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Trust planning guide

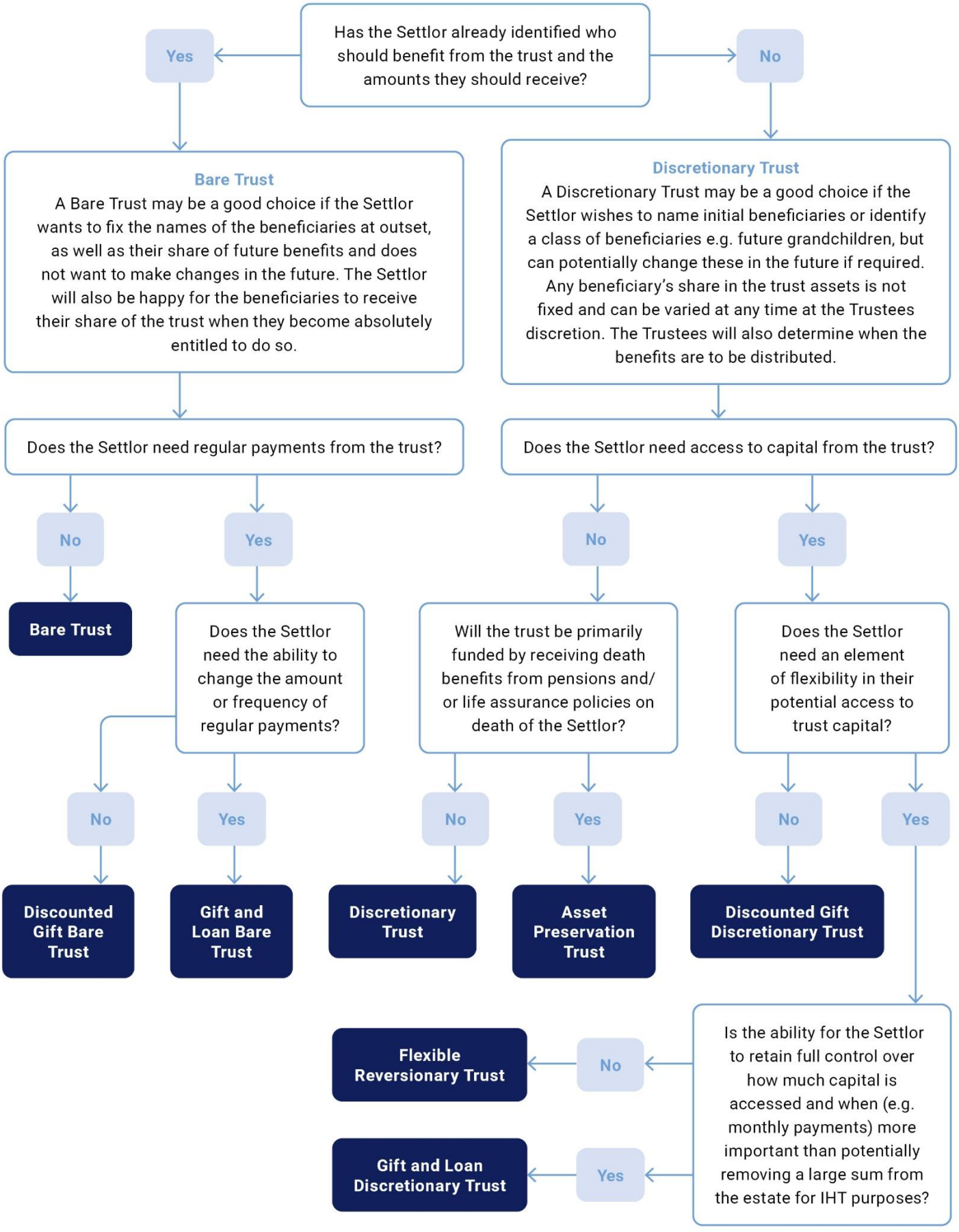
This trust planning guide can be used to help identify the type of trust best suited to your client and their situation.

The key points and typical uses of each type of trust are then detailed in subsequent sections within this document.

Please note that this document and guide does not constitute tax, trust or legal advice.

The circumstances and estate-planning requirements of each Settlor are unique and it is the responsibility of the Settlor and his/her professional advisers to consider the full circumstances of the Settlor and obtain the appropriate tax and trust advice where relevant.

