PRIVATE CLIENT

Newsletter

PROSPERITY

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ALBERT GOODMAN

CHARTERED ACCOUNTANTS, TAX CONSULTANTS & FINANCIAL PLANNERS

WELCOME

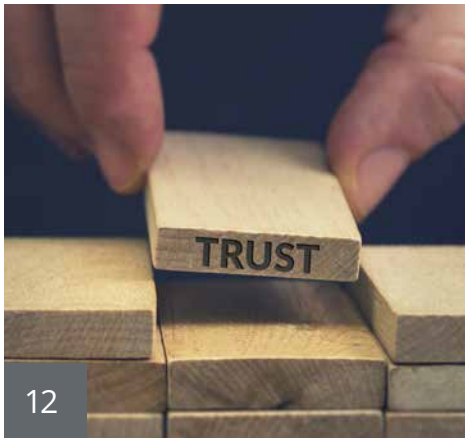
Welcome to the first private client newsletter of 2019. This edition takes a look at trusts and explains why they are not just for the super wealthy or elite.

English trust law is thought to date back to the Middle Ages, from the time of 11th century crusades. So in a time of such global uncertainty and unchartered waters, it seems as though trusts will continue to provide control and reassurance for those who use them. However, there are pitfalls which should be avoided as our guest writer, Rebecca Beresford, from Mogers Drewett explains in her article about drafting trust deeds.

Most of us experience a trust at some point during our lifetime, even if we don't know it. For those who have a pension in place, Claire Musson from our Financial Planning Team explains how trusts play an important part in the event of our death and Steve Workman considers how trusts can be used with life insurance policies.

We also have an article from Tina Hall in our Tax Team which explains other reasons individuals may set up a trust and Kayleigh Oaten describes the main types of private trust used by families.

Louise Osborne
Partner



PRIVATE CLIENT

CONTENTS

UPCOMING TAX DEADLINES

JULY

6th	Submit your P11D for any employee benefits in kind.
22nd	Pay any Class 1A NIC on any benefits in kind (19th July if paying by cheque).
31st	Second payment on account for personal tax for 2018/19.
9 months	after your year end your company accounts need to be filed with Companies House and your corporation tax liability needs to be paid to HMRC.
12 months	after your year end your corporation tax return needs to be filed with HMRC.

Professional Adviser

BEST FINANCIAL ADVISERS TO WORK FOR 2019

The Albert Goodman Financial Planning team was announced as one of the 'best financial advisers to work for 2019' by Professional Adviser.

USING A TRUST TO PROTECT YOUR ASSETS

Louise Osborne
Partner

In later life, many of us are keen to ensure our home and other assets are not sold to pay for care, should the need arise. A growing number of people are also keen to protect their estate from inheritance tax, probate fees and claims from creditors or ex-spouses. Essentially, they wish to preserve their assets for their family when they die.

One way to do this is by using a trust. The theory being that by putting your house into trust and naming someone (for example, your children) as the trustees, you are no longer the owner of your home. As a result, should you require care, the assets in the trust will not be used in a local authority care funding means assessment.

It might seem the perfect plan to protect your family's inheritance. However, with a subject as emotive as the family home, it is hardly surprising that there are unscrupulous firms operating in the market of so-called "Asset Protection trusts". These companies promote the idea that transferring all your assets to a trust during your lifetime is a great way to protect them. They do not always explain the potential tax consequences and the impact that giving up all of your rights to your assets can have on your future financial security. Nor do they make it clear that the local authority are increasingly investigating asset protection trusts. They can ignore the trust, treating the assets as if you owned them, if it can be shown that you put them into the trust as an act of "deliberate deprivation" to avoid having to pay for your care fees. There is a common misconception that this only applies for the first seven years after setting up the trust, but in fact there is no such time limit.

It is therefore important to understand that assets are only protected from local authority means assessment if they are transferred to a trust at an appropriate time, for an appropriate reason.

There have been many concerns over the years that some claims made by those marketing the arrangements mentioned above are misleading and whether they are indeed shams. Furthermore, some promoters have acted illegally. In 2015, eight people received prison sentences at Nottingham Crown Court for mis-selling the so-called asset protection trusts to elderly clients. More recently, the director of Universal Wealth Preservation (UWP) was jailed for eight months in December 2018, the company and its subsidiaries have gone into compulsory administration. It is thought that they may have had as many as 8,000 customers, many of whom are unable to access their money or sell their own homes.

If you have already transferred your home into a trust and are worried that you did not receive appropriate advice at the time or are considering appropriate ways of passing your assets onto your family, it is important that you speak to an expert and get advice as soon as possible.

The Financial Conduct Authority does not regulate trusts or Will-Writing.

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TRUST REGISTRATION SERVICE (TRS)

The trust Registration Service is a new online service set up by HM Revenue and Customs (HMRC) to allow trusts and complex estates to meet their registration obligations and obtain their self assessment unique tax reference (UTR). The TRS replaces the paper 41G form (trusts), which are no longer available from HMRC.

The TRS has been introduced to meet the requirements of the updated Money Laundering legislation that came into force on 26 June 2017 and forms part of HMRC's digital strategy which will provide greater tax transparency moving forward.

Both new and existing trusts are obliged to register using the online TRS system where the trustees have a liability to one or more of the relevant UK taxes being; income tax, capital gains tax, inheritance tax, stamp duty land tax or stamp duty reserve tax.

To enable trustees to complete the TRS, trustees must register with HMRC using their secure online government gateway service.

The TRS asks for personal and contact details of all trustees, Settlors and Beneficiaries including full names, dates of birth, addresses and National Insurance numbers. The TRS also requires details of the assets put in the trust and their market value at the creation of the trust.

COMMON EXCLUSIONS

The trustees do not need to complete the TRS in the following circumstances:

1. Where no liability to any of the relevant UK taxes arises due to the claim of a tax relief.

2. Where there is no requirement to file a tax return and no tax liability has arisen.

3. Bare trusts are not required to register as they are transparent for tax purposes and no trust liability arises.

4. Where trust income is paid directly to a UK beneficiary and no income is reported on the trust return.

5. Where trusts have no other liability other than a tax liability of less than £100 arising on bank or building society income.

6. Statutory trusts.

INES

Registration must be completed by 31 January following the end of the relevant tax year for trusts previously registered for Self Assessment with HMRC that have incurred a relevant UK tax liability.

Registration must be completed by 5 October following the end of the relevant tax year for new trusts not previously registered with HMRC for Self Assessment, where an income tax or capital gains tax liability has arisen for the first time. Where a new trust has a liability to any of the other relevant UK taxes for the first time, the registration deadline is extended to 31 January following the end of the relevant tax year.

HMRC expect trustees to maintain the details included on the TRS by 31 January following the end of the relevant tax year.

UPDATING TRS

Unfortunately, it is not possible for lead trustees and their agents to update their registered information or to declare that there have not been any changes on the TRS due to limited functionality.

HMRC are implementing the TRS in a number of phases and we await updates to the service.

COMPLETING THE TRS

The primary responsibility for registration lies with the trustees, however trustees may wish to appoint an agent such as Albert Goodman to register the trust on their behalf.

Unfortunately the TRS is an additional administration burden that the trustees must comply with, failure to do so may lead to penalties being raised. HMRC are yet to release details of the penalty framework that will apply to failures to comply but please contact us for further help and advice where necessary.

Lucy Allen
Tax Senior

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PENSION DEATH BENEFITS & THE BENEFITS OF USING A TRUST

Most of us can look forward to many years of retirement and use pensions as a tax efficient way of saving for life after work, so it's important to be aware of what happens to a pension fund on death. Changes to tax rules and the pension freedoms mean a pension fund can be left to loved ones on death, normally free of inheritance tax.

Careful thought needs to be given to who should inherit a pension fund. In broad terms if death occurs before age 75, normally a pension fund can be passed on tax free. If death occurs on or after the 75th birthday, a pension fund becomes taxable in the hands of beneficiaries, at their marginal rates of income tax. If a pension plan offers the full flexibilities of the "pension freedoms", the pension fund can stay in the pot and be passed on to others on subsequent death, affording tax planning. However if the pension freedoms don't apply to the plan, the only options might be to use the fund to purchase an annuity or to pay out the entire fund as a lump sum. As a result the fund is no longer held in a pension wrapper which can have unintended consequences.

Regardless of whether the pension freedoms are available or not, when family circumstances are complex, involve multiple marriages, young people and/or a substantial pension fund, it might be better to use a trust. On death, the pension fund is paid as lump sum death benefit to a trust.

