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NEW UPDATES

A Professional's Guide to Estate Planning

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The latest practical and technical information for professionals connected to estate planning

Second Edition

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A Professional's Guide to

Estate Planning

EDITORIAL
Lisa Best
Jonathan Minter

CREATIVE
Mar Alvarez

SUB-EDITING
Lisa Best
Jonathan Minter

RESEARCH
Lisa Best
Alan Sheehan

MARKETING
Carlo Nassetti
Lisa Best

PRINT
Palina Limited

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Learning Objectives

After reading the Guide professionals will be able to:

- Describe the range of estate planning options that are available
- Evaluate estate planning advice their clients have received
- Identify key aspects that need to be taken into account when considering engaging with estate administration
- Explain how working with professional connections can aid in intergenerational wealth planning
- Define the main terms and rules that apply in the Inheritance tax arena

After you have reviewed this publication and before we fulfill your CPD certification request, we will be requesting your feedback on it. Your collaboration will assist us to enhance the learning activity, and will inform improvements to future publications. Information about claiming CPD can be found at the back of this guide.

Introduction

Welcome to the second edition of the Professionals Guide to Estate Planning. It has been updated with the latest developments that impact estate planning, as well as the rules and regulations that apply. While the majority of arrangements set out in this Guide can generally only be accessed through a duly authorised financial adviser, the content has been designed to ensure it is also accessible to professionals, particularly solicitors and accountants looking to engage with their clients on estate planning solutions. You will note that, in an attempt to be more environmentally friendly and to save you from unnecessary reading, where there have been no changes in a particular estate planning area since our first edition, we either refer you back to that edition or provide a shortened summary. We have, however, expanded the glossary. It remains a concise and impartial reference document, now refreshed with new thought leadership perspectives, case studies that illustrate additional planning ideas and added sections considering the intersection with intergenerational planning and how estate planning and estate administration can interact.

For more specific guidance on Business Relief (BR), we have a regularly updated Advisers Guide to Business Relief as well as a BR Quarterly Update, with market analysis and provider and adviser discussions. Both are available free of charge from Intelligent Partnership.

Acknowledgements

A publication like this is rarely the product of one organisation's efforts: to ensure that it is up to date, comprehensive, accurate and captures all of the key issues requires an industry wide initiative.

We've had plenty of help producing this Guide and would like to thank Dave Robinson, director of Centurion Chartered Financial Planners.

We are also very grateful to Richard Bertin, Charlotte Coyle, Susan Dalton, Julia Dreblow, Tish Hanifan, Corin Holness, Andrea Jones, Dave Seager and Natalie Wright. Their input is invaluable. but needless to say, any errors or omissions are ours.

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GUY TOLHURST

MANAGING DIRECTOR, INTELLIGENT PARTNERSHIP

Opening Statement

The first edition of this guide focused strongly on the increasing opportunities and drivers fostering a more collaborative approach to estate planning and how financial advisers, solicitors and accountants in particular can engage to provide the best outcomes for their clients and their businesses.

The reasons for working in this area have certainly not receded. In fact, the increasing amount of intergenerational wealth being transferred, as well as annually increasing IHT receipts (despite the small, but short-lived drop in IHT take in 2019/20) makes it even more important for professionals to get up to speed and remain up to date with developments in estate planning.

That's why this second edition of the guide not only updates the rules and technicalities that have changed since our first edition, but also gives you updates on some of the changes that could impact your professional connections, as well as considering issues beyond traditional estate planning. like equity release and estate administration. Estate administration in particular, the process of handling a person's legal and tax affairs after they die, including investments and paying inheritance tax – is another area which can benefit greatly from a more holistic proposition.

Without the involvement of the financial adviser that recommended the investments and did the tax planning, there is a genuine possibility of the lawyers and accountants involved in the probate and estate administration services undermining the hard work done to protect the deceased's estate. Greater professional collaboration here is a no-brainer for clients and beneficiaries and very likely a commercial positive for the professionals involved, but how do you remain involved after the death of your client? Why and how should estate administrators encourage your continued engagement? And how does each party avoid conflicts of interest?

Of course, any tax and estate planning advice now needs to be taken within the context of Covid-19 and its fall out demographically, economically and in terms of legislation and changing client attitudes, not to mention the Brexit agreement. But the lesson is that the future is just as unknown as it has always been and the drivers for estate planning are stronger than ever.

This second edition aims to give you the latest practical insights and expert thought leadership to consider the options from a position of knowledge and understanding. We hope that you find this edition of the guide helpful and informative and encourage you to share it with like-minded professionals.

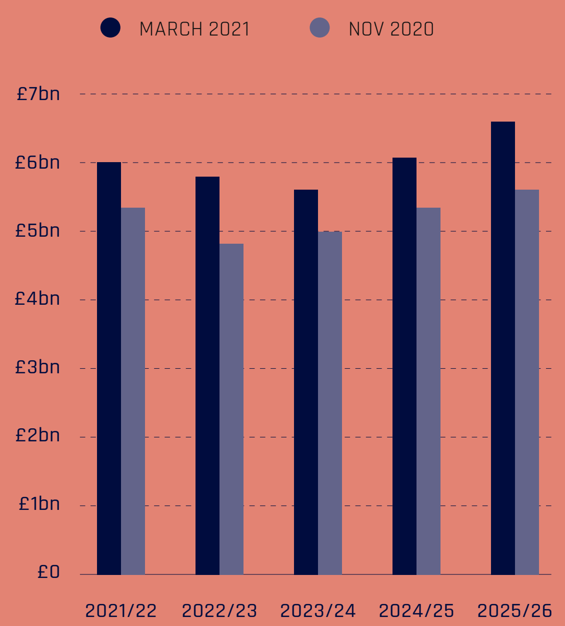
The Context of Estate Planning

1.1

Setting the scene

A summary of the main IHT rules and allowances that currently apply can be found in the appendix of this Guide. This section focuses on the factors which are shaping the growing demand for estate planning and have created a wide range of needs and planning scenarios.

OBR IHT PROJECTIONS



SOURCE: OFFICE FOR BUDGET RESPONSIBILITY

IHT Receipts

IHT receipts have generally been on the rise for a decade, although figures for 2019/20 showed a small drop from the previous year as the impact of the residence nil rate band (RNRB) finally filtered through after its introduction in 2017/18. However, the increases planned from 2021/22 for the nil rate band (NRB) and RNRB were cancelled because of Covid-related budgetary issues. This would have been the first rise in the conventional NRB for over a decade, but that is now delayed for at least five more years. This leaves asset price growth and inflation unchecked on their inevitable path to taking more estate values into the realms of IHT liability. Having said that, the planned increases to both the NRB and RNRB would only have been at 0.5%, just a fraction of the 8.5% by which house prices, a major driver for rising IHT receipts, grew over the year to December 2020 (Office for National Statistics).

Partially thanks to this, but also as a result of the restrictions that apply, even the RNRB will only temporarily slow the growth in the amount of IHT collected. So, mitigating IHT is no longer just a problem for the very wealthy, but now affects the mass affluent as well.

According to HMRC, IHT receipts were £5.2 billion in 2019/20, still the second highest on record. Unsurprisingly, pre-Covid IHT projections have been impacted by the pandemic. Interesting comparisons can be drawn between the Office for Budget Responsibility's (OBR) November 2020 and March 2021 projections, bearing in mind the March figures take into account both the progress of a vaccination programme and positivity about coming out of lockdown and the newly announced measures to freeze IHT, income tax and capital gains tax (CGT) thresholds and allowances for the next five years.

The March 2021 projections expect that, even in 2022/23 and 2023/24, when IHT receipts are forecast to dip, the receipts will be 7% and 6% respectively above the current record year of 2018/19 at £5.4bn.

UK Demographics

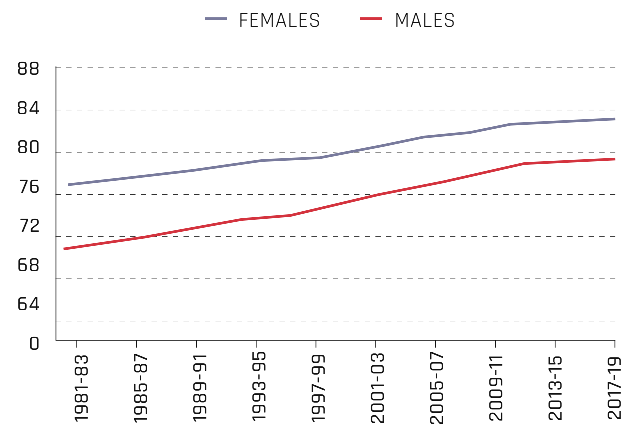
Analysis published by the (ONS) in August 2019 found a shift in the age structure of the UK: In 1998, around one in six people were 65 years and over (15.9%), this increased to one in every five people in 2018 (18.3%) and was projected to reach around one in every four people (24.2%) by 2038. While this has been impacted by Covid-19, the longer term trends still support the notion of a population that has significantly longer life expectancy than has historically been the case.

Life Expectancy

Life expectancy due to medical and lifestyle changes has been increasing for decades, meaning our pensions and investments have needed to last longer. In 2019, projected that life expectancy at 65 was forecast to reach 24.4 years for men and 26.2 years for women by 2068. However, this progress has been abruptly interrupted by the effects of Covid-19.

Research published by Oxford University in July 2020 suggested that Covid-19 has had an immediate and detrimental impact, with women born in the first half of 2020 expected to live 81.8 years compared to 83.5 years for those born in 2019 and men born in the first half of 2020 forecast to live for 78 years compared to 79.9 years for those born in 2019. But, while the unprecedented nature of Covid-19 is still difficult to predict, advancements in health care, including of course the multiple vaccines to combat Covid-19 and accelerated changes to how we live, continue to point to a resumption in the extension of life expectancy when the pandemic is under control. We need to take this into account when planning how much money clients need to fund their retirements. The freezing of the pensions lifetime allowance (LTA) at £1,073,100 for five years in the 2021 budget, will make it even more difficult for savers to accrue enough pension to support a comfortable retirement.

LIFE EXPECTANCY AT BIRTH, UK (1980-19)



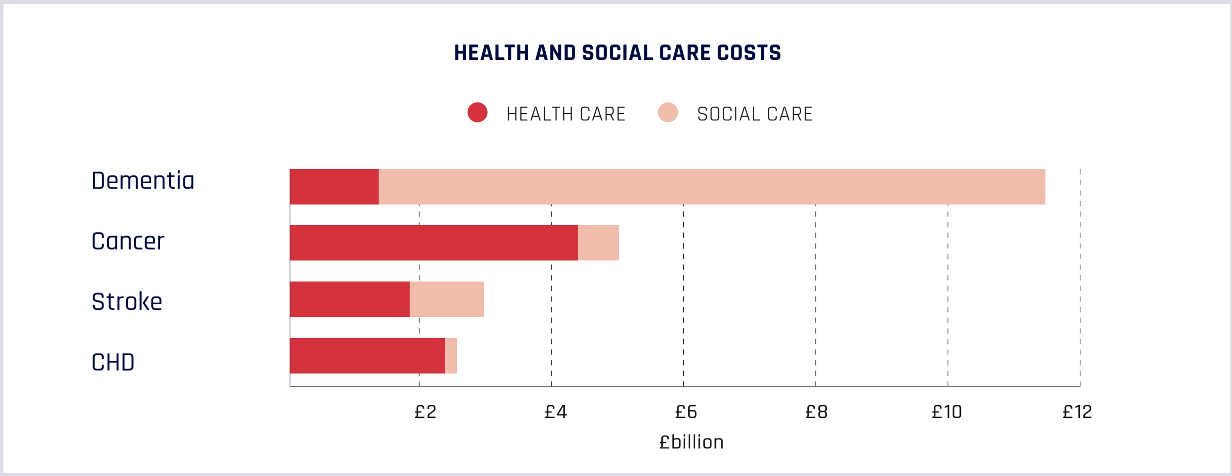
SOURCE: OFFICE FOR NATIONAL STATISTICS - NATIONAL LIFE TABLES

Dementia

According to the Alzheimer's Society there are 850,000 people living with dementia in the UK. One in every 14 of the population aged 65 years and over has dementia and the number of people with dementia in the UK is forecast to increase to over 1 million by 2025 and over 2 million by 2051.

Research is also now underway into the growing evidence of the impact of Covid on the central nervous system and the associated risks of later life cognitive decline, alzheimers disease, and other dementia. Since it is projected that one in every 200 persons worldwide will have contracted the virus, this could have huge implications for additional growth in dementia numbers.

The cost of dementia in the UK is £26 billion a year, and the Alzheimers Society has stated that people with dementia typically pay £100,000 for dementia care, sometimes reaching £500,000. This is a strong driver for people not only to plan their retirement incomes, but to also take into account the level of control and flexibility they have over their IHT mitigation arrangements. The traditional pattern of spending reducing as people age has been disrupted by this change – spending can increase in the last years of life as more care is required.



