USE OF TRUST

OUR SERVICES

For a very, very, long time, the use of trusts has featured extensively in tax, commercial and domestic management. They have a long list of roles to play, and they exist institutionally in all sorts of places (a registered pension fund is a trust, for example).

Despite a radical reform of trust taxation back in 2006 (which put a bit of a dent in the overall advantageous position of trusts), these entities remain exceptionally important in tax management, and they continue to be used extensively in intelligent estate planning.

Fundamentally, a trust is a separate legal entity into which assets can be placed (by a "settlor") for the benefit of specific parties ("beneficiaries") under the control and direction of specified persons ("trustees"). At a glance it is quite easy to appreciate why a trust ownership structure can be conducive to a lot of sound financial management, like providing for children, for vulnerable parties, for charitable purposes, etc.

As separate legal entities, trusts are subject to their own taxation rules (and wider trust law) which covers virtually all the things that individuals are typically subject to – Income Tax, Capital Gains Tax, Inheritance Tax (and so on) but in different ways, very different ways.

Below we outline just a few of the various uses of trusts (from general to specific) to provide a flavour of the diverse purposes to which trusts are applied in ASWATAX's advisory work.

ASWATAX
BESPOKE TAX ADVICE

Chartered Tax Adviser

INHERITANCE TAX GENERALLY

Subject to the specific features of the trust in question, assets transferred into, or retained in, a trust are typically outside any individual's taxable estate for Inheritance Tax ("IHT").

A trust is subject to its own IHT regime which is generally much more benign and more manageable than that of an individual.

Accordingly trusts are used extensively in IHT planning and they often contribute, of course, to an integrated estate plan which endeavours, inter alia, not to have 40% of its fund value sliced away by Government upon the occasion of a death.

Trusts and IHT is a large area of tax law and tax planning, but the above represents one fundamental taxation objective for which trusts play an important role.

WILL PLANNING

Building upon what is written above, Will planning, which inevitably includes an eye on immediate and longer term IHT issues, often takes advantage of Will trusts (trusts set up upon the occasion of a death), especially for the first death of a married couple or civil partnership.

Aside from protective purposes (e.g. ensuring that assets are used only for the bloodline) the trust facility can be arranged to take advantage of certain key IHT exemptions (e.g. the spousal exemption or the 100% relief known as Business Property Relief) which facilitate strong IHT management for the surviving spouse / partner, in ways which can ensure that the survivor is not prevented from access to the relevant funds, for their own security and protection, in the meantime.

CAPITAL GAINS TAX MITIGATION

Trusts can play a very helpful role in managing Capital Gains Tax ("CGT") exposures, particularly in relation to assets standing at a gain which individuals want to pass down the generations, for example. Routing assets, up to certain value thresholds into (or even "through"), a trust, can take advantage of a held over CGT position (i.e. at no CGT cost until an ultimate disposal by the trustees or the family members to whom the asset is transferred).

This can be a very powerful and convenient tool for tax planning in conjunction with effective IHT and Estate Management.

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