

Trusts

A trust is a legal entity under which the trust assets are held by trustees on behalf of the beneficiaries of the trust. A trust is usually created via a formal trust deed.

Gifts to trusts can be used for IHT planning purposes as an alternative to outright gifts. Trusts can usually be tailored to suit most donors' wishes and are often set up to benefit and/or protect very young or disabled or otherwise vulnerable beneficiaries.

Each type of trust has its own tax régime and it is advisable to compare and contrast these before deciding which type of trust to use.

There are four basic forms of trust, as below:

Bare trust – where the beneficiary is entitled to the trust capital and income and where the trustee is effectively holding as a mere nominee for the beneficiary.

A gift to a bare trust that is not otherwise exempt is a potentially exempt transfer (PET).

Interest in possession (IIP) trust – where a beneficiary is immediately entitled to the trust's income (whether for life or until the occurrence of an event specified in the trust deed). The trust will either specify what is to happen to the trust capital and income after the income beneficiary's entitlement has ended or will give the trustees discretionary powers in this respect.

A gift to an IIP trust that is not otherwise exempt is a PET.

Discretionary (flexible) trust – where a class of beneficiaries is specified in the trust deed, but where no-one is entitled to the trust capital or income unless and until the trustees so decide.

A gift to a discretionary trust that is not otherwise exempt is a lifetime chargeable transfer and could give rise to an immediate liability for IHT.

Accumulation and maintenance (A&M) trust – where no-one is entitled to the trust income but where one or more beneficiaries will become so entitled on or before attaining age 25 and where the primary beneficiaries are grandchildren of a common grandparent. The trustees usually have discretionary powers over the trust capital until beneficiaries become entitled to the trust income and sometimes afterwards.

A gift to an A&M trust that is not otherwise exempt is a PET.

Before embarking on any inheritance tax planning, you should take professional advice tailored to your particular circumstances.

Please contact Paul Tobias or Shaun Parry-Jones for further information.