SOURCE: ALZHEIMERS SOCIETY

Social Care

Many people will need care and support as they age. Paying for this care can be a concern for many people; The Queen's speech in 2019 referenced some of the statistics, pointing out that, *"care costs are unpredictable and can make it difficult for people to prepare. A person aged 65 can expect to have care costs of around £40,000 on average over later life. Around one in ten will have care costs of more than £100,000 before accommodation costs. Most people are unprepared for this because the reality of care costs is not widely understood."*

If someone is still living in their own home, or in a care home, they will often pay for the costs of their own care and support, and the local authority may also contribute. This depends on an assessment of the person's income and other assets (such as savings and income from a pension).

Anyone with funds above the savings and income threshold, currently (2020/21 tax year) £23,250 in England and Northern Ireland, £28,500 in Scotland and £50,000 (care in a care home) in Wales; is expected to pay for their own care. (The value of their home may be taken into account, depending on the care required and whether or not other parties live there.)

Generally, if their savings or income are below the threshold, the local authority should fund their care, either partially or fully.

There is usually an upper limit on how much a local authority will spend on an individual's care home fees. Which puts the average cost of care homes in England in 2018/19 at £655 per week for a care home and £937 per week for a place in a nursing home. Research by the Competitions and Markets Authority indicates that 41% of residents in care homes, fund themselves with no local authority funding. (Although, some with particular health needs could be assessed as eligible for NHS continuing healthcare, under its strict criteria, or the NHS Nursing Care Contribution which could reduce or fully fund their care costs). This suggests that some contribution to care costs by the person receiving the care is very common (although the local authority has a duty to meet the assessed care needs of the person, even if these needs take the local authority above its usual price limit).

Clearly, this is a concern for an ageing population and a heightened incentive to ensure that estate planning is undertaken. The average stay in a care home is around two and a half

Different generations have always lived different financial lives. However, a variety of socio-economic factors have coalesced in recent years, deepening the financial differences between generations".

INTERGENERATIONAL DIFFERENCES: SUMMARY OF RESPONSES AND NEXT STEPS, FEEDBACK TO DP19/2, FCA, JULY 2020

years (Independent Age). For many, factoring that into their preparations for later life, along with the savings and income threshold, will inevitably impact their estate planning strategies, particularly in relation to retaining access to their wealth.

Against this backdrop, the FCA is actively encouraging professional stakeholders to urge consumers to plan ahead and to better understand the triggers which improve financial resilience.

Before the March 2020 budget, the Government had already made financial commitments to local councils to try to assist, but, according to the Local Government Association (before the pandemic), *"Adult Social Care services face a £3.5 billion funding gap by 2025 just to maintain existing standards of care."*

Intergenerational Wealth and Wealth Transfer

In the next 20 years over £5.5 trillion is set to pass down the generations. When set against the landscape described in this section, this brings with it both challenges and opportunities. At a time when families consist of more living relatives across several generations, and multiple marriages and divorces have made them more complex, there are numerous variables to take into account.

The FCA adds the prolonged period of low interest rates, a long-term rise in house prices over the last 30 years, a shift in the labour market towards self-employment, changes to student funding, technology and government policy changes as factors that have reshaped the financial lives of UK consumers and impacted generations in different ways.

The FCA has a strong interest in intergenerational differences as a result of its strategic objective to ensure that financial markets function well. The regulator has made it perfectly clear that to deliver against this objective, and to serve the public interest, it must have a full understanding of the circumstances and needs of consumers, and how these change. This makes advisory interest in intergenerational wealth transfer doubly important as both a new and ongoing business opportunity and a regulatory imperative.

Of course, for wealth planners and advisers, it makes sense to consider the possibilities for other family members at the same time as giving advice on just one, or perhaps to put arrangements in place for future generations. This is where intergenerational wealth planning meets estate planning, ensuring the family's collective wealth works harder for the benefit of all, while fulfilling the intentions of individual clients.

This broadens the items to consider, but also increases the value of good advice: Consider the planning out of future gifting before any potential later life issues impacting capacity, strategies for protecting inheritances in the event of divorce so that funds end up where the deceased wants them to and thinking about the financial needs of grandparents, parents, children and grandchildren.

This signals an obvious need for expert planning and advice and the opportunities that good outcomes bring in working with new and ongoing business from younger family members are significant.

1.2

Recent technical developments

Covid-19 Impacts

Covid-19 has reached into virtually all aspects of what was considered 'normal' before its advent. The resultant changes have certainly impacted the way professionals consider and carry out estate planning and the following focuses on some of these changes and impacts.

DELAYS TO IMPLEMENTATION AND ADJUSTMENTS OF OPERATION OF LEGISLATION

The FCA has taken various measures to reduce the regulatory burden on firms 'adversely affected' by the Covid-19 pandemic. They include:

Retirement pathways implementation delay

The original date from which Retirement pathways (also known as Investment pathways) were to have been offered to people who are in drawdown from their pensions, was August 2020. This was amended by the regulator to 1 February 2021.

From that date, drawdown product providers need to implement the FCA-prescribed retirement pathways. They are intended to force the client to decide what they want to do with their money once they can access it at age 55. This will require holding the funds in cash to be an active decision and force people into some kind of investment as a default option to limit the loss of purchasing power of holding cash for long periods. The options are:

1. I have no plans to touch my money in the next five years. (This might apply if a client decides they are going to retire much later and will not need to access the money for five years or more).
2. I plan to use my money to set up a guaranteed income (annuity) within the next five years. (This is a steer to purchase an annuity based on the client's desire to secure a guaranteed income in retirement)
3. I plan to start taking my money as a long-term income within the next five years. (This assumes the client may need an investment solution that optimises income long-term)
4. I plan to take out all my money within the next five years. (This is the active choice to move all the pensions savings out within the next few years ready to spend).

The drawdown provider must offer one ready-made investment solution for the option chosen by the client and in order to access their tax-free cash, a client must choose an option, although they do not have to accept the investment solution offered.

While these options are primarily directed towards making non-advised clients think about what they will be doing with the funds they draw down from their pension, from February 2021, any adviser making a personal recommendation to a drawdown client will first have to consider the pathways before selecting any other investments.

Suspension of 10% rule

In March 2020, The Financial Conduct Authority (FCA) temporarily added an element of flexibility to the so called '10% drop rule' for investment managers in recognition of the extraordinary volatility in the current market.

Article 62 of the The Markets in Financial Instruments Directive II (MiFID II) requires investment firms which provide a managed portfolio to inform clients when the overall value of the portfolio, as evaluated at the beginning of each reporting period, falls by 10%. The firm must continue to do so at multiples of 10%, no later than the end of the business day in which the threshold is exceeded.

The 10% rule had been controversial with managers, who worried it could have the effect of scaremongering investors, and may lead to ill advised, panicked early withdrawals. The regulator also understood there could be a large operational burden cost (not to mention regulatory cost) for firms to meet such a rule on an on going basis.

At the time of publication, the FCA had announced a further extension of the rule suspension until the end of 2021, with the regulator considering the effectiveness of the requirement. As a result, the FCA won't take action against firms so long as the firm has:

"Issued at least one notification in the current reporting period, indicating to retail clients that their portfolio or position has decreased in value by at least 10%, informed these clients that they may not receive similar notifications should their portfolio or position values further decrease by 10% in the current reporting period, referred these clients to non-personalised communications, perhaps made available on public channels, that outline general updates on market conditions (these could contextualise potential drops in portfolio or position value to help consumers meet their objectives, rather than making impulse decisions about their investments) and reminded clients how to check their portfolio value, and how to get in touch with the firm."

Pension Schemes Act 2021

A shortage of parliamentary time due to overriding Covid-19 requirements delayed Royal Assent until February 2021.

This legislation, among other things, introduces a new type of workplace pension scheme – Collective Money Purchase Schemes (CMPS) – where risks are entirely with the members but shared between them collectively. Under a CMPS both the employer and employee will contribute to a collective fund from which the employee will then draw an income at retirement. The Government has said it will use regulations – following consultation – to set out clear principles and processes that schemes must follow to ensure that different types of members are treated the same, where justified.

The Pension Schemes Act 2021 (the Act), also strengthens the powers of The Pensions Regulator (TPR) and aims to improve the information available to it, to better enable it to protect Defined Benefits (DB) scheme members' savings. In addition, it is intended to create a legislative framework for pensions dashboards – digital interfaces that enable people to see all their pension savings in one place so that individuals can make better decisions about their retirement plans.

Other clauses have the intention of protecting pension scheme members from scams by helping trustees of occupational pension schemes ensure transfers are made to safe, not fraudulent, schemes and a requirement for occupational pension schemes to manage the effects of climate change as a financial risk and to report on how they have done so.

NEW RULES

Virtual will witnessing

In the summer of 2020, the Ministry of Justice (MoJ) announced that video-conferencing could now be used for the witnessing of wills in England and Wales. This means that the ‘presence’ of the witnesses can be a ‘virtual presence’ via video-link, as an alternative to physical presence. The new rule applies retrospectively to any wills made since 31 January 2020 and will apply until 31 January 2022, which allows the Government time to complete the ongoing law reform project relating to modernising wills generally.

Requirements include the witnesses asking for confirmation of the identity of the person making the will if they do not know that person by way of a passport or driving licence being held up to the camera. After witnessing the testator signing the will, the will document should then be taken/sent to the two witnesses for them to sign, ideally within 24 hours. The two witnesses will need to sign the will document, again in the ‘presence’ of the testator and each other, whether physical presence or virtual presence again.

FCA’S INTERGENERATIONAL DIFFERENCES FEEDBACK STATEMENT

Published in July 2020, this summary of responses and next steps, Feedback to DP19/2 sees the FCA considering how intergenerational differences must be considered in relation to its strategic objective to ensure that financial markets function well:

“In the long-term, we want to ensure that our regulatory and policy approach accommodates changing consumer needs across different generations. Ultimately, we want to increase the provision of, and access to, products and services that offer fair value to consumers across all generations and that markets work well for them. We also want to provide firms with a framework that they can use to better meet the needs of consumers across generations.”

The regulator considers that, the long-term socio-economic trends that engendered the intergenerational disadvantages that existed before the pandemic will be made more acute by it: *“Intergenerational differences have also become apparent during the ongoing coronavirus pandemic. The lived experience of government restrictions relating to coronavirus raises different financial challenges for each generation, resulting in different needs and vulnerabilities. For example, older consumers, who are typically more reliant on physical cash, face health concerns related to the handling of physical cash. At the other extreme, many younger consumers who are attempting to enter, or have only recently joined, the labour market face uncertainty over employment, often while carrying significant debt.”*

The findings of the Feedback Statement include:

1. Consumers need better support to manage increased responsibility and additional exposure to risk

2. Consumers need more hybrid and flexible products to meet their evolving needs

3. Consumers need access to better products to fund long-term care

4. Consumers may not have sufficient savings levels to meet future financial needs

Nevertheless, at this stage, the FCA states, *“we do not think it would be appropriate or proportionate to pursue bespoke remedies, including rule changes, in response to these findings.”*

ESG/IMPACT INVESTING

There is no doubt that Covid-19 has pushed corporate and social responsibility to the forefront of financial services. Shareholders have used their power to urge company bosses to focus on employee well-being and on ensuring that suppliers were paid during global lockdowns. While the pandemic has also focused the global population on not just our own protection from harm, but what happens after Covid-19, on a planet where climate and environment-related matters need to be urgently addressed. And the speedy implementation of policies to fight Covid-19 has demonstrated that real change can happen much more quickly than we thought.

Riding on these coattails, the Government has made a recent commitment to Greening Britain and in the 2021 budget announced plans for a green retail product and green gilts, schemes to support the funding of green energy and new solutions to cut carbon emissions. Additionally, a consultation ran from August to October 2020 on whether the Department for Work and Pensions should require trustees to have formal metrics and targets in place to assess climate risks and opportunities within their investment portfolios.

What’s more, the publication of the Climate Financial Risk Forum Guide in June 2020, convened by the FCA and Prudential Regulation Authority (PRA), stated, *“Firms increasingly face both ‘physical’ risks as the climate changes around us and ‘transition’ risks from the move to a net-zero carbon economy. If poorly managed, these risks could be the source of consumer harm and potentially a future financial crisis stemming from financial losses and sudden adjustments in asset values. Covid-19 has demonstrated more than ever the need for firms to be prepared for the rapid crystallisation of global risks.”*

However, in November 2020, amendments to Mifid II – requiring advisers to set out to what extent they consider sustainability criteria as part of their advice, including firms with no plans to offer ESG investments needing a policy in place (the sustainable finance disclosure regulation (SFDR) – were indefinitely postponed despite the original plans for their implementation in March 2021.

