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USING A TRUST TO CUT YOUR INHERITANCE TAX – INFORMATION FOR CLIENTS
Walsh West Private Client Legal 2021

Using a trust to cut your inheritance tax

What is a trust?

A trust is a legal arrangement where you give cash, property or investments to someone else so they can look after them for the benefit of a third person.
So, for example, you could put some of your savings aside in a trust for your children.
There are two important roles in any trust that you should understand before you read on.

- The **trustee** is the person who owns the assets in the trust. They have the same powers a person would have to buy, sell and invest their own property. It's the trustees' job to run the trust and manage the trust property responsibly.
- The **beneficiary** is the person who the trust is set up for and is usually unable to manage the trust assets for themselves because they are too young or they are not good at managing their own money. The assets held in trust are held for the beneficiary's benefit.

What does a trust do?

A trust can be a good way to cut the tax to be paid on your inheritance, but you need professional advice to get it right. Always talk to a solicitor/independent financial advisor.
If you put things into a trust then, provided certain conditions are met, they no longer belong to you.

This means that when you die their value normally won't be counted when your Inheritance Tax bill is worked out.

Instead, the cash, investments or property belong to the trust. In other words, once the property is held in trust, it's outside anyone's estate for inheritance tax purposes.

Another potential advantage is that a trust is a way of keeping control and asset protection for the beneficiary; a trust avoids handing over valuable property, cash or investment whilst the beneficiaries are relatively young or vulnerable.

The trustees have a legal duty to look after and manage the trust assets for the person who will benefit from the trust in the end.

When you set up a trust you decide the rules about how it's managed. For example, you could say that your children will only get access to their trust when they turn 25.

What types of trust are there?

There are several types of trust.

Setting up a basic trust might have minimal cost. Whilst others are more complex to set up and would require more specialist advice, resulting in a more substantial cost.

Some trusts are subject to their own inheritance tax regimes. So when the assets have successfully been transferred into trust, they are no longer subject to Inheritance Tax on your death.

Others pay income and capital gains tax at higher rates, so it is important to know what type of trust you have.

The kind of trust you choose depends on what you want it to do. Here are some of the most common options:

- **Bare trust** – this is the simplest kind of trust. It just gives everything to the beneficiary straight away as long as they're over 18.

- **Interest in possession trust** – the beneficiary can get income from the trust straight away, but doesn't have a right to the cash, property or investments that generate that income. The beneficiary will need to pay income tax on the income received. You could set up this kind of trust for your partner, with the understanding that when they die the investments in the trust will pass to your children. This is a popular trust structure used in the will of a person who remarries after divorce, but has children from the first marriage.

- **Discretionary trust –** the trustees have absolute power to decide how the assets in the trust are distributed. You could set up this kind of trust for your grandchildren and leave it to the trustees (who could be the grandchildren's parents) to decide how to divide the income and capital between the grandchildren. The trustees will have the power to make investment decisions on behalf of the trust.

- **Mixed trust** – combines elements from different kinds of trusts. For example, a beneficiary might have an interest in possession (ie, a right to the income) of half of the trust fund. The remaining half of the trust fund could be held on discretionary trust.

- Trust for a vulnerable person – if the only one who benefits from the trust is a vulnerable person (for example, someone with a disability or an orphaned child) then there's usually less tax to pay on income and profits from the trust.

- Non-resident trust – a trust where all the trustees are resident outside the UK. This can sometimes mean the trustees pay no tax or a reduced amount of tax on income from the trust.

Want to set up a trust?

You can set up a trust right now or write one into your will.

When you set up a trust you need to clearly state:

1. what the assets of the trust are
2. who the trustee and beneficiaries are
3. when the trust becomes active - is it immediately, or only when you die?

When many people set up a trust in their will, they name the executor of the will as the trustee, but you don't have to do this.

For help and advice with Estate Planning including Lasting Powers of Attorney, Wills, Trusts and Probate; call our team on 0203 488 7503, 01992 236 110 or contact us by email at welcome@walshwestcca.com or via our website www.walshwestcca.com