The tax treatment of trusts is subject to tax legislation, case law, HMRC rules and regulations which are subject to change. Transact strongly recommends professional advice is sought for all persons who embark on trust, tax and wealth planning, however it must be appreciated that Integrated Financial Arrangements Ltd, the operator of Transact does not accept responsibility (liability) for any loss, however caused or suffered by any person who uses this guide


Has the Settlor already identified who should benefit from the trust and the amounts they should receive?
Yes
No
Bare Trust
A Bare Trust may be a good choice if the Settlor wants to fix the names of the beneficiaries at outset, as well as their share of future benefits and does not want to make changes in the future. The Settlor will also be happy for the beneficiaries to receive their share of the trust when they become absolutely entitled to do so.
Discretionary Trust
A Discretionary Trust may be a good choice if the Settlor wishes to name initial beneficiaries or identify a class of beneficiaries e.g. future grandchildren, but can potentially change these in the future if required. Any beneficiary's share in the trust assets is not fixed and can be varied at any time at the Trustees discretion. The Trustees will also determine when the benefits are to be distributed.
Does the Settlor need regular payments from the trust?
Does the Settlor need access to capital from the trust?
No
Yes
No
Yes
Bare Trust
Does the Settlor need the ability to change the amount or frequency of regular payments?
Will the trust be primarily funded by receiving death benefits from pensions and/ or life assurance policies on death of the Settlor?
Does the Settlor need an element of flexibility in their potential access to trust capital?
No
Yes
No
Yes
No
Yes
Discounted Gift Bare Trust
Gift and Loan Bare Trust
Discretionary Trust
Asset Preservation Trust
Discounted Gift Discretionary Trust
Is the ability for the Settlor to retain full control over how much capital is accessed and when (e.g. monthly payments) more important than potentially removing a large sum from the estate for IHT purposes?
No
Yes
Flexible Reversionary Trust
Gift and Loan Discretionary Trust

Bare Trust

Key points:

- Trust is set up with a gift from the Settlor which is held by the Trustees.
- Gift is a potentially exempt transfer and will fall outside of the Settlor's estate after seven years.
- Trust fund is entirely for named beneficiaries.
- Beneficiaries are chosen at outset and cannot subsequently be changed or added to.
- Adult beneficiaries can have immediate access to the trust fund.

Typical uses

- Trust funds set up for specific children or grandchildren, accessible when they reach 18 (16 in Scotland).
- The trust fund can be used for a variety of purposes such as university fees, car, deposit for first house, gap year etc.

Discounted Gift Bare Trust

Key points:

- Trust is set up with a gift from the Settlor which is held by the Trustees.
- Gift is normally discounted for Inheritance Tax ("IHT") purposes following underwriting subject to the Settlor's health and personal circumstances.
- Discounted gift is a potentially exempt transfer for IHT and will fall outside of the estate after seven years.
- The Settlor retains the right to periodic payments from the trust that have a set frequency and amount. These payments will continue for the lifetime of the Settlor, or until the trust fund is extinguished if this occurs first.
- Settlor decides at outset who the beneficiaries are.

Typical uses:

- Older/retired individuals who want to reduce the value of their estate immediately by the value of the discount and who require an 'income'.
- On death of the Settlor the remaining trust property will continue to be held on trust for the beneficiary/ies specified within the deed.

Gift and Loan Bare Trust

Key points:

- Trust is set up with a gift followed by an interest-free loan to the Trustees.
- Gift is a potentially exempt transfer and will fall outside of the Settlor's estate after seven years.
- Capital growth will be outside of the estate for IHT purposes.
- Settlor retains access to the loan and can take repayments at any time.
- Any outstanding loan on death remains part of the estate.
- Settlor decides at outset who the beneficiaries are.

Typical uses:

- The sum of the gift and loan is commonly invested into a bond. An advantage of this is that loan repayments can be set up to fall within the annual tax deferral allowance (5% of the bond premium).
- On death of the Settlor the outstanding loan amount is paid to the estate and the remaining trust property will continue to be held on trust for the beneficiary/ies specified within the deed.

Discretionary Trust

Key points:

- Trust is set up with a gift from the Settlor which is held by the Trustees.
- Gift is a chargeable lifetime transfer. A gift in excess of the nil-rate band is likely to trigger an immediate IHT liability. Further IHT may apply if the Settlor dies within seven years of making the gift.
- Trust fund is held entirely for the benefit of the beneficiaries and the Settlor cannot benefit at all.
- Settlor has the option of writing a non-binding letter of wishes to the Trustees.
- Only the Trustees can decide who can benefit, when and the amount.

Typical uses:

- Minimises IHT exposure on death of high-value clients.
- Nil-rate band planning i.e. the Settlor gifts £325k from their assets which is put into a trust fund.
- After seven years another £325k could be gifted into trust without triggering an immediate IHT liability.
- The trust fund can be used for a variety of purposes such as education/maintenance of current and future grandchildren, bloodline protection against divorce, remarriage etc.

Asset Preservation Trust (APT)

Key points:

- Trust is set up to receive death benefits from a pension or insurance policy.
- On death, life assurance, death in service and/or proceeds of a pension fund are paid into a trust rather than to an individual (e.g. spouse).
- The Trustees have absolute discretion as to who is to benefit from the trust assets and to what extent (subject to the terms of the trust deed).
- In addition to the trust deed, there is normally a non-binding letter of wishes written to the Trustees and a guidance letter to the pension/life company telling them where the Settlor would like them to direct funds on death.

Typical uses:

- Minimises IHT exposure on death of high-net-worth clients.
- Death benefits can be paid to the trust and a beneficiary can receive advances of income and/or capital or loans from the trust.
- As benefits can be large, an APT can preserve the value of the Residential Nil-Rate Band which is eroded on estates above £2m.
- The trust fund can be used for a variety of purposes such as education/maintenance of current and future grandchildren, bloodline protection against divorce, remarriage etc.

Discounted Gift Discretionary Trust

Key points:

- Trust is set up with a gift from the Settlor which is held by the Trustees.
- Gift is normally discounted for IHT purposes following underwriting subject to the Settlor's health and personal circumstances.
- Gift is a chargeable lifetime transfer. A gift in excess of the nil-rate band is likely to trigger an immediate IHT liability. Further IHT may apply if the Settlor dies within seven years of making the gift.
- The Settlor retains the right to periodic payments from the trust that have a set frequency and amount. These payments will continue for the lifetime of the Settlor, or until the trust fund is extinguished if this occurs first.
- Only the Trustees can decide who benefits, when, and the amounts on death.

Typical uses:

- Older/retired individuals who want to reduce the value of their estate immediately by the value of the discount and who require an 'income'.
- On death of the Settlor the remaining trust property will be distributed at the discretion of the Trustees.
- The trust fund can be used for a variety of purposes such as education/maintenance of current and future grandchildren, bloodline protection against divorce, remarriage etc.

Gift and Loan Discretionary Trust

Key points:

- Trust is set up with a gift followed by an interest-free loan to the Trustees.
- Gift is a chargeable lifetime transfer. A gift in excess of the nil-rate band is likely to trigger an immediate IHT liability. Further IHT may apply if the Settlor dies within seven years of making the gift.
- Capital growth will be outside of the estate for IHT purposes.
- Settlor retains access to the loan and can take repayments at any time.
- Any outstanding loan remains an asset of the estate on death of the Settlor.
- Only the Trustees can decide who benefits, when, and the amounts.

Typical uses:

- The sum of the gift and loan is commonly invested into a bond. An advantage of this is that loan repayments can be set up to fall within the annual tax deferral allowance (5% of the bond premium).
- On death of the Settlor the outstanding loan amount is paid to the estate and the remaining trust property will be distributed at the discretion of the Trustees.
- The trust fund can be used for a variety of purposes such as education/maintenance of current and future grandchildren, bloodline protection against divorce, remarriage etc.

Flexible Reversionary Trust

Key points:

- Trust is created by the Settlor using a bond as a gift.
- Gift is a chargeable lifetime transfer. A gift in excess of the nil-rate band is likely to trigger an immediate IHT liability. Further IHT may apply if the Settlor dies within seven years of making the gift.
- A schedule on the trust deed sets out a table of 'Policy Funds' and their vesting dates. If a Policy Fund is permitted to vest, it reverts to the Settlor and can be paid out to them.
- Rather than allowing a Policy Fund to vest, the trustees could instead opt to defer the vesting date to a future year or defeat a reversion (in which case it can no longer be accessed by the Settlor).
- There must be at least one independent trustee. We strongly recommend that employing the services of a professional trustee be considered.

Typical uses:

- The Settlor applies for an offshore or onshore bond and directs that it be issued in the name of the trustees.
- As a vesting date approaches, if the Settlor has need for capital back from the trust, then the trustees could allow the reversion to occur and pay out the Policy Fund to them.
- Alternatively, if the Settlor does not need access to capital at that time, then the trustees could defer the vesting date.
- Policy Funds can be deferred more than once. The general idea is that deferral will be the most common option chosen by the trustees, certainly in the early years of the trust.
- After the death of the Settlor, the non-vested Policy Funds within the trust are held for the trust beneficiaries.

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