On December 21, following a March 2020 consultation, the FCA published its policy statement, PS20/17, Proposals to enhance climate-related disclosures by listed issuers and clarification of existing disclosure obligations. The statement requires better climate-related financial disclosures for UK premium listed commercial companies. For accounting periods beginning on or after 1 January 2021, they (including premium-listed advice firms such as Quilter, Close Brothers and Charles Stanley) will be required to include a statement in their annual financial report which sets out whether their disclosures are consistent with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD), and to explain if they have not done so.

> ***Acting now to manage climate risks, and to take advantage of the opportunity of the low-carbon transition, will put schemes in a stronger position for the future.”***
>
> **GUY OPPERMAN, PENSIONS MINISTER**

RECOMMENDATIONS AND SUPPORTING RECOMMENDED DISCLOSURES

GOVERNANCE	STRATEGY	RISK MANAGEMENT	METRICS AND TARGETS
No changes to trust or beneficiaries are allowed after the trust is set up	Beneficiaries can be changed and do not have a fixed share of the trust fund	Disclose how the organisation identifies, assesses and manages climate-related risks	Disclose the metrics and targets used to asses and manage relevant climate-related risks and opportunities where such information is material
RECOMMENDED DISCLOSURES			
a) Describe the board's oversight of climate-related risks and opportunities	a) Describe the climate-related risks and opportunities the organisation has identified over the short, medium and long term	a) Describe the organisation's processes for indentifying and assesing climate-related risks	a) Disclose the metrics used by the organisation to assess climate-related risks and opportunities in line with its strategy and risk manegement process
b) Describe management's role in assessing and managing climate-related risks and opportunities	b) Describe the impact of climate-related risks and opportunities on the organisation's businesses, strategy and financial planning	b) Describe the organisation's processes for managing climate-related risks	b) Disclose Scope 1, Scope 2, and if appropriate, Scope 3 greenhouse gas (GHG) emissions, and the related risks
	c) Describe the resilience of the organisation's strategy, taking into consideration different climate-related scenarios, including a 2°C or lower scenario	c) Describe how processes for identifying, assessing, and managing climate-related risks are integrated into the organization's overall risk management	c) Describe the targets used by the organisation to manage climate-related risks and opportunities and performance against targets

SOURCE: FINAL REPORT, RECOMMENDATIONS OF THE TASKFORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES, JUNE 2017

TCFD's recommendations

The scope of firms required to implement the changes is likely to be widened in 2021, but currently allows for the fact that companies' capabilities are still developing in some areas and the regulator did not want to set binding requirements that may not yet be fully achievable. However, PS20/17 also includes a Technical Note summarising existing disclosures required in relation to ESG matters, including climate change that already apply to listed issuers, other issuers with securities admitted to trading on regulated markets and other entities in scope of requirements under the Market Abuse Regulation (MAR) and the Prospectus Regulation (PR). Nevertheless, there is no reference to the application of new disclosure obligations for advisers similar to those that would have been brought in for EU members under the amendments to MiFID II.

The FCA's expecation is that the new rules will:

- Enhance market integrity by clarifying the information investors need in order to make informed investment decisions; this is expected to support more informed market pricing, risk management and capital allocation.
- Protect consumers by improving the information financial services firms use both to design the climate-related financial products that consumers demand, and to make more reliable disclosures to clients and consumers.
- Support competition in the interests of consumers by enabling financial services firms to provide clients and consumers with better information to assess which products meet their needs.

The alignment of Britain's financial regulation with the EU in the aftermath of the Brexit withdrawal agreement remains somewhat unclear. The UK and the EU have committed to maintain common standards, including many social and environmental regulations. However, in December 2020 after the announcement of the deal, the European Commission says a series of 'further clarifications' will be needed from the UK, including more information on how it will diverge from EU rules after 31 December.

According to the Joint Declaration On Financial Services Regulatory Cooperation Between The European Union And The United Kingdom, *"The Union and United Kingdom agree to establish structured regulatory cooperation on financial services,"* and will,*"by March 2021, agree a Memorandum of Understanding establishing the framework for this cooperation."*

> ***Estate planning should be about helping families retain their accumulated wealth, ensuring it passes to the right people, at the right time."***
>
> **JOHN HUMPHREYS, INHERITANCE TAX SPECIALIST, WAY INVESTMENT SERVICES**

OFFICE OF TAX SIMPLIFICATION CGT REVIEW

In July 2020, chancellor Rishi Sunak commissioned a review of Capital Gains Tax (CGT). The immediate conclusion drawn by many was that this was in preparation for possible changes to CGT to raise funds to pay for the huge costs of Covid-19 policies. However, neither the 2021 budget or the Tax Policies and Consultations, Spring 2021 saw changes to CGT, other than the freezing of the Annual Exempt Amount at £12,300 for five years until April 2026.

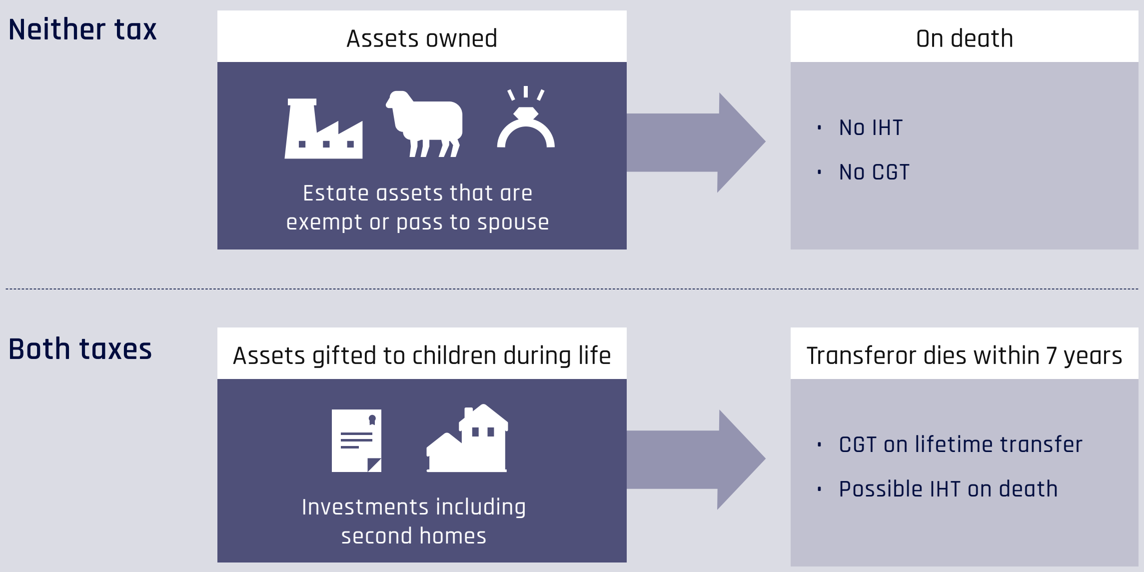
Interestingly though, Mr Sunak left out CGT when making this statement in his budget speech: *"this government is not going to raise the rates of income tax, national insurance, or VAT."* He also suggested that repairing the gaping Covid-shaped hole in the UK finances would be an ongoing process, so the recommendations of the OTS report could yet find their way into future budgets.

The OTS' Capital Gains Tax review – first report was released in November 2020 and focuses on the policy design and principles underpinning the tax. A second, which will follow in 2021, will explore key technical and administrative issues.

In the first report, the OTS said its review found a range of areas where CGT is counter-intuitive, creates odd incentives, or creates opportunities for tax avoidance. In particular, it found significant issues around:

- The rates at which the tax is charged;
- The boundaries between income and gains arising from employment, business and entrepreneurial activity in different contexts;
- How Capital Gains Tax applies to transfers before and after a person's death; and
- The strong interconnections between Capital Gains Tax, Income Tax and Inheritance Tax, which all have to be considered when changes are made.

CGT Inconsistencies



SOURCE: OTS

In terms of IHT and CGT, the OTS states that, *"there is however a high degree of practical overlap between the two as most assets are within the scope of both. The OTS considers that at present the way the two taxes interact is incoherent and distortionary. Comparable transactions can lead to situations where either one, both or neither of the taxes arise."*

In light of this, the OTS revisits one of the issues it highlighted in its second report on IHT of July 2019, regarding capital transfers: Current rules allow a person to inherit assets at the market value of those assets on the date of death of the donor, rather than when the deceased acquired them, for CGT purposes. So, any gain made by the deceased is wiped out.

The same does not apply to a lifetime gift given with the application of CGT holdover relief; while there is no immediate charge to CGT, the recipient is treated as acquiring the asset at the donor's historic acquisition costs. As a result, when the asset is disposed of, any gains made by the donor are taken into account for CGT purposes (and Business Relief could also apply for IHT purposes).

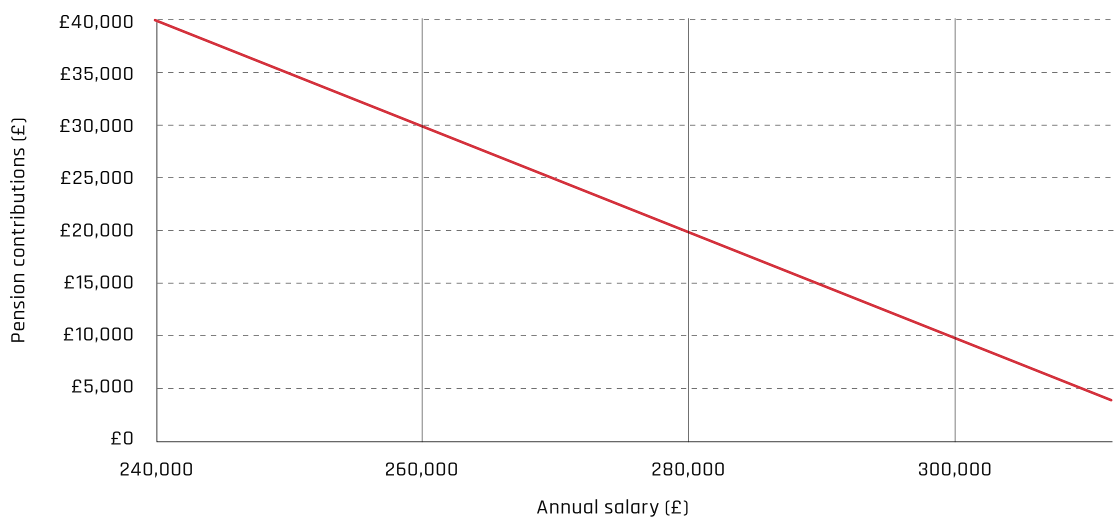
The OTS concern is that this inconsistency might encourage business owners to retain their company until death, whether it's best for the business or not, in order to qualify for both CGT and IHT mitigation. The OTS' recommendation is therefore that, where a relief or exemption from IHT applies, and more widely, the recipient is treated as acquiring the assets at the historic base cost of the person who has died.

This could force estate planners to choose between IHT and CGT mitigation, probably not a difficult choice if IHT stands at the current 40% of total asset value vs. CGT at 20% of asset growth (based on current rates for higher or additional rate taxpayers on a sale of assets other than residential property). Although another of the OTS recommendations in its CGT report is to bring closer alignment between the two rates – in other words raising CGT rates.

The report also considers Reliefs and Losses and focuses on tightening up the qualifications for Business Asset Disposal Relief (previously Entrepreneur's Relief) and abolishing Investors Relief.

There is no obligation for the government to implement any of the recommendations made.

PENSION CONTRIBUTIONS (£) VS ANNUAL SALARY (£)



1.3

Other updates

NIL RATE BANDS FROZEN

The Nil Rate Band has been set at £325,000 since the 2009/10 tax year. It had been expected that it would increase in line with CPI at 0.5% from April 2021 but instead was frozen at this amount until 2026 in the 2021 budget.

The residence nil rate band was also frozen until 2026 with an allowance of £175,000 per individual and the taper starting at £2 million.

Pension Changes

THE LIFETIME ALLOWANCE

The lifetime allowance for pension contributions for 2021/22 is £1,073,100. Like the nil rate band, it was frozen until 2026 in the 2021 budget. This equates to the maximum amount an individual can have in their pension without facing a tax penalty. The charge for breaching this limit is 25% if the excess is taken as a pension or 55% if it is taken as a lump sum.

THE ANNUAL ALLOWANCE (AA)

This is currently £40,000 for those with an 'adjusted income' (including pension contributions) of up to £240,000 p.a. The allowance is then reduced by £1 for every £2 earned over this limit until it is reduced by £36,000 to a minimum of £4,000. Where pension savings exceed the AA, an AA charge applies at marginal rates of Income Tax (IT). Currently, unused AA from pension input periods ending in the three previous tax years can be carried forward and added to the annual allowance for the current tax year. (From 2016/17, all pension input periods are concurrent with the tax year.)

Those who are 'taking benefits' – who have flexibly accessed their pension savings – are subject to the Money Purchase Annual Allowance (MPAA) (first introduced from 6 April 2017 at £4000 and now equal to the minimum annual allowance). This is designed to prevent people from recycling their pensions and the tax reliefs they provide by withdrawing cash from their pots and then claiming tax breaks on new contributions.

