACTSHEET ESTATE PRESERVATION

TRUSTS

Choosing the right structures to protect assets and give your family lasting benefits

One of the most effective ways you can manage your estate planning is through setting up a trust. The structures into which you can transfer your assets can have lasting consequences for you and your family, so it is important that you obtain professional financial advice as the right structures can protect assets and give your family lasting benefits.

A trust is a legal arrangement where one or more trustees are made legally responsible for assets. The assets – such as land, money, buildings, shares or even antiques – are placed in trust for the benefit of one or more beneficiaries. They are not the sole domain of the super-rich. Trusts are incredibly useful and flexible devices that people employ for all sorts of different purposes, including Inheritance Tax planning.

SIMPLEST FORM

In its simplest form, a trust is just a legal mechanism for separating the ownership of an asset into two parts: the 'legal' ownership (or title to the asset) on the one hand, and the 'beneficial' ownership on the other hand.

It is in the course of Inheritance Tax planning, though, that people are most likely to come face to face with trusts and seek to get an understanding of what they are and how they work. Their use is widespread and, despite some recent adverse changes in tax law, they remain an important tool in estate planning.

MORE FLEXIBILITY

The trust is created when the settlor transfers assets to the trustees, who hold the assets in trust for the beneficiaries. The main reason a person would put assets into a trust rather than make an outright gift is that trusts offer far more flexibility than outright gifts.

The trustees are responsible for managing the trust and carrying out the wishes of the person who has put the assets into trust (the settlor). The settlor's wishes for the trust are usually written in their Will or given in a legal document called the trust deed.

THE PURPOSE OF A TRUST

Trusts may be set up for a number of reasons, for example:

- To control and protect family assets
- When someone is too young to handle their affairs
- When someone can't handle their affairs because they are incapacitated
- To pass on money or property while you are still alive
- To pass on money or assets when you die under the terms of your Will – known as a 'Will trust'
- Under the rules of inheritance that apply when someone dies without leaving a valid Will (England and Wales only)

There are several types of UK family trusts, and each type of trust may be taxed differently. There are other types of non-family trusts. These are set up for many reasons, for example, to operate as a charity or to provide a means for employers to create a pension scheme for their staff.

WHEN YOU MIGHT HAVE TO PAY INHERITANCE TAX ON YOUR TRUST

There are four main situations when Inheritance Tax may be due on trusts:

- When assets are transferred – or settled – into a trust
- When a trust reaches a ten-year anniversary of when it was set up
- When assets are transferred out of a trust or the trust comes to an end
- When someone dies and a trust is involved when sorting out their estate

TRUST SOLUTIONS FOR MANAGING WEALTH

We can advise you on a range of different trust solutions, each designed with a particular purpose in mind.

Some types of trust are treated differently for Inheritance Tax purposes.

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BARE TRUSTS

These are where the assets in a trust are held in the name of a trustee but go directly to the beneficiary, who has a right to both the assets and income of the trust.

Transfers into a bare trust may also be exempt from Inheritance Tax, as long as the person making the transfer survives for seven years after making the transfer.

INTEREST IN POSSESSION TRUSTS

These are trusts where the beneficiary is entitled to trust income as it's produced – this is called their 'interest in possession'.

On assets transferred into this type of trust before 22 March 2006, there's no Inheritance Tax to pay.

On assets transferred on or after 22 March 2006, the 10-yearly Inheritance Tax charge may be due.

During the life of the trust, there's no Inheritance Tax to pay as long as the asset stays in the trust and remains the 'interest' of the beneficiary.

Between 22 March 2006 and 5 October 2008:

- Beneficiaries of an interest in possession trust could pass on their interest in possession to other beneficiaries, like their children
- This was called making a 'transitional serial interest'
- There's no Inheritance Tax to pay in this situation

From 5 October 2008:

- Beneficiaries of an interest in possession trust can't pass their interest on as a transitional serial interest
- If an interest is transferred after this date, there may be a charge of 20% and a 10-yearly Inheritance Tax charge will be payable unless it's a disabled trust

If you inherit an interest in possession trust from someone who has died, there's no Inheritance Tax at the 10-year anniversary. Instead, 40% tax will be due when you die.

Information is based on our current understanding of taxation legislation and regulations. Tax assumptions are subject to statutory change and the value of tax relief (if any) will depend upon your individual circumstances. The Financial Conduct Authority does not regulate Taxation and Trust Advice or Will Writing. The value of your investment can go down as well as up and you may not get back the full amount invested. Levels and bases of and reliefs from taxation are subject to change and their value depends on the individual circumstances of the investor. The treatment of Trusts for tax purposes is the same throughout the United Kingdom. However, Scottish law on Trusts and the terms used in relation to Trusts in Scotland are different from the laws of England and Wales and Northern Ireland. Although endeavours have been made to provide accurate and timely information, Goldmine Media cannot guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No individual or company should act upon such information without receiving appropriate professional advice after a thorough review of their particular situation. We cannot accept responsibility for any loss as a result of acts or omissions.

PROFESSIONAL FINANCIAL ADVICE YOU CAN TRUST

Do you need someone to manage money for you – for example, to use it to help someone after your death, or to pay for your care later on? One way to do this is to put the money into a trust. To discuss your requirements, please contact us for more information – we look forward to hearing from you.