WHEN USING A TRUST COULD BE BENEFICIAL

PROVIDING FOR A SPOUSE – if the pension fund is paid out as a lump sum to a spouse, on their subsequent death, any remaining funds will form part of their estate and could be subject to inheritance tax. On remarriage and subsequent death, the inherited pension fund might end up with a completely different family. Using a trust can still provide for a spouse during their lifetime as well as ensuring the residual fund is kept in the family on death. Where the full range of options permitted under pension freedoms is available, the option of taking the death benefits via flexi-access drawdown ensures ongoing inheritance protection as well as other advantages.

PROVISION FOR CHILDREN/ GRANDCHILDREN UNDER 18 – divorced or separated parents naturally want to pass their pension on to their children, but not give the ex-spouse control of the child's pension fund as they will have parental control of the child's finances. Setting up a trust means the trustees are responsible for the funds in the trust.

CONTROL OVER THE WAY BENEFITS ARE TAKEN – how would you feel about giving a financially inexperienced beneficiary access to a large sum of money? A trust means that access to funds can be restricted and avoids the situation of an 18 year old taking a large fund in cash.

CARE HOME FEES – if a spouse has inherited a pension that is in drawdown, even if no funds are withdrawn, once they reach state pension age the income that could be purchased with the fund is taken into consideration by the local authority when assessing assets and income (before state pension age, only actual withdrawals are taken into account). If the pension money had been paid to a trust instead, it can't be considered whilst it remains within the trust - however trustees can help to pay for the care if needed. Any income/capital paid from the trust to the beneficiary can be taken into account for means testing.

The key advantages and tax treatment of trusts are outlined in the newsletter and for the sake of brevity aren't repeated here. From an income tax point of view the tax treatment on monies entering the trust are broadly the same as stated in paragraph 2. You should seek financial planning and legal advice to put your pension death benefits into trust.

Claire Musson
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TRUSTEE INVESTMENT DUTIES & TRUST INVESTMENTS

Michael Seagrove
Director

As a trustee you are obliged to consider the needs of the beneficiaries of the trust. There are a number of different types of trust, the most common being a Life Interest or Interest in Possession trust and a Discretionary trust.

Employing the services of a financial advisor, able to provide guidance on the type of investment that is appropriate for a trustee to consider and the level of investment risk that a trustee should consider can greatly assist a trustee in meeting their trustee duties and enable them to demonstrate that they have met and complied with their trustee obligations by taking professional financial advice.

As a trustee you must not place yourself in a position in which your duties as a trustee conflict with your private interests or your own personal views on investment risk for example.

A trust will generally be created by a Will on death or by a formal trust deed created by an individual in their lifetime, in either situation the individual who created the trust is known as the Settlor.

A trustee can only act within the terms of the trust. If they act outside those powers they are in breach of trust. A breach of trust could cause some detriment to the beneficiaries.

The beneficiaries may absolve the trustees from responsibility for the consequences of the breach. Otherwise the trustees have to make good any loss to the trust fund from their own resources.

A trustee has a general duty not to make any profit from acting as a trustee. Professional trustees may charge for their services in a number of circumstances:

- **Where there is an express charging clause in the trust deed.**
- **In certain circumstances with the written agreement of the other trustees.**
- **Where appropriate with the prior agreement of all the beneficiaries.**

INVESTMENT DUTIES

Trustees have wide investment powers through the Trustee Act 2000 (E&W), Charities and trustee Investment (Scotland) Act 2005 and Trustee Act (Northern Ireland) 2001. Unless the trust deed restricts the type of investment, a trustee is able to invest in any type of asset, as long as it can be demonstrated that it is in the interests of the beneficiaries.

When considering what assets to invest in, the trustees must consider the purpose of the trust and the needs of the beneficiaries and apply standard investment criteria, these being:

- **The suitability to the trust of the investments (both in relation to the suitability of the kind of investment, and the suitability of the particular investment); and**
- **The need for diversification of investments of the trust, in so far as is appropriate to the circumstances of the trust.**

A trustee must from time to time review the investments and consider whether having regard to the standard investment criteria, investments need to be varied.

Often a trustee is unwilling to accept any investment risk, preferring to limit the investments used to interest bearing cash based deposits, this is rarely going to be in the best interests of the beneficiaries especially where the funds don't need to be drawn on for more than five years. Over a long period the real value of the trust assets will be eroded and this could be considered a breach of trust.

PROTECTING THE INTERESTS OF BENEFICIARIES

Trustees must act impartially between the beneficiaries and ensure that one beneficiary does not benefit at the expense of another. For example, an interest in Possession Trust where one beneficiary is entitled to income for life with the other beneficiaries or remaindermen being entitled to the trust capital on the death of that person. Those 'competing' beneficiaries should be treated fairly unless the settlor had made it clear that one class of beneficiary was to be preferred over another.

Where the trust states that income is to be provided for a beneficiary, then trustees should consider income producing assets such as OEICs or unit trusts. Investment bonds will, over the medium to long term generate a capital return but do not produce income, as withdrawals from bonds are a return of capital not 'income'. If the beneficiary is only entitled to income, an insurance bond would not be appropriate.

When investing for income trustees must also be aware of the impact of regular withdrawals on the real value of the trust capital. In extreme circumstances this could result in a lower capital sum to be distributed to the remaindermen entitled to the trust capital on the death of the income beneficiary and trustees must be able to demonstrate that they are considering and treating the interests of all beneficiaries fairly.

If not the trustees may not be fulfilling their duties to all of the beneficiaries appropriately, and could leave themselves open to legal action.

It may be that the trust gives the trustees power to pay capital to that income beneficiary. In this case, the trustees are following the terms of the trust, but they still need to consider the impact of eroding the capital for the remaindermen.

KEEPING ACCOUNTS AND RECORDS

HMRC expect that a record of trust income and expenses is kept to complete the trust and estate tax return and pass information to beneficiaries.

Clearly a non-income producing insurance bond will simplify the accounting and record keeping requirements, however these arrangements may only be considered for use within a trust where there is the ability to distribute capital. Where there is a need to distribute income these, are not a suitable trustee investment.

DISTRIBUTING PROPERTY TO BENEFICIARIES.

In a discretionary trust the trustees have a power to accumulate income for up to 21 years. Accumulation is the process whereby, under the terms of a trust, the trustees are authorised or required to accumulate income, thereby converting it into capital.

In "interest in possession" trusts, the beneficiary (or beneficiaries) with the right to income must receive that income – within a reasonable period of the trust's accounting year end. The beneficiary will need to include this income in his or her self-assessment tax return so needs to know the quantum of income fairly promptly. Acting as a trustee brings a responsibility to act in the best interests of all beneficiaries. Investment risk must be considered, especially where the trust will be in existence for five years or more and the funds aren't required to be drawn on for five years plus. Being a life tenant or income beneficiary may, in some cases, also bring potential Inheritance Tax implications and these too are important to be aware of and consider.

Albert Goodman Chartered Financial Planners have considerable experience in providing investment advice to trustees, setting out investment proposals to meet the objectives of the trust and fulfil the duties of the trustees in helping to meet the interests of the trust beneficiaries. For further information and advice contact Louise Osborne or Michael Seagrove.

NB: The Financial Conduct Authority does not regulate trusts or Will-Writing.

The value of an investment and the income from it could go down as well as up. The return at the end of the investment period is not guaranteed and you may get back less than you originally invested.

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GUEST ARTICLE

DRAFTING TRUST DEEDS

Guest article by
Rebecca Beresford
Mogers Drewett Solicitors

Trusts can be a really useful means of providing for beneficiaries in a number of different circumstances. For example, it might be that you want to start handing assets over but the intended recipients may be too young or immature to own the assets outright. You might have a family member with limited capacity that you want to provide support for, or you may have a particular asset to be retained within the family that a number of different people are to benefit from.

In creating a trust, it is important to take specialist advice to ensure that the trust deed is drafted appropriately to avoid common pitfalls.

One of these is that in drafting the deed, it is necessary that you as the Settlor, and any spouse or civil partner and minor children are excluded from any potential benefit under the trust. Children can benefit as soon as they are of age, and a spouse or partner can benefit after your death, but if you have not ensured that the proper exclusions are in place in the deed, you may find that HMRC argue that there hasn't been an effective transfer for Inheritance Tax (IHT) purposes, which rather defeats the object in most circumstances.

It is also necessary to ensure that there is no possibility of the funds ever coming back into your estate, as otherwise, again, it may be deemed to have been ineffective. For that reason, you must include a default trust in the settlement deed; that is, where the funds will end up in the event that all of the trust beneficiaries have died before the trust is wound up. This might be a charity or the estate of a more remote relative.

Sometimes clients feel that we lawyers make things too complicated. A client comes into see us with a particular aim, and we draft a document that is at least twice as long and complicated as they feel is necessary. Whilst I always understand a client's wish to keep things simple, it is important to build in flexibility with a trust deed. A family trust may be a useful vehicle for wealth and succession planning and whilst the client may have quite a narrow aim at the outset (for example, to provide for the education of grandchildren), the ability to adapt the trust for future purposes that may not yet be known can be really helpful.

Of course, building in flexibility brings with it the need for the trustees to ensure they correctly understand and can implement the Settlor's wishes. That is where a well drafted letter of wishes can prove invaluable, and should be discussed at the outset with your specialist adviser.

BEING A TRUSTEE

Trustees are an important part of a trust and without them a trust cannot exist. Trustees' are the legal owners of the assets held in a trust and so it is vital that suitable trustees are chosen on the creation of a trust and those chosen are named in the trust deed that governs the trust.

WHO CAN BE A TRUSTEE?

For an individual to act as a trustee, they must be over the age of 18 and of sound mind. The person who creates a trust (The Settlor) and those who may benefit (The Beneficiaries) may also act as trustees.

Companies can also act as trustees. Trust Corporations are companies that are empowered to act as sole trustees. It is beneficial to appoint a trust Corporation as it offers continuity to a trust, it allows long-standing professional advisors who know the trusts affairs best to act without the interruptions and costs involved with retiring and appointing trustees over the lifetime of a trust. Trusts have a lifespan of between 80 to 125 years and so it is inevitable that the trustees will have to change over time. Albert Goodman has an established trust Corporation and so if you are considering appointing a professional advisor as an additional trustee, please get in touch.

TRUSTEE DUTIES

Duties of a trustee are outlined in the trust deed, in general law and may also be set out in a letter of wishes. Trustees must act with reasonable skill and care, act honesty and have a duty of care to the beneficiaries and must act in their best interests. Trustees must protect trust property and keep true and accurate accounts.

Trustees must also act impartially among the beneficiaries, however trustees of a discretionary trust are privileged with the power of discretion and so may favour any beneficiary if they see fit.

If trustees' fail to carry out their duties in accordance with the trust deed and law, they will be personally liable for breaches of contract or negligence. Being a trustee is a great responsibility, therefore it is important to act responsibly and with understanding. Contact us if you have any doubts or questions about being a trustee.

LETTER OF WISHES

Letters of wishes are another way for a Settlor to demonstrate their intentions and help trustees to carry out the Settlor's wishes. Although not legally binding, we would encourage Settlors to make a letter of wishes that accompanies a trust deed on creation. A letter of wishes allows the Settlor to set out the reasons for creating a trust and offer guidance to the trustees on how they should administer the trust fund during its lifetime.

Lucy Allen
Tax Senior

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TAX SAVINGS ARE NOT THE ONLY REASONS FOR SETTING UP A TRUST

Tax saving is often seen as the main or only reason for setting up a trust but the other non tax advantages can be just as important as set out below:

1. CREDITOR PROTECTION

Provided certain conditions are met, assets transferred to a trust are not owned by the person who set the trust up or the beneficiaries and should not be open to a claim from future creditors.

2. PROTECTING AGAINST RELATIONSHIP BREAKDOWN

If you gift assets outright to your children they may be open to a claim if they have a relationship breakdown. If the assets are held in trust, your children can continue to enjoy the benefit of the assets without them being treated as personal property and should therefore be protected.

3. CONTROL

If you settle assets into trust and are one of the trustees you can still control the assets. For example, if your beneficiary is poor at managing money you can distribute the income or capital of the trust in small instalments rather than one lump sum.

4. PROTECTING FAMILY MEMBERS WITH SPECIAL NEEDS OR SUFFERING FROM ILL HEALTH

Through a trust a financial provision can be made for family members who are unable to manage their own affairs and give you peace of mind that they will be financially secure.

5. ENSURING CASH IS AVAILABLE TO BENEFICIARIES BEFORE PROBATE IS GRANTED

Typically bank accounts are frozen on your death and cannot be accessed (with the exception of the payment of funeral expenses and inheritance tax) until probate is granted which can take months. To ensure your beneficiaries have funds available to them, a cash sum or life policy could be transferred to a trust. These assets would be outside of your estate and could be accessed before probate is granted (if you die within seven years of making the transfer inheritance tax may be payable on the value of the transfer).

The potential tax savings of setting up a trust shouldn't be over looked, however it is possible to transfer assets with large capital gains into a trust and hold over the gain so that no capital gains tax is payable until the asset is sold. Gifts to trusts may not be subject to inheritance tax if the value of the transfer is covered by your inheritance tax nil rate band, currently standing at £325,000 and you survive for seven years after the transfer.

Trusts have many uses and benefits and should not be overlooked as part of your overall planning strategy.

Tina Hall
Director

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LIFE INSURANCE: SHOULD I PUT IT IN A TRUST?

When it comes to planning your family's financial future, it makes good sense to take all steps possible to protect their standard of living. Arranging your life insurance in the right way - to give your loved ones the maximum possible benefit - is an important consideration. One option to consider when taking out life insurance is putting the policy into a trust.

This is surprising as, although this process isn't necessarily suitable for all people, it can be advantageous in the case of many. Do bear in mind that if you want to discuss the specific advantages of putting your life insurance policy into trust, you'll need to speak to an independent legal advisor.

WHAT IS A TRUST?

A trust allows you to set aside an asset to benefit a specified person or people (the beneficiaries). The asset is managed by a trustee or trustees until such time as the beneficiary is intended to benefit. For example, your spouse may look after property on behalf of your children until they reach a responsible age.

Life insurance policies are such an asset, and putting a policy into a trust can affect what happens to the payout from a policy in the event of your death.

Putting a life insurance policy into a trust is known as "writing life insurance in trust" or a policy is "written in trust".

The principal advantages to putting a life insurance policy into trust are as follows:

TRUSTS CAN HELP SIDESTEP INHERITANCE TAX

Under normal circumstances, the payout from a life insurance policy will form part of your legal estate, and may therefore be subject to inheritance tax.

By writing a life-insurance policy in trust, the proceeds from the policy can be paid directly to the beneficiaries rather than to your legal estate, and will therefore not be taken into account when inheritance tax is calculated.

This means the value of your estate may not move above the threshold, depending on your circumstances.

YOU DON'T NEED PROBATE TO BE GRANTED IN ORDER FOR THE POLICY TO PAY OUT

Writing a policy in trust also means payment to your beneficiaries will probably be quicker, as the money will not go through probate.

This is a legal process which confirms an executor's authority to deal with your possessions.
So, for example, if you leave everything to your spouse in your will, then your spouse will have to get probate granted before they can distribute your money, property and so on.

This process can take a long time, even when there is a will. In cases of intestacy (where there is no will), it can drag on for a lot longer.

However, if the life insurance policy is put into trust, then it can pay out before probate is granted, as the insurance provider will just require a death certificate before paying out.

YOU COULD GET GREATER CONTROL OVER YOUR POLICY

Writing life insurance in trust allows you to specify how you want the proceeds to be paid out. For example, trustees can be appointed to oversee money for the benefit of children under 18.

In addition, setting up a trust means that the payout will go to the people you intend it to.

DOES IT COST EXTRA?

No. Your insurance provider should be able to provide you with this option for free when taking out the policy.

Some existing life policies can also be transferred into trust. Although if you want to write a life insurance policy in trust, we suggest you speak to an independent legal advisor first.

NB: The Financial Conduct Authority does not regulate trusts, or Inheritance Tax Planning.

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Consultant

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HOW TRUSTS ARE TAXED

There are many different types of trust and each type has different tax implications. Set out below is a summary of the income tax, capital gains tax and inheritance tax implications arising on the main types of trust.

INCOME TAX

Unlike an individual, trusts are not entitled to a tax free personal allowance and generally there are no rate bands where different rates of tax become chargeable when a threshold has been met.

INCOME IN POSSESSION TRUSTS (IIP)

Income received by the trustees of an Interest in Possession trust is liable to flat rates of income tax at the basic rates as follows:

Non savings income	20%
Savings income	20%
Dividend income	7.5%

DISCRETIONARY TRUSTS

Income received by a discretionary trust is subject to the higher rates applicable to trusts of 45% for non savings and savings income and 38.1% for dividends. However, the first £1,000 of trust income is charged at the lower basic rates of 20% and 7.5%.

Please see the 'Income tax and UK Discretionary trusts' article for further details.

BARE TRUSTS

For tax purposes bare trusts are transparent and so all income received via a bare trust arrangement is treated as belonging to the beneficiary.

CAPITAL GAINS TAX (CGT)

Gains and losses on trust assets are calculated using normal principles, whereby the purchase price plus associated expenses are deducted from proceeds received on sale to arrive at a gain or loss.

Trustees are entitled to a tax free annual exemption of £5,850 on gains made during the 2018/19 tax year being half of an individual's entitlement of £11,700. However, this annual exempt amount is shared between the number of UK trusts settled by the same individual, with a minimum tax free amount of £1170 available to each trust being 10% of an individuals allowance.

Any gains are assessed on the trustees and all trusts pay CGT at 28%.

However, the much reduced Entrepreneurs Relief rate of 10% may apply to IIP trusts where the beneficiary has a qualifying interest in a business asset.

trusts may also be able to benefit from Principal Private Residence Relief, which exempts gains on the sale of an individual's main residence (home). This relief can extend to trust property where a beneficiary occupies residential property settled in trust as their only or main residence.

If you would like further guidance on CGT reliefs available to trusts, please get in touch.

INHERITANCE TAX (IHT)

For individuals transfers of assets into trust are chargeable lifetime transfers for IHT purposes and an IHT charge may arise. When trusts are created, assets are removed from an individual's estate and used to create a separate entity being a trust.

As assets are no longer subject to IHT charges in the individual's estate, trusts are subject to various IHT charges during their lifetime. A brief summary is set out below.

EXIT CHARGES

Exit charges arise where capital assets of the trust are distributed to a beneficiary.

An exit charge within the first ten years of a trust's existence is calculated using the initial value of trust assets settled on creation.

PRINCIPAL CHARGES

Principal charges arise on the current market value of trust assets at each ten year anniversary of the creation of the trust.

The IHT nil rate band (currently £325,000) reduces the chargeable assets in trust to calculate an effective rate of tax. The available IHT nil rate band is reduced for gifts by the Settlor during the seven years prior to the trust's creation and for any capital distributions within the last ten years.

The principal charge percentage is a maximum of 6% and is applied to the market value of trust assets held at the anniversary date.

IHT charges arising on trusts involve complex calculations so if you need further help or advice please contact us.

Lucy Allen
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INCOME TAX AND UK DISCRETIONARY TRUSTS

A trust is a separate taxable entity and as such if it receives taxable income then it is liable to an annual income tax charge. The rates of income tax are currently 45% for non-dividend income and 38.1% for dividend income.

TAX POOLS

Once the trust has paid the appropriate income tax based on the taxable income it has received, this income tax is added to a "tax pool". When the trustees make a discretionary payment of income to a beneficiary, that payment is deemed to have been made net of a 45% tax deduction, which is paid out of the tax pool.

When trustees make a payment, they must have enough income tax within the tax pool (from the current and previous tax years) to cover the 45% tax treated as deducted unless they are prepared to pay additional income tax (a "tax pool" charge). Such tax pool income tax charges can be prevented by planning distributions of income in advance of making such distributions. Therefore, a tax pool record needs to be maintained at each tax year end that is made up of any tax pool brought forward from earlier tax years, plus the income tax payable by the trustees in the tax year, less any tax credit to be allocated against distributions made to beneficiaries in the tax year.

DISTRIBUTIONS

When a beneficiary receives an income distribution, the trustees are obliged to issue an R185 tax certificate to that beneficiary as proof of the distribution and attached tax deduction.

Distributions from discretionary trusts are always treated as being made out of non dividend income and so the special trust rate of 45% will always apply to distributions.

Making such distributions to minor beneficiaries can be particularly useful, as generally this may be the only income they receive. That being the case, distributions can be planned so that most, if not all, of the 45% tax paid by the trust will be repaid.

EXAMPLE

A net distribution of £1,000 paid to a minor beneficiary of a discretionary trust will be credited with a tax credit of £818 from the trust funds tax pool. Provided this gross distribution of £1818 is covered by the minor's personal allowance (2018/19 - £11,850), the tax suffered by the trust will be refunded in full to the beneficiary.

Common practical applications of distributing income to minors is for grandparents to set up a trust to contribute and support their grandchildren's education by making distributions to pay for private school tuition or to help fund them through university.

Furthermore, with the right distribution planning, even if the trustees find themselves liable to a tax pool charge, the beneficiaries may get that income tax repaid to them.

Louise Osborne
Partner

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PROFILING ALBERT GOODMAN STAFF

CHRIS BAKER (MANAGER)

Chris has been a longstanding member of our Yeovil Tax Team, as Tax Manager and has recently transferred to our Weymouth office to be closer to his new home on the Jurassic Coast.

1. WHAT IS IT LIKE WORKING IN THE WEYMOUTH OFFICE?

I have been made to feel very welcome by all and I am now starting to get to grips with the tax work in the office.

2. HOW DID YOU GET INVOLVED IN A CAREER IN TAX?

It's a long story, but the short version is having spent a few years delivering new boats to their owners around the UK and Europe on returning home after one such trip with another pile of dirty laundry was told by Mother , "to get a proper job". I had qualified as an Engineer but could not find work so sat the Civil Service exam hoping to be placed at the VAT office in Southend-on-Sea where a lot of my friends worked (the flexibility of the job meant plenty of free time for sailing). Unfortunately, I got the Inspector-of- Taxes, Southend 3 District and so my career in taxes began. I am not saying how long ago that was before you ask!

3. WHAT'S YOUR MAIN AREA OF EXPERTISE AND WHAT DO YOU ENJOY ADVISING CLIENTS ON?

My main areas of expertise are in income tax, capital gains tax and inheritance tax, whether for individuals or trusts, and, any of those areas give satisfaction if the clients are happy.

4. I HEAR YOU ARE AN AVID SAILOR AND REGULARLY GO TO THE GYM. WHAT ELSE DO YOU GET UP TO IN YOUR SPARE TIME?

Nosy aren't you! Well, in addition to the above I do also play competitive badminton for the Bridport Royals Club, I have a love of music whether playing any of my guitars (wife Su saying, "why do you need so many?") or listening to music (a massive vinyl/CD and tape collection). When I have the time, I like walking the dogs and eating out too.

5. IF YOU WEREN'T A TAX ADVISOR, WHAT WOULD YOU BE?

A well paid competitive sailor would be nice. Alternatively, I always wanted to be a postman!

Chris Baker
Manager

PROFILING ALBERT GOODMAN STAFF

GEORGE HARVEY (ATT TRAINEE)

George joined the Weymouth Tax Team in 2016 after completing his A Levels. He is currently studying to be a tax technician under an apprenticeship scheme.

1. HOW ARE YOUR ATT STUDIES GOING AND WHY DID YOU WANT TO PURSUE A CAREER IN TAX?

My studies have been going well and I have enjoyed attending the taught courses in Bristol, which was a completely new city for me when I went up there for my first course. It has been great to learn about some more complex aspects of personal tax that I haven't come across yet in practice. I have an analytical brain and I enjoy solving problems, qualities which I think fit in well with a tax career.

2. HOW IS LIFE IN THE NEW PURPOSE BUILT, OPEN PLAN WEYMOUTH OFFICE?

The new building is really modern. It's a lot more open than our old office and it's easier for everyone to work collaboratively. The transition was smooth; it feels like we've been here for years!

3. HOW DO YOU FEEL ABOUT THE TECHNOLOGICAL ADVANCES THAT ARE BECOMING VERY PROMINENT IN THE TAX AND ACCOUNTING WORLD?

Technology in the work place is advancing all the time, and it's all about improving efficiency. You have to be adaptable and embrace any changes. Day to day work now is completely different to how it was when I started at AG, mostly thanks to the modern working environment in Weymouth and the recent introduction of Virtual Cabinet. With Making Tax Digital being phased in over the next few years, we will have to wait and see how this affects us as tax advisers and accountants!

4. WHAT HAVE YOU ENJOYED MOST ABOUT WORKING IN TAX SO FAR?

I enjoy being a part of the tight-knit tax team that we have in Weymouth. We all bounce ideas off of each other and contribute to the overall success. Office life was completely new to me when I started, so everything has been a learning curve, not just studying tax itself. I enjoy having a professional job; it was a huge jump from studying A-Levels at sixth form.

5. YOU ARE KNOWN FOR BEING A KEEN CHERRIES FAN (AFC BOURNEMOUTH), HOW DO YOU FIND TIME TO FIT FOOTBALL IN AMONGST YOUR STUDIES?

Studying is important but it is equally important to spend some time winding down. I try to focus during the week so that I can enjoy Saturday; I go to a lot of the games with my Dad and brother. AFCB have been moving in the right direction since I've been at AG, so I hope that carries on. Up the Cherries!

George Harvey
ATT Trainee

TAUNTON | BRISTOL | BRIDGWATER | BURNHAM-ON-SEA
CHARD | WEDMORE | WESTON-SUPER-MARE | WEYMOUTH | YEOVIL

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