Unused MPAA cannot be brought forward from previous tax years, but individuals can still recycle annuity income into pension contributions using various methods. However, exceeding the MPAA leads to the reduction of the Annual Allowance for any occupational pension arrangements to at most £36,000 (the 'alternative AA') plus carry forward of unused AA. This will incur an MPAA charge at the individual's marginal rate of IT on the excess over the limit.

The existing Annual Allowance of £40,000 also applies to Defined Benefit schemes and a member of such a scheme is allowed to accrue benefits totalling up to £40,000 per tax year without incurring tax charges as long as the amount contributed to any Defined Contribution schemes does not exceed £10,000 in any tax year.

Those with Capped Drawdown pensions can move to Flexi-Access Drawdown arrangements if they wish, although this will reduce the Annual Allowance for future contributions from £40,000 to the MPAA.

FCA POLICY STATEMENT PS20/6, PENSIONS TRANSFER ADVICE

In June 2020, the FCA published this policy statement, stating, *"Despite our previous interventions, both with individual firms and across the sector, we think the risk of harm from unsuitable advice remains unacceptably high."*

The regulator refers to, *"too many instances where transfers were not in consumers' best interests."* We also know consumers are paying high charges, and a fee of close to £10,000 for advice on an average transfer value is not unusual. The main changes brought about by the policy statement are:

Ban on contingent charging for DB transfer advice

On 1 October 2020, the FCA's ban on contingent charging on defined benefit pension transfers took effect. Contingent charging means a client only pays for the advice if they go ahead with a transfer. But the new rules mean that any introducer fee can no longer be 'contingent' on a transfer being recommended, and once referred and full advice is provided, the introducer fee will be payable whether a transfer is recommended or not.

The regulator also published a guidance consultation (GC20/1) that sets out best practice and case study examples of suitable and unsuitable advice.

A key FCA objective is to reduce the number of unsuitable DB transfers and this ban is intended remove the conflicts of interest which arise when an adviser only gets paid if a transfer goes ahead.

Firms can still charge contingently (i.e only if a pension transfer actually proceeds) if a client has significant debts or is unwell, where there is a genuine, significant and proven reduction in life expectancy. According to the FCA, *"the carve-outs aim to identify certain groups of vulnerable consumers in circumstances that make pension transfer advice particularly worth considering."*

Abridged Advice

Also from 1 October 2020, firms have the choice to provide abridged advice on Defined Benefit pension transfers. This advice sits in between triage and full pension transfer advice but can only result in a personal recommendation to not transfer out of a defined benefit scheme. The adviser undertakes an introductory chat with the client, where the adviser can get some high-level information about their circumstances. On that basis, the options for the adviser are:

- A personal recommendation to the client not to transfer or convert their pension, or
- Informing the client that it is unclear whether or not they would benefit from a transfer or conversion based on the information collected. The adviser would then ask the client whether they wish to proceed to full advice.

The availability of abridged advice should help consumers to access initial advice at a more affordable cost, even if they may be unable or unwilling to pay for full advice

A pension transfer specialist must give or check abridged advice.

Consideration of a workplace pension as the transferee scheme

Advisers must consider an available workplace pension as a receiving scheme for a transfer and demonstrate why any alternative is more suitable. Transferring to the default arrangement of a workplace pension scheme reduces the need for, and costs of, ongoing advice. It should also reduce the level of transfers involving unnecessarily complex products and high product charges.

Additional requirements for pension transfer specialists

The regulator now requires improved disclosure of advice charges by providing personalised charges information before the advice process starts, an additional 15 hours of continuing professional development (CPD) each year in addition to any other CPD undertaken by the adviser and additional disclosures in PII and Product Sales Data submitted to the FCA.

NEW DIGITAL POWER OF ATTORNEY SYSTEM

In July 2020, the 'Use a lasting power of attorney' system was launched, allowing those acting as an attorney to provide a secure code, submitted to an online portal, which instantaneously confirms their status as an attorney and the power they hold. This means that they are authorised with third parties such as banks, far quicker, to take actions on their loved ones' behalf.

The system is available at: *https://use-lasting-power-of-attorney.service.gov.uk/home*

Once an attorney or the donor on a lasting power of attorney has set up their account, they can use this service to:

- allow people or organisations to view a summary of an LPA
- keep track of which people or organisations have been given access to an LPA
- view an LPA summary
- see how people named on the LPA are using the service

ONLINE PROBATE APPLICATIONS

From the end of November 2020, legal professionals must use the MyHMCTS online system to submit their applications for probate or letters of administration. More complex cases and estates can be submitted in paper format, for example, the online system cannot be used if there is an intestacy.

According to the Ministry of Justice, the new system should see around three quarters of professional user applications move online. However, other areas of the process remain manual, with practitioners still required to send original Wills to the Probate Registry by post.

ILOTT V MITSON: SUPREME COURT APPEAL

In England and Wales a person can leave their property to anyone they want under their will and that could mean omitting family members altogether. The Inheritance (Provision for Family and Dependants) Act 1975 permits a spouse, former spouse, child or dependant of a deceased to apply to court for reasonable financial provision if they don't think the deceased's estate provides enough for them.

For anyone other than a spouse, the test for reasonable financial provision means what is reasonable for their maintenance – so enough for them not to live in poverty. This must take into account factors including the financial resources and needs of the applicant, any obligations the deceased may have had towards them, and the financial needs of the other beneficiaries under the estate.

Mrs Ilott, the estranged adult daughter of Mrs Mitson claimed reasonable financial provision after her mother excluded her from any benefit under her will, instead leaving her £486,000 estate to three animal charities with which she had no particular connection during her life.

The first decision in this case was in favour of Mrs Ilott. She was awarded a lump sum of £50,000. She then appealed this decision on the basis that the award was not enough as it would mean she no longer qualified for state benefits and was insufficient to allow her to buy the house she was living in. Again the decision was in her favour with the Court of Appeal changing the award to a total of £163,000.

This decision suggested a general trend away from historical judgments, towards more generous court treatment of 1975 Act claims by independent adult children, making it more difficult for testators to disinherit a child.

The Supreme Court then reinstated Mrs Ilott's original £50,000 award.

The Supreme Court judge, Lord Hughes, found that the Court of Appeal was wrong to interfere with and increase the award granted by the first instance judge who was perfectly entitled to reach the conclusion which he did on the basis of the evidence before him. The judge also emphasised the importance of limiting awards to 'maintenance'. Lord Hughes said maintenance, *"cannot extend to any and every thing which it is desirable for the claimant to have. It must import provision to meet the everyday expenses of living."*

The law surrounding this area has been criticised because of the lack of guidance and wide variety of reasonable decisions that the first judge could have reached based upon the facts of the case. While this judgment suggests that the terms of a will in regard to ignoring adult children may be safer than could be inferred from the first appeal, there is little further clarity.

THE STAVELEY CASE: HIGH COURT PENSION TRANSFER RULING

The Supreme Court judgement in this case, handed down in August 2020, sets a precedent for ill-health pension transfers under certain circumstances.

Ms Staveley had a Section 32 pension. A Section 32 policy is bought from an insurance company using funds from a registered pension scheme. Section 32 policies can be used if an occupational scheme is about to wind up, and / or a member has left employment and wishes to transfer to a deferred annuity contract.

The Section 32 policy was held by Ms Staveley as part of her divorce settlement from her ex-husband. She did not want any surplus returned to her husband's company, where the benefits had originated, on her death, as was possible under legislation at the time.

Consequently, to avoid this scenario, even though she was terminally ill, Ms Staveley transferred her benefits to a personal pension plan and named her sons as beneficiaries. She did not take any benefits from either of these plans, although she was eligible to do so.

Because Ms Staveley was terminally ill, HMRC treated the transfer as a 'chargeable lifetime transfer' followed by an 'omission to act' as she did not draw any benefits. HMRC's case was that this was designed to reduce the value of her estate for IHT purposes.

For IHT purposes, some dispositions are not considered to be transfers of value (a transfer [of assets] which reduce the value of the transferor's estate) - namely those not intended

to confer gratuitous benefit (s10(1) IHTA 1984). It was the Staveley argument that this applied to these two transfers of value.

Contributions to a pension scheme are not usually lifetime transfers of value for the purposes of IHT and will be immediately excluded from the member's estate, unless:

A) The death benefits from the pension are outside of the estate. If the contributions are made while the member is in good health there will be no transfer of value but if made while the member is in ill health there may be a transfer of value. So, where the member is likely to survive to take their retirement benefits then the payments are for their benefit so are not transfers of value. It is accepted practice that contributions made more than two years prior to death are not transfers of value.

B) A contribution is made to someone else's pension, as the benefit will be for another. These would be a lifetime transfer of value. For IHT purposes they would either be exempt, possibly under the annual exemption or normal expenditure out of income rules, or PET if the contributor survived for seven years following the date of the contribution

The Court's decision was that IHT could be charged on the omission to act (deliberate omissions to exercise a right (where the wealth of another individual is increased as a result)), as it was the main cause of increasing her children's share of her estate. However, this was based on a rule that was in place at the time, but no longer applies in respect of pension benefits, that stated that a transfer of value can result if an individual fails to take the benefits they are entitled to.

In relation to the transfer itself, the Court found that IHT could not be charged as it, *"had not been motivated by any intention to improve the sons' position...[Ms] Staveley's sole intention in transferring the funds was to eliminate any risk that any part of the funds might be returned to her ex-husband."*

That said, the Supreme Court's decision regarding IHT on the transfer from the section 32 plan was actually more focused on technicalities that led it to believe that it was not, in fact, a transfer of value.

Nevertheless, this is an important ruling as it was commonly thought that a transfer when the pension holder is in ill health and dies within two years of the transfer would result in an IHT charge, no matter what the argument. This could set a different precedent although some uncertainty does remain, particularly since the Staveley case took six years to reach a final conclusion, with judgments changing at every stage, showing the complex and contentious nature of the intersection between pensions and IHT.

COX VS HMRC [2020] TC07919

In November 2020 HMRC won the latest case resulting in denial of Business Relief (BR) for a holiday let business. It centred on the provision of additional services in a similar vein to previous cases Graham (2018) and Vigne (2017).

HMRC initially refused a Business Relief claim on the three flats within Crail House that were used exclusively for the purposes of holiday accommodation with a fourth being the owner's principle private residence.

The Executors appealed to the First Tier Tribunal (FTT) on the basis that the owner provided additional services to guests over and above the simple letting of the properties. The non-investment activities cited included the provision of books, DVDs, information leaflets, use of tennis or badminton racquets, crab lines, frisbees or buckets and spades and free attendance of the Crail Festival provided for guests staying in the property.

The judgement in favour of HMRC found, however, there was no evidence that the extra services such as dog-sitting, childminding, transport, breakfast and supper were rendered to guests with any regularity and that these non-investment activities were not significant enough and certainly not as seen in the case of Graham v HMRC in which the FTT found in favour of Graham.

HMRC CLARIFICATION OF GUIDANCE ON IN-SPECIE TAX RELIEF

In May 2020 HMRC won an Upper Tribunal judgment that pension tax relief is not claimable on in-specie contributions (where assets such as property or shares are transferred into a Sipp without first being converted into cash), overturning a previous ruling where the judge had sided with provider Sippchoice.

This was in contradiction to HMRC's own guidance in its Pensions Tax Manual (PTM), which confirmed that, *"it is possible for a member to agree to pay a monetary contribution and then to give effect to the cash contribution by way of a transfer of an asset or assets."*

However, the judge ruled that HMRC's own guidance was, *"not consistent with the relevant law"* and although financial and tax planners have relied on that guidance in good faith, he added, *"statements in HMRC's manuals are merely HMRC's interpretation of the law in their internal guidance and they do not have the force of law."*

This has created concerns that any retrospective review of in specie transfers into SIPPs could lead to large tax relief clawbacks for pension providers.

In December, HMRC clarified its 'giving effect to cash contributions' guidance referencing its long-standing approach to pension contributions made via a contractual offset agreement.

These can lead to the provision of tax relief, provided the member with the contribution obligation enters into an agreement with the trustees in which the trustees purchase the asset instead of receiving the contribution.

Finance Act 2020

This Act introduced changes including:

- Research and development (R&D) tax relief rate increased from 12% to 13% from 1 April 2020. This is available on a company's expenditure on developing new products, processes or services; or enhancing existing ones
- Entrepreneurs' relief lifetime limit was reduced from £10m to £1m for qualifying disposals made on or after 11 March 2020. The name of the relief was also changed to "Business Asset Disposal Relief" with effect from 6 April 2020.
- Pensions Annual Allowance figures were increased with changes to the pension taper as referenced in the Pension Changes section of this chapter of this guide.
- EIS approved knowledge-intensive funds. See page 49 and 50 of this guide for more detail
- Life insurance policies – changes to top slicing relief. See page 39, 40 and 41 of this guide for more detail
- Non-UK trust assets – consequences of change to settlor domicile. See page 42 of this guide for more detail

GIFT HOLD-OVER RELIEF

The 2021 budget announced the clarification of an anti-avoidance rule that applies to the relief. That rule disapplies the entitlement to relief where a transferee company is controlled by a person who is not resident in the UK and is connected with the person making the disposal.

From 6 April 2021, the new measure clarifies that rule by ensuring that it applies when the non-UK resident person gifting the asset also controls the recipient company.

INTESTACY RULES INCREASE THE AUTOMATIC ALLOCATION TO THE SPOUSE

From February 2020, those whose spouses die without a will are entitled to the first £270,000 of the estate, all of the personal property and belongings of the person that died and half of the remaining estate. This is an increase of £20,000 and represents the standard, five yearly inflationary increase that is applied to the figure.

Contrary to popular belief, all assets are not simply handed to the surviving partner if there is no will in place as, for those with children, the remainder is split between them or their descendants. This may not align with the expectations or wishes of the deceased

UPDATED GUIDANCE FOR DISCLOSURE OF TAX AVOIDANCE SCHEMES (DOTAS)

The criteria for notifying HMRC of certain types of IHT planning changed from 1 July 2020. This follows the incorporation into law of the regulations implementing the EU Directive on Administrative Cooperation (DAC 6) (The International Tax Enforcement (Disclosable Arrangements) Regulations 2020). However, the Directive requires that relevant arrangements entered into from 25 June 2018 must be reported.

The intention is to promote increased tax transparency and prevent international tax avoidance. The UK Government has committed to participating fully, notwithstanding withdrawal from the European Union.

In essence an arrangement will be reportable if it is a cross border arrangement; and meets one or more hallmarks. In order to be cross border, the arrangement must, very broadly, involve either parties which are tax resident in, or activities which take place in, more than one country (of which at least one must be the UK or an EU member state).

Taxpayers and intermediaries entering into or advising on cross border arrangements involving EU jurisdictions will need to monitor where reporting will be required and disclose as necessary. Those who promote, sell or design tax schemes are likely to fall within DAC6.

In March 2021, HMRC also set out new draft technical DOTAS guidance. This appears in the 'Tackling the Promoters of Tax Avoidance' document and refers to section 310D which deals with HMRC's entitlement to issue notices informing suspected promoters and other suppliers of a scheme that, unless they can satisfy HMRC that the scheme described in the notice is not notifiable, HMRC may allocate a Scheme Reference Number (SRN) to the scheme. The circumstances of when, how and to whom that notice may be issued, are clarified.

Any scheme to which an SRN has been allocated must provide it to their clients and include their clients and their National Insurance Number and UTR on a list, or face a penalty. The scheme promoters/providers may become subject to a duty to give this list to HMRC.

FCA: THE EQUITY RELEASE SALES AND ADVICE PROCESS

In June 2020 the FCA released key findings from its exploratory work on later life lending. It is well aware of the importance of consumers being fully informed, suitably advised and making the right decisions in this area.

While the regulator saw some good outcomes for consumers from equity release products, including allowing them to carry out home improvements or adaptations and to reduce their working hours or fund earlier retirement, it also reported 3 significant areas of concern about the suitability of advice provided:

1) Insufficient personalisation of advice, including:

- *"We were disappointed to find that evidence on file indicated advisers had largely adopted a form-filling approach to fact finding"*
- Not enough explanation of the costs and implications
- Insufficient exploration of the impact of debt consolidation
- Not enough discussion of impacts of change of ownership in the case of recommendations of changes to property ownership, including removal of a joint owner (who was too young to meet eligibility requirements of lenders).

2) Insufficient challenging of customer assumptions, including:

- *"Some advisers appeared to rely solely on customers' initial stated preferences and to be effectively 'order taking' without taking sufficient steps to assess whether the product was appropriate in light of each customer's specific needs or circumstances."*

3) Lack of evidence to support the suitability of advice, including:

- Files containing standard generic text to justify why customers didn't want to consider alternatives to equity release, suggesting answers came from tick boxes or were selected from a list of options.

The FCA will be undertaking further work to review the suitability of advice in the lifetime mortgage market.

Consumer outcomes that firms should strive to achieve for all consumers

Outcome 1	consumers can be confident they are dealing with firms where the fair treatment of customers is central to the corporate culture
Outcome 2	products and services marketed and sold in the retail market are designed to meet the needs of identified consumer groups and are targeted accordingly
Outcome 3	consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale
Outcome 4	where consumers receive advice, the advice is suitable and takes account of their circumstances
Outcome 5	consumers are provided with products that peform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect
Outcome 6	consumers do not face unreasonable post-sale barriers imposed by firms to change product, switch provider, submit a claim or make a complaint

SOURCE: DRAFT GUIDANCE FOR FIRMS ON THE FAIR TREATMENT OF VULNERABLE CONSUMERS (GC20/3)

FCA FINALISED GUIDANCE FG21/1: GUIDANCE FOR FIRMS ON THE FAIR TREATMENT OF VULNERABLE CUSTOMERS

After consultations GC19/3 and GC20, the regulator issued its finalised guidance in February 2021. It outlines how firms should approach the treatment of vulnerable customers, and embed it into their culture, practices and processes throughout the consumer journey, from product design to customer service. It is also made clear that Guidance could be used to hold firms to account against the standards set by the FCA's Principles (in particular, principles 2, 3, 6, 7 and 9).

Although the FCA's research between GC19/3 and GC20 found many firms had made good progress in understanding and addressing the issues of vulnerability, it also strengthened the case of the FCA for action in this area. The data suggested that fair treatment of vulnerable consumers is not yet being consistently embedded by all firms in their culture.

The way the FCA monitors the treatment of vulnerable consumers will not be a one-off supervisory exercise. That means it may ask for information about the treatment of vulnerable customers in any supervisory work relevant to the fair treatment of consumers, including during regular interactions or as part of its proactive supervisory work.

In the Guidance, the FCA references its Approach to Supervision, in which it addresses the key drivers of behaviour which are likely to cause harm. In particular, it highlights the following which indicate a potential starting point for firms reviewing their culture and how it intersects with the fair treatment of vulnerable customers:

- the firm's purpose, as understood by its employees
- the attitude, behaviour, competence and compliance of the firm's leadership
- the firm's approach to managing and rewarding people, such as staff competence and incentives, and
- the firm's governance arrangements, controls and key processes, such as for whistleblowing or complaint handling.

The need for such supervision has been exacerbated by the rise of Coronavirus Covid-19. Between the regulator's February and October 2020 Financial Lives Survey, the number of adults in the UK with characteristics of vulnerability such as poor health, low financial resilience or recent negative life events, grew by 15% - from 24 million to 27.7 million. That is 53% of UK adults. While not all of these will be vulnerable, *"they may be more likely to have additional or different needs which, if not met by firms, could limit their ability to make decisions or to represent their own interests."*

The FCA defines a vulnerable consumer as, *"someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care"*.

> ***Vulnerability remains a key focus for the FCA, and has been brought into sharp relief by the pandemic."***
>
> **NISHA ARORA, DIRECTOR OF CONSUMER AND RETAIL POLICY, FCA**

Key drivers of vulnerability

1. Health

health conditions or illnesses that affect the ability to carry out day-to-day tasks.

2. Life events

major life events such as bereavement, job loss or relationship breakdown.

3. Resilience

low ability to withstand financial or emotional shocks.

4. Capability

Low knowledge of financial matters or low confidence in managing money (financial capability). Low capability in other relevant areas such as literacy, or digital skills.

SOURCE: FCA

A significant clarification in GC20, further to the initial consultation was the change in approach to 'actually vulnerable' and 'potentially vulnerable' consumers. This was to highlight that there are consumers who may not be vulnerable at this point in time, but that firms will need to take particular account of them because they are at greater risk of harm than others. The FCA has amended this in the Guidance to describe vulnerability as a spectrum of risk, with some at higher risk than others, since it was pointed out that everybody could have the potential to become vulnerable.

Another sticky issue has also been addressed in relation to recording customer information and GDPR. The finalised Guidance sets out the relevant considerations based on input from Information Commissioner's Office (ICO).

According to the FCA, *"While firms are not bound to adopt or follow any of the specific actions described in this Guidance, given that the Guidance itself is not legally binding, they must comply with the Principles"* which are legally binding.

So, although the Guidance offers case studies and examples, there is no checklist of required actions as the Guidance will apply to firms in different ways because of the significant differences across and within sectors. Firms will need to use their judgement to decide precisely what the Guidance means for them.

FINALISED GUIDANCE FG21/1:

- Firms should understand the nature and scale of characteristics of vulnerability present in their target market and customer base.
- Firms should understand the impact of vulnerability on the needs of consumers in their target market and customer base, by asking themselves what types of harm or disadvantage their customers may be vulnerable to, and how this might affect the consumer experience and outcomes.
- Firms should embed the fair treatment of vulnerable consumers across the workforce All relevant staff should understand how their role impacts the fair treatment of vulnerable consumers.
- Firms should ensure frontline staff have the necessary skills and capability to recognise and respond to a range of characteristics of vulnerability.
- Firms should offer practical and emotional support to frontline staff dealing with vulnerable consumers.
- Firms should consider the potential positive and negative impacts of a product or service on vulnerable consumers and design products and services to avoid potential negative impacts.

- Firms should take vulnerable consumers into account at all stages of the product and service design process, including idea generation, development, testing, launch and review, to ensure products and services meet their needs.
- Firms should set up systems and processes in ways that will support and enable vulnerable consumers to disclose their needs.
- Firms should deliver appropriate customer service that responds flexibly to the needs of vulnerable consumers.
- Firms should tell consumers about the support available to them including relevant options for third party representation and specialist support services.
- Firms should put in place systems and processes that support the delivery of good customer service, including systems to note and retrieve information about a customer's needs.
- Firms should ensure all communications and information about products and services are presented in ways that are understandable for these consumers.
- Firms should communicate with vulnerable consumers taking account of their needs and where possible, offer multiple channels so vulnerable consumers have a choice.
- Firms should implement appropriate processes to evaluate where they have not met the needs of vulnerable consumers, so that they can make improvements.
- Firms should produce and regularly review management information, appropriate to the nature of their business, regarding the outcomes they are delivering for vulnerable consumers.

TAX POLICIES AND CONSULTATIONS, SPRING 2021

In March 2021, the government published *"a series of tax documents and consultations in a move to strengthen policymaking and help create a more trusted, simple and modern tax system."*

There were no indications of a review of CGT or pensions tax reliefs as had been widely suspected in the press.

However, there were several items of interest to estate planners.

Government's response to the Office of Tax Simplification's first report on Inheritance Tax

This report was published in November 2018 following a request from the then chancellor. The recommendations pertain to simplifying the administration of IHT through the amendment of reporting requirements and digitisation.

The government has accepted the majority of the OTS's recommendations, and most notably stated that it will:

- change reporting regulations so that from 1 January 2022 over 90% of non-taxpaying estates each year will no longer have to complete IHT forms for deaths when probate or confirmation is required;
- make permanent the ability for those dealing with a trust or estate to provide an Inheritance Tax return without requiring physical signatures from all others involved, easing the administration burden in cases where an IHT return is still required; and
- review the online guidance to reduce worry for those who do not have any IHT to pay; and to enable those that do to establish this quickly and easily.

A second OTS report into IHT was published in July 2019, exploring the main complexities and technical issues that arise from the way the tax works, making recommendations which could streamline gift exemptions, change the way the tax works in relation to lifetime gifts to make it both simpler and more intuitive, and address distortions in the operation and scope of reliefs such as those for business property and agricultural property. At the time of the publication of the Tax Policies and Consultations in Spring 2021, the government committed to responding to the second report in due course. That report made recommendations in relation to the reform of gifting rules, the IHT taper, the capital gains uplift on death, aspects of BR and death benefits from term life insurance.

The taxation of trusts: a review

A consultation, The Taxation of Trusts: A Review, was conducted between 7 November 2018 and 28 February 2019. It sought views and evidence on the efficacy of the trust taxation system against the following principles:

- **TRANSPARENCY:** Trusts should be sufficiently transparent that they cannot be used to hide the beneficial ownership of funds or assets; and non-resident trusts should be sufficiently transparent for government to ensure that such trusts do not offer the opportunity to avoid or evade UK tax liabilities
- **FAIRNESS AND NEUTRALITY:** Trust taxation should be fiscally neutral. That is, their tax treatment should neither encourage nor discourage the use of trusts. Trusts should not offer tax avoidance pportunities
- **SIMPLICITY:** Trust taxation, and the accompanying administrative processes, should be sufficiently straightforward that the tax system does not disincentivise the use of trusts when it is appropriate for them to be used; and minimises the likelihood of error.

The review document sees the government summarise the responses it received and states, *"The responses did not indicate a desire for comprehensive reform of trusts at this stage. The government will keep the issues raised under review to ensure that its long-term approach to the taxation of trusts meets its objectives."*

Other consultations

The policies and consultations released in Spring 2021 also included more evidence of the government's direction of travel with a consultation on the tax administration framework. This requested feedback to update and simplify the overall tax system to help build greater resilience and responsiveness to future crises and to reduce the tax gap.

Reducing the tax gap was also at the heart of a consultation on Clamping down on promoters of tax avoidance and new draft technical guidance on tackling the promoters of tax avoidance (see *Updated guidance for disclosure of tax avoidance schemes (dotas)* on page 23 of this guide).

Estate Planning Options

> ***Estate planning should be about helping families retain their accumulated wealth, ensuring it passes to the right people, at the right time."***
>
> **JOHN HUMPHREYS, INHERITANCE TAX SPECIALIST AT WAY INVESTMENT SERVICES**

Some key elements to consider in an **IHT mitigation arrangement** are:

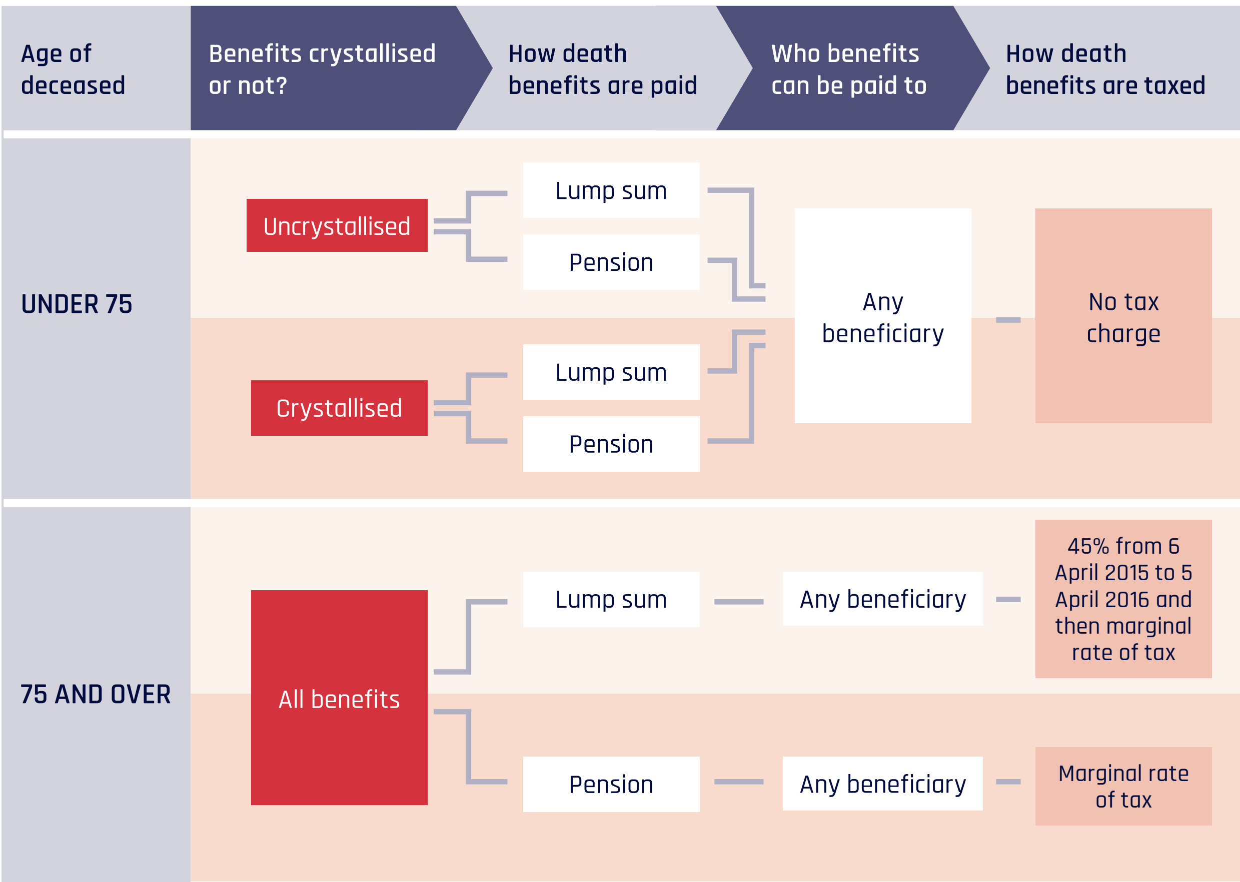
- The financial security of the client (in terms of both income and capital) should be protected for the rest of their life
- The client's understanding of the arrangement is important, and, where possible, a 'less is more' approach to complications is advisable
- Anti-tax avoidance provisions should be respected, including 'pre-owned assets', 'gift with reservation of benefit', 'General Anti-Abuse Rule' and 'associated operations' provisions
- Elements in an estate planning arrangement which are provocative to HMRC (on the basis of current legislation and/or HMRC practice) or have an uncertain eventual outcome are best avoided
- Some degree of illiquidity is a common feature of IHT mitigation products, so some scenario-based cashflow planning may be required to ensure clients have sufficient liquid funds available to meet their foreseeable needs
- **ASSET REDUCTION:** trust-based gifting, which generally provides some degree of liquidity, can accommodate a relatively low risk profile and generally achieve maximum IHT efficiency after seven years.
- **ASSET CONVERSION:** investment in assets which attract Agricultural Relief (AR) or BR, which generally increase investment risk and/or illiquidity but achieve maximum IHT efficiency after two years.

The following arrangements can be set up individually or, where appropriate, by clients acting jointly, although some may require clients who act jointly to have an insurable interest in each other's lives.

In general, the insurance bond, collective investment schemes and pension schemes discussed in this section can invest in portfolios which are diversified across a wide range of underlying assets. In addition, usually, that investment can be outsourced to a professional investment manager on either an advisory or discretionary basis.

This Guide has been compiled on the basis of our understanding of current legislation and Revenue practice as at January 2020. The potential for future regulatory changes and changes to the clients' circumstances create the need for ongoing reviews which provide the added benefit of a continuing relationship with the client and opportunities for further commercial interactions.

DEATH BENEFITS



SOURCE: AJ BELL

2.1

Pensions

Death Benefits

Where a dependant's pension from a drawdown fund is already in payment before April 2015, the dependant will suffer marginal rate of tax on the income from the fund. If, at April 2015, no income has been taken yet from a fund designated as a dependants' drawdown fund, then the new rules can apply.

Pension death benefits from money purchase arrangements in the form of an annuity can also now be paid to anyone, not just a dependant, spouse or civil partner and payments from an annuity can be made tax free where the annuity owner dies before the age of 75. As yet, though, the related costs are unclear.

There are two 'death' related areas where pension funds could be subject to IHT:

- **PAYMENTS FORMING PART OF THE DEATH ESTATE**
  Where the member's estate has a legal entitlement to have the value of the death benefit paid to it then the death benefit would normally form part of the member's estate.

- **LIFETIME TRANSFERS OF DEATH BENEFITS**
  This can occur when death benefits are assigned into trust and potentially where there is a transfer between pension schemes. Where the member is likely to survive to take their retirement benefits, then the transfer of value would be nominal. However, if a transfer is made whilst in poor health then the value could be more substantial.

See the Staveley Case: High Court pension transfer rule in the Recent Technical Developments section of this guide.

i

MORE INFO

For information about Uncrystallised pension funds, Uncrystallised funds pension lump sum (UFPLS), secured pensions, scheme pensions and pooled funds, and SIPPs, please see the first edition of this guide.*

PENSION PLANNING OPPORTUNITIES

The latest amendments to pension legislation position pensions as a potential estate planning vehicle.

Contributions to a pension arrangement held under trust made from income offer potential for funds to be immediately held outside of the estate. Pensions also offer the additional benefits that personal contributions will continue to attract IT relief at the contributor's marginal rate and will enable capital and income returns to accrue tax free.

Defined Contribution scheme members can bequeath any remaining pension fund, whether it is uncrystallised or in drawdown to anyone they nominate and where the member died before the age of 75, the IHT free (IT at the marginal rate of the inheritor is due if the member is over 75 on death). It is also available as a lump sum, a regular income or both.

This creates an interesting planning solution – where it is advantageous for a potential beneficiary to pay IT at their marginal rate rather than IHT on an inheritance, a pensioner may choose to use sources other than their pension to fund their living costs. As a result, the value of assets outside of their pension and to which IHT would apply, will reduce while those protected from IHT within the pension, although potentially subject to IT, will be maintained.

It may be sensible to finance all living expenses from non-pension assets until at least age 75. These assets are 'in the estate' so using them up would potentially lessen any future IHT bill. This is because it is now possible to:

- Draw on non-pension income and capital to fund living costs until age 75 and leave pension funds untouched. Taxable assets will be diminished. The pension funds will not form part of the client's IHT estate.

*https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning

- Post age 75, conventional IHT planning can be used. Consideration can be given to using flexi-access drawdown to create surplus income from which exempt gifts could be made, taking advantage of the 'normal expenditure out of' exemption.

- Any pension commencement lump sum (tax free cash) can be invested to meet the client's post 75 needs and avoid the post 75 marginal IT rate of the recipient that would apply on death.

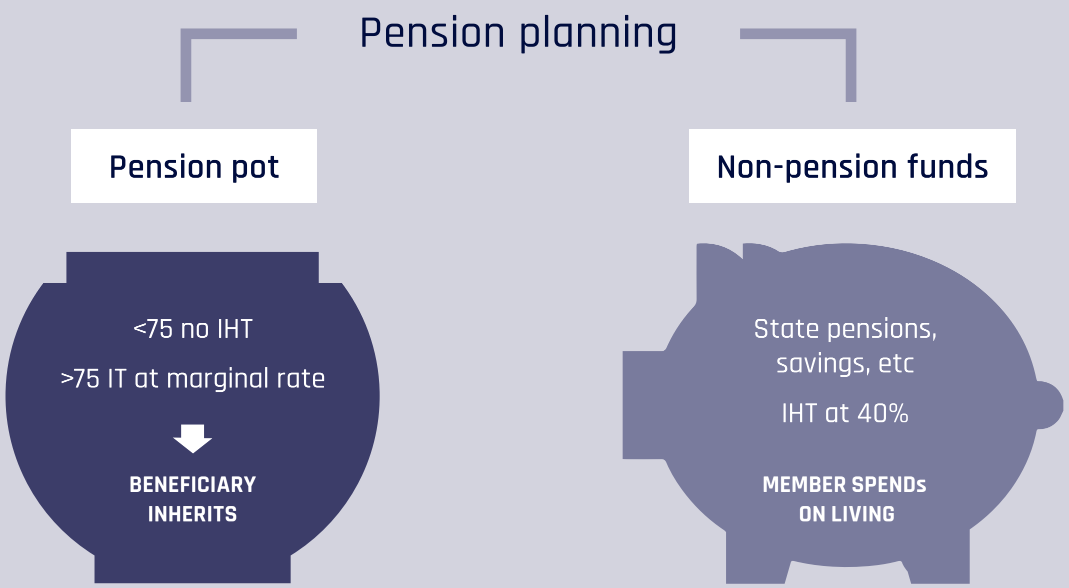
That said, the new freedoms to bequeath pension fund death benefits do not apply to members of Defined Benefit arrangements. Death benefits under these arrangements continue to be subject to the relevant pension scheme rules. All transfers out of Defined Benefit schemes are regulated by the Financial Conduct Authority, the focus has generally been to discourage ill-conceived attempts to transfer unsuspecting pensioners from the perceived safety of a defined benefit scheme into a perceived more risky personal pension but accessing additional pension freedoms, particularly the ability to bequeath death benefits can be a good reason to effect such a transfer.

Any pensioner considering such a transfer must take advice from an adviser who holds a specialist pension transfer qualification and pension scheme trustees must also verify that this advice has been taken before any transfer is made.

The FCA Policy Statement PS20/6, Pensions Transfer Advice, as described in the Technical Developments section of this guide, reinforces the regulator's commitment to protecting consumers in DB pensions, through the ban on contingent charging for DB transfer advice, the introduction of abridged advice, the requirement for a workplace pension to be considered as the transferee scheme and the additional CPD requirements placed on pension transfer specialists.

Pensions as settled property

Pensions and annuity arrangements are settlements for IHT purposes. However, pensions and annuity arrangements are exempt from the normal IHT charges that apply at the point of settlement, every 10 years and on exit (as is the case when assets are settled into trust). This is subject to the scheme paying out any death benefits within two years of the member's death. If this is not the case, the periodic and exit charges may become payable.



Thought Leadership

CONSIDERATIONS FOR PENSION DRAWDOWNS AND IMPACTS ON ESTATE PLANNING

ANDREA JONES
PARTNER, IRWIN MITCHELL & CHAIR, STEP YORKSHIRE

When considering pension drawdowns for later life clients, professional advisers should consider the client's estate in full and the impact that the pension drawdown may have on any estate planning which has already been carried out, or which the client should be advised to consider either before or alongside the pension drawdown. A client's full estate would include pensions and life insurance policies (which quite often pass outside of a will or the intestacy rules where there is no will – the life policy may be held in trust) and other assets that pass under a will or the intestacy rules. A client may also own joint assets which would pass by survivorship to the surviving owner rather than under the terms of a will. Consider also business interests, family dynamics and the mitigation of potential disputes on death. All of this should be considered together and in context before any pension drawdown.

By carrying out this exercise as a starting point, advisers can establish the full extent of a client's estate, identify if the client has a relationship with any other professional advisers (such as a solicitor, accountant or financial planner and/or investment manager), and engage with those advisers to fully understand the client's position. This allows the adviser to look at the bigger picture for the client.

It is really important to understand what advice a client has received before they reached the point at which you are advising them and what other financial provisions they may have. It allows advisers to provide holistic planning advice to clients. The key is to look at a client's estate in the round and identify what assets should be preserved and what can and should be accessed to provide an income during retirement, which may not necessarily be a pension.

At the same time as considering the possible drawdown of a client's pension, it is imperative that the client's will is reviewed and, in the event that they have not already made one, it should be strongly recommended that the client make a will.

When carrying out any pension and estate planning, it is also important for the client to seek legal advice on the drafting of a letter of wishes to sit alongside a will and provide guidance to the executors and trustees as to why the will has been drafted in such a way. This is in the context of decisions made regarding pension planning and any life insurance policies so that, on death the executors, trustees and beneficiaries can understand why, for example a certain beneficiary has only benefited from the pension and another beneficiary has benefited from the estate passing under the will. Although it doesn't seem it at first glance, this may actually provide parity and be entirely appropriate for the individuals concerned. Although a letter of wishes is not legally binding, it is important guidance which helps to explain the planning and minimise disputes on death.

2.2

Principal Private Residence

A client's home can be a source of capital even while the owner remains in it for the remainder of their life, although the RNRB can now provide significant IHT mitigation against the value of a residence, even when there has been downsizing. (see the Summary of the Main IHT rules and allowances that currently apply in the Appendix of this Guide for more detail).

Since 2013, reinvesting funds raised against a home in IHT efficient arrangements, no longer has IHT planning advantages.

However, the Inheritance Tax Office has confirmed that it is not HMRC's intention to use POAT legislation to catch commercial, arm's length, equity release transactions.

Arrangements which are approved by The Equity Release Council, offer important safeguards to clients that make them the most appropriate loans for clients. Such arrangements provide security of tenure (no home sale unless the client dies or goes into permanent residential care), flexibility whereby a client is able to move homes without penalty, no negative equity will be left for client or beneficiaries and independent legal advice must be taken by the client prior to entering the equity release agreement.

Equity release enables individuals to raise and gift liquid capital. Assuming they are successful PETs (the donor survives seven years from the date of the gift) or CLTs, the beneficiaries could be much better off than if they had received the property value after the deduction of IHT.

In addition, any outstanding debt rolls up within the taxable estate and interest is generally IHT deductible.

Home Reversion Plans

These are an extreme form of equity release and may facilitate the raising of a substantially higher amount of capital.

Clients who enter Home Reversion Plans sell a proportion (usually a large one) of their home to the lender. They will always retain a proportion of the value of the property and become a tenant, with the right to live in the property for life or until entry into permanent long term residential care.

However, the payment received by individuals is usually substantially lower than the value of the proportionate share in the property. Moreover, any growth in the value of the property will belong to the lender rather than the client.

Lifetime Mortgage Equity Release Plans

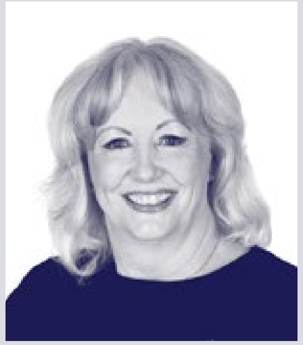
In these arrangements, the homeowner takes out a mortgage secured on their property by a first charge, but the property remains fully owned by the homeowner. Consequently, the property must provide adequate financial security for the lender and as a result, lenders may impose some conditions, although most properties are acceptable.

The mortgage company pays out a lump sum generally, at an interest rate that is fixed or capped for the lifetime of the loan. It can either be paid as it arises or allowed to roll up. Repayment of the interest and capital takes place when the property is sold, or when the homeowner dies, or goes into permanent long term residential care.

MORE INFO

For more detailed information on Principal Private Residence arrangements, see the first edition of this guide.*

*https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning



Thought Leadership

LATER LIFE LENDING : HELPING CLIENTS TO MAKE THE BEST USE OF THEIR HOUSING WEALTH

TISH HANIFAN

CO CHAIR, SOCIETY OF LATER LIFE ADVISERS (SOLLA)

There is no doubt that housing wealth contributes a significant amount to the assets owned by older people. Going into 2021 the amount of wealth held by the over 55s is currently estimated to be £1.2 trillion. For many of them this may be their biggest financial asset.

The problem with having a bulk of your wealth tied up in the value of the family home is that it is a very illiquid asset. Many older people also have to consider whether the home they have lived in for years continues to meet their housing needs as they grow older. If they don't want to move, should they ' future proof' it with costly adaptations?

If incomes are low and the value of the home is significant it may be a way to improve every day living expenditure. Data from the Office for National Statistics (ONS)* indicates that more than one in three (37%) people aged 65+ are worried they will not be able to maintain their living standards in retirement and are looking further than their pension to help them fund retirement*.

Releasing equity from the home is therefore an increasingly essential element to add to the advice mix when looking realistically at a client's later life financial options and desired outcomes.

However for later life lending to be successful, the advice must consider not just the increasingly comprehensive range of products available to the consumer; it is essential that the longer term impact of releasing funds from the home is considered but equally it is not possible to be prescriptive as individuals priorities may vary. The important point is that all the individual's priorities are considered and the advice is personalised and stress tested against the wider impact of releasing capital from the home, e.g benefit entitlement and also the long term goals such as the impact on future inheritance if this is important to the client (taking into account the residence nil rate band).

The ability to take into account the potential vulnerability of the client is also extremely important in this area. Vulnerability [as the FCA points out] is not synonymous with older people but the impact of ageing is a key consideration when assessing and considering vulnerability **.

Where one member of the family may seek to persuade a vulnerable relative to make an inter vivos advancement to them financed by releasing home equity, could there be financial abuse? Equally the adviser needs a good understanding of if and when an attorney may authorise the release of equity within the constraints of their legal authority to do so.

In order to help financial advisers in this sector who want to go beyond the regulatory requirement for advice SOLLA has just launched a new Later Life Lending Standard which, using it's trusted brand status will promote to the consumer the value of getting specialist advice when considering equity release.

** ONS Wealth and Assets Survey: attitudes towards saving for retirement, pensions and financial situation, April 2018 to March 2020*

***FCA New guidance to help firms do more for vulnerable consumers*

2.3

Gifts

To understand the terminology for the various types of gifts and restrictions, including what constitutes a Gift for IHT purposes, Potentially Exempt Transfers, Chargeable Lifetime Transfers, Lifetime Gifts Taper Relief, Gifts with Reservation of Benefits and Outright Gifts, take a look at the glossary.

Modern later life lending solutions like equity release are a flexible way of delivering better financial outcomes to clients with complex financial planning needs."

STUART WILSON, MARKETING DIRECTOR, KEY GROUP

MORE INFO

To understand the terminology for the various types of gifts and restrictions, including what constitutes a Gift for IHT purposes, Potentially Exempt Transfers, Chargeable Lifetime Transfers, Lifetime Gifts Taper Relief, Gifts with Reservation of Benefits, Outright Gifts, and gift Holdover Relief take a look at the glossary.

Gift allowances

Regular gifts out of normal income (after tax)

The gift must have formed part of the transferor's normal expenditure and left the giver with enough income to maintain his/her normal standard of living.

Gifts to spouse or civil partner

As a general rule, transfers between spouses are exempt from IHT. However, a limited spouse exemption of £325,000 applies to transfers from a UK domiciled individual to a non-domiciled spouse. This limit was £55,000 prior to 6 April 2013. Since 6 April 2013, it has been possible for a spouse who is domiciled outside the UK to make an election to be treated as UK domiciled for IHT purposes, enabling them to benefit from unlimited IHT spousal exemption in respect of gifts and bequests received from the UK-domiciled spouse.

Gifts for national purpose or public benefit

Including gifts and bequests to UK-based charities, political parties, universities.

Annual exemption

12

Up to £3,000 worth of gifts per tax year. This can be carried over from the previous tax year, with a maximum exemption of £6,000.

Gifts up to £250

£250

Up to £250 per person, including other IHT exempt gifts such as a wedding gift or gift that counts towards the annual exemption

Wedding/Civil Partnership gifts

Up to £5,000 to a child, £2,500 to a grandchild/great grandchild, £1,000 to anyone else. These must be given on or shortly before the event.

Payments to help with another person's living costs

This might apply to an elderly relative or a child under 18.

2.4

Trust-based arrangements

Trust-based gifts can not only facilitate significant IHT mitigation, but they can also allow the client to keep some control and access over the gifted asset. This will, of course, depend on the type of trust used. Additionally, the use of a trust can provide some security where the direct access of beneficiaries, such as family members with financial or marital issues, might lead to capital loss.

The trust arrangements summarised in this section can involve a 'carve out' of the rights retained by the settlor, and share the following characteristics:

- The property which is given to the trustees is the balance of benefits under the policy or investment and the benefit which is retained is not reserved by the settlor out of property gifted, but is simply a benefit which is excluded from the gift.
- 'Gift with reservation' issues should not therefore arise in relation to the retained benefit and the arrangement should also not give rise to any charge to POAT.

Insurance policy based arrangements

Some insurance companies also offer Controlled Access Gifts which facilitate a gift of capital into carefully structured insurance policies which then enable the donor to exercise a high degree of control over the date at which the donor is able to benefit and the amount of funds which can be accessed at that point.

Absolute and Discretionary Trusts

ABSOLUTE TRUSTS	DISCRETIONARY TRUSTS
No changes to trust or beneficiaries are allowed after the trust is set up	Beneficiaries can be changed and do not have a fixed share of the trust fund
Any type of gift into the trust, unless exempt, is a PET	The trust must be reported to the local tax office and gifts into it must be notified to HMRC if they are over the relevant limit
No IHT applies if the settlor survives for seven years	IHT returns are currently required every 10 years, subject to reporting limits
IHT taper relief after three years may apply	Any gift element into a trust, if not covered by an exemption, is a chargeable lifetime transfer (CLT) - see page 48
Each beneficiary's share of the trust fund is part of their estate	The trust fund may be subject to 10-yearly periodic IHT charges and proportionate exit IHT charges
Beneficiaries with legal capacity can demand their vested share of the trust fund at any time	While in the trust, none of the trust fund will be part of a beneficiary's estate

SOURCE: PRUDENTIAL

The general aim is to achieve this high degree of control without the gift being made to trust, thereby enabling the gift to be treated for tax purposes as a Potentially Exempt Transfer rather than a Chargeable Lifetime Transfer.

Most UK and offshore companies offer arrangements which combine insurance or capital redemption bonds and various forms of trust.

Offshore insurance bonds based in the Isle of Man offer similar investor protection regimes to the protection to those offered by the Financial Services Compensation Scheme in relation to UK based arrangements but there are some important differences.

Various trust based arrangements are available, some are based upon insurance bond policies others are based on endowment policies which can offer particular tax advantages.

Investments held within an insurance or capital redemption bond, a whole of life or an endowment policy are generally free of CGT but are potentially subject to IT in the hands of UK resident taxpayers.

Tax is only payable when there is chargeable event such as the death of the last life assured, surrender of the bond or taking withdrawals in excess of the cumulative 5% allowance (considered as part surrender). This ability to defer tax makes these types of investments very attractive.

Generally, the assignment of a bond (i.e. by the settlor to the trustees or by the trustees to a beneficiary) will not constitute a chargeable event unless the assignment is for money or money's worth.

Nevertheless, where it is a medium to long term hold and there are no withdrawals above the 5% allowance, investment returns will have accrued over many years and are taxed in a single tax year. As a result, more tax may be payable at higher rates.

Changes to top slicing relief calculations were included in the Finance Act 2020. Top slicing relief is designed to offset additional tax due as a result of the taxpayer not being taxed annually over the investment period.

Relief is only available if some part of the full gain is subject to tax at higher or additional rate when added to other income.

The new calculation accounts for the personal savings allowance and starting rate for savings.

For some, these changes may mean that more top slicing relief is available.

In comparison to insurance and capital redemption bonds, non-surrenderable endowment policies can be potentially advantageous from an IT perspective on the death of the life assured under the policy.

There is rarely a one-size-fits-all solution and advisers need to consider a range of estate planning solutions."

JESSICA FRANKS, HEAD OF TAX, OCTOPUS INVESTMENTS

Current top slicing rules

1. Both on-shore and off-shore bonds are treated as the highest part of income.

2. Both on-shore and off-shore bonds are deemed to have had tax treated as paid at 20% (this amount is reduced if any part of the bond gain falls within the personal allowance).

3. Since March 11 2020, the personal allowance used when calculating the tax on the averaged gain has been based on the income plus the average gain.

4. For full surrenders and deaths, the chargeable gain is divided by the number of complete years the bond has been in force.

5. For part surrender, the period used for top slicing for offshore bonds established before April 6 2013 dates back to the inception of the bond.

6. For part surrender, the period used for top slicing for all onshore bonds and offshore bonds that commenced (or were incremented or assigned) after April 5 2013) is shortened if there have been any previous chargeable events as a result of taking more than the cumulative 5% allowance. The number of full years between the current and previous chargeable events applies.

7. The tax on the averaged gain (relieved liability), is now based on the averaged gain (rather than the full gain) added to other income to determine if income exceeds £100,000 and the personal allowance is to be tapered.

8. The average gain is not used to determine the amount of personal savings allowance, which is always calculated using the full gain.

9. The annual personal allowance can be reinstated within the calculation where it has been reduced by reason of including a gain in the income for the year. For this purpose, the personal allowance will be calculated by reference to the taxpayer's other income and a proportion of the gain.

10. Allowances and reliefs have to be set as far as possible against other income in preference to the gain.

Top slicing relief Example Scenario

(2021/22)

Sally's income for the 2021/2022 tax year is as follows:

Salary	£33,000
Interest	£400
Dividends	£12,000
Interest + dividends = £12,400, which is below the starting rate band for savings (personal income tax allowance of £12,570 + £5,000)	
Offshore bond gain (over 8 years)	£53,000

NOTES:

- *2021/22 Rates*
- *Personal income tax allowance (PA) at £12,570*
- *Basic rate income tax limit £37,700*
- *Starting rate band for savings is zero (anyone with total taxable income under their personal income tax allowance plus £5,000 will not pay any tax on their savings)*
- *Personal savings allowance (PSA) of £500 (higher rate taxpayer allowance as salary plus other income dividends take Sally into the higher rate income tax band)*

*applied to income between £12,571 and £50,270
**applied to income between £50,271 and £150,000
***rate depends on income tax band. Total income of £33,000 + £400 + £12,000 + £53,000 exceeds basic rate band and into higher rate band
****HMRC's calculation for Top Slicing Relief is the same for both offshore and onshore bonds.
*****Remaining basic rate income allowance up to £50,270

These calculations only deal with one scenario and cannot be applied across the board. Other considerations need to be taken into account where a taxpayer begins losing their personal allowance, pays tax at the additional rate and or has onshore bond gains.

	Action	Example calculation
1	Calculate the total taxable income for the year in the order you would normally be taxed.	Salary: PA £12,570 = 0% tax Salary: Balance at basic rate £20,430 @ 20% = £4,086 Interest: PSA £400 = 0% tax Bond gain: Unused PSA £100 = 0% tax Bond gain: Basic Rate: First £16,770 @ 20% = £3,354* Bond gain: Higher Rate: Remaining £36,130 @40% = £14,452** Dividend: Dividend allowance £2,000 = 0% tax Dividend: Higher rate £10,000 @ 32.5% = £3,250*** **Total tax on all income: £25,142**
2	Calculate the notional tax on the full bond due, and further deduct 'tax treated as paid' which is 20%**** (This may be reduced if any unused personal allowance is set against the gain). i.e. assuming the bond gain is taxed last.	Salary: PA £12,570 = 0% tax Salary: Balance at basic rate £20,430 @ 20% n/a Interest: PSA £400 = 0% tax Dividend: Dividend allowance £2,000 = 0% tax Dividend: Higher rate £10,000 @ 7.5% = n/a Bond gain: Unused PSA £100 = 0% tax Bond gain: Basic Rate: First £4,770 @ 20% = £954***** Bond gain: Higher Rate: Remaining £48,130 @40% = £19,292** **Notional tax on bond: £20,246** **Tax treated as paid: £53,000 @ 20% = £10,600** **Tax on bond: £20,246 - £10,600 = £9,646**
3	Calculate the tax on the average gain, again deduct the 'tax treated as paid'. This is then multiplied by the number of years over which the gain was averaged. This is known as the relieved liability. i.e. the same as step 2 but averaged over the life of the bond.	£53,000 over 8 years = £6,625 annually Salary: PA £12,570 = 0% tax Salary: Balance at basic rate £20,430 @ 20% n/a Interest: PSA £400 = 0% tax Dividend: Dividend allowance £2,000 = 0% tax Dividend: Higher rate £10,000 @ 7.5% = n/a Bond gain: Unused PSA £100 = 0% tax Bond gain: Basic Rate: First £4,770 @ 20% = £954***** Bond gain: Higher Rate: Remaining £1,755 @ 40% = £702 **Tax on average annual bond gain: £1,656** **Tax treated as paid: £6,625 @ 20% = £1,325** **Tax on 1/8: £331** **Tax on full years bond 8/8: £2,648**
4	Deduct the relieved liability (Step 3) from the notional tax liability (Step 2) to give the amount of top slicing relief due.	**Total tax on bond: £9,646 - £2,648 (relieved liability) = £6,998**
5	Deduct Top Slicing Relief (Step 4) from total tax calculation on all income (Step 1) to get the amount due.	**Total tax on all income: £25,142 - £6,998 (top slicing relief relieved liability) = £18,144 tax payable.**

SOURCE: SAIL BUSINESS SOLUTIONS

Excluded Property Trust (EPT)

This is a trust (usually discretionary) created by a settlor who is/was non-UK domiciled when the trust was created. The assets in the trust must be non-UK situs (i.e. not subject to UK legal jurisdiction), or use authorised investment funds. EPTs can be beneficial to UK-resident individuals who are non-UK domiciled. If settled before the date the individual becomes deemed UK domiciled, assets within an EPT will never form part of settlor's UK estate, unless those non-situs assets include a non-UK company or partnership that holds UK residential property, or the assets become UK-situs.

Before 6 April 2017, non-doms were within the charge to IHT only in respect of UK assets and non-doms often sheltered UK assets such as property in an offshore company. Since 6 April 2017, HMRC has been allowed to look through non-situs structures such as companies and EPTs for IHT purposes, where UK assets are held within those structures. The 2017 changes also mean that an EPT will not work to remove assets from a UK estate where an individual was UK-domiciled, and left to obtain domicile of choice elsewhere before returning to the UK.

From an investment point of view, we never let the "tax dog wag the investment tail" so we ensure that the portfolio we create stands up on its own merits (confirmed by M J Hudson in their review of us in 2019)."

PAUL WILLIAMS, CIO, BLANKSTONE SINGTON

2020 FINANCE ACT CHANGES

HMRC have never accepted that a deemed domiciled individual could settle further excluded property on an excluded property trust (i.e. a trust they originally settled when they were non-domiciled). However, the 2017 Barclays Wealth case, in which the Court of Appeal found that this was not necessarily the case, prompted the new legislation brought forward in the 2020 Finance Act which took effect when the Finance Act received Royal Assent on 22 July 2020. New wording added to the Inheritance Tax Act 1984 has put HMRC's old interpretation of additions to excluded property trusts on a statutory footing.

That said, HMRC's interpretation and the risk of HMRC challenge of other interpretations has been well-known for a considerable period. However, additional restrictions have also been placed on the circumstances in which transfers between trusts will qualify for excluded property status.

More options

Where a Settlor creates a discretionary trust it is sensible for them to also provide their trustees with a Letter of Wishes which sets out their intentions behind creating the trust and guides the trustees in the exercise of their discretion.

Collective Investment Based arrangements mirror the controlled access and trust based arrangements discussed in this section, but instead of using life assurance products, they involve investing in collective investments (i.e. Unit Trusts or Open-Ended Investment Companies – 'OEICs').

This means that capital returns are subject to the CGT regime rather than to IT. Also, hold-over relief will normally be available to defer any CGT when capital distributions are made to beneficiaries by the trustees. By restricting investment to collective funds which yield little or no income, any potential IT charge can be minimised.

Trust Arrangement Summary

	IHT EFFICIENCY		ACCESS
TRUST	CAPITAL	INCOME	
GIFT AND LOAN TRUST A gift and loan trust only has a minimal gift with the main investment being made up by a loan. The outstanding loan remains in the settlor's estate and they only have access to loan repayments.	In estate	Outside estate immediately	Capital
FLEXIBLE REVERSIONARY TRUST This offers a balance between access and IHT efficiency. It is possible for the settlor to receive all trust property through policy maturities.	Out of estate afer 7 years	Outside estate immediately	Capital and growth
DISCOUNTED GIFT TRUST The advantage is having a discount, however the regular payments cannot be changed and if unspent will accumulate in an IHT environment.	Part outside immediaty Part outside after 7 years	Outside estate immediately	Regular payments
GIFT TRUST The settlor has no access to the trust property.	Out of estate after 7 years	Outside estate immediately	None

SOURCE: CANADA LIFE

Advisers need to meet client demand for estate planning solutions that have an ethical focus and are diversified offerings."

JERRY PRICE, CHIEF DISTRIBUTION OFFICER, BLACKFINCH

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MORE INFO. For more information on offshore insurance protections, an example calculation of the tax payable on withdrawal of over 5% from an insurance policy based arrangement, information on the Lobler case and the 5% deferred withdrawal rules, and who the chargeable gain will be assessed against, further details on Immediate Post Death Interest Trusts, Gift and Loan arrangements, Discounted Gift arrangements, Trust charges, Flexible Reversionary Interest Trusts (FRIT), Probate Trusts and Collective Investment Based arrangements see this guide's glossary and the first edition of this guide.*

*https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning

Thought Leadership

TRUST COMPLEXITIES

SUSAN DALTON

TECHNICAL ANALYST, THREESIXTY SERVICES

Trusts have many uses in connection with estate planning and most financial advisers will recommend their use at some point.

Due to the complexities of trusts – interpreting trust wordings and their suitability for particular clients and assisting clients with how trusts are taxed for example – it is often essential to work alongside other professionals to ensure the best outcome for the client.

In this area of expertise, there are many areas of overlap between financial advisers and other professionals such as accountants and solicitors. Some of these areas are outlined below.

These days most gifts into trust fall under the Chargeable Lifetime Transfer (CLT) definition and it's important to be aware that if the CLT, when added to any other CLTs in the preceding 7 years, exceeds the donor's nil rate band, there will be an immediate inheritance tax charge. Lifetime gifts into relevant property trusts such as discretionary trusts and interest in possession trusts are CLTs.

The main exceptions to CLT treatment are gifts into bare/absolute trusts or into trusts with vulnerable beneficiaries, which are usually Potentially Exempt Transfers (PET). PETs, regardless of their value, are never immediately subject to inheritance tax but if the donor dies within 7 years the PET will fail and become chargeable.

Relevant property trusts can be subject to ongoing periodic and exit charges and these calculations can become complex.

The order of making different types of gift also needs to be considered as for example, a failed PET could have a knock-on effect on a later CLT and impact on future periodic charges on the trust.

The tax implications of choosing a particular type of trust need to be balanced against the capital protection afforded by the trust. For example, funds placed in an absolute or bare trust will be potentially at risk in the event of the beneficiary's divorce, bankruptcy, needing long term care or simply as a result of frivolous spending. On the other hand, a discretionary trust grants potential beneficiaries no specific rights, giving the trustees the choice of when, how and to whom to make payments of income or capital.

If an asset is being disposed of in order to release the funds to place in trust or an asset is to be moved in-specie into the trust, another part of the tax complexity involves assessing what the capital gains tax consequences of this might be and whether holdover relief might be available.

Financial advisers may only become involved when trustees require investment advice. Without an understanding of the terms of the trust and its tax treatment, it is impossible to recommend appropriate investment solutions. It's therefore important to know when input is required from other professionals in determining what type of trust is being dealt with and how investment income and gains will be taxed. Only then can the financial adviser carry out their role fully armed with the necessary trust and taxation information.

2.5

Tax-incentivised investments

Business Relief

This section looks at assets that qualify for Business Relief (BR) or Agricultural Relief (AR).

BR qualifying assets potentially become fully relieved from IHT after two years (provided that the investment qualifies for 100% BR rather than 50% as is also available in some cases, assuming there are no 'excepted assets' and provided that the asset is still held at the date of death). This is as opposed to seven years for gifts and trust solutions. Investing in BR qualifying assets also allows clients to retain full ownership of and access to their investment at all times subject to liquidity. This potentially makes them more attractive for short term planning or to those who wish to settle assets into trust without impacting their available NRB or incurring tax on the lifetime transfer.

In addition, BR qualifying assets benefit from replacement property relief (a form of rollover relief), so that if an investor disposes of BR qualifying assets, without holding assets for the minimum two year holding