Information Sheet: Why Create a Trust?

Trusts are one of the most efficient means of controlling and protecting income and capital, and making substantial tax savings. This applies not only to the well off but also to with limited wealth. They are an excellent way of passing assets to beneficiaries during your lifetime in a controlled environment and protecting the beneficiaries from such risks as divorce, bankruptcy and financial imprudence. You can be a trustee of your own trust meaning that you can decide how, when and to whom to distribute the trust assets.

Carefully worded trusts can ensure both substantial savings and security. Whether the funds involved relate to a gift, to retirement planning, to inheritance, to divorce settlements or to providing for the physically or mentally incapacitated, trusts can be used to great effect and offer far more flexibility than outright gifts.

Make Trusts Work for You

Provide for Your Family

Trusts can be used to provide future security for a surviving spouse or partner, for children and future generations and for disabled or vulnerable people. They may also be used to protect property against the cost of long-term care for a surviving spouse in later life and to protect property for children should a surviving spouse re-marry. Trusts can also enable advantage to be taken of children's tax allowances.

Too Much Too Young

An outright gift could result in large amounts of capital going to the beneficiaries when they are still very young and possibly irresponsible. A trust can be set up rationing the availability of income or capital.

Children cannot inherit before reach the age of eighteen. An 18 to 25 Trust can hold the capital for children until they reach the age chosen by their parents for them to inherit. In the meantime the Trustees can use the trust assets to pay for the children's upkeep, maintenance and education..

Divorce

Assets held within a trust can afford some protection in divorce claims.. The courts do not usually have the power to terminate the settlement, to force the trustees to benefit the divorcing spouse.

Disability

A mentally or physically impaired beneficiary may have particular need of the safeguards provided by a trust. The wording of the trust can help ensure the beneficiary maximises their entitlement to state benefits.

Inheritance Tax Planning

If you are living with a partner as an unmarried couple then you may need a trust to mitigate against Inheritance Tax (IHT). IHT is the tax on your estate after your death. IHT is no longer just a concern for the seriously wealthy. With the increase in property prices and the current threshold of £325,000 (including the home), it is now affecting even those with relatively modest means.

Subject to various complex reliefs and exemptions, assets in excess of this threshold are taxed at 40%. However, unlike most other taxes, careful planning can limit the amount of tax payable, and maximise the amount paid to family and friends.

Discretionary Trusts

Discretionary trusts are a useful means of protecting assets for the family.

Private Pensions & Life Policies

The use of Private Pensions and Life Policies that are written in trust can ensure that the pension fund does not form part of your estate for Inheritance Tax and can be passed on in full to your chosen beneficiaries.

Lifetime Gifts

Lifetime gifts can be put into certain trusts on an extremely tax efficient basis, whilst the donor retains some control of the gift. For instance a Lifetime Gift is advantageous for IHT purposes but a Trust may be needed to control the release of the capital.

Capital Gains Tax

You can place any asset in trust but you will need to have regard to Capital Gains Tax. Inherent capital gains in such assets as buy to let properties and share portfolios can be held over (deferred) to the trust, and the CGTcan be paid when the assets are realised. Often, the trustees can appoint assets out of the trust to the beneficiaries, who can then liquidate the assets, taking advantage of lower rates in CGT and capital gains tax allowances.

For inheritance tax purposes, you must survive for the period of seven years for the value of the assets settled in the trust to fall outside your estate. You can only settle up to £325,000 in trust in any seven year period without incurring CGT.

Trusts pay CGT at the rate of 28% and income tax at 50%. However with considered advice and careful planning a charge to these higher rates can be avoided.

Life Insurance Trusts

It is vital to ensure that any life insurance linked to Inheritance Tax mitigation is written in trust – otherwise the policy proceeds could be subject to 40% tax. Whilst life insurance companies usually provide printed forms, care is required in using them as they do not always use the most appropriate trust structure. If such forms are not carefully worded they may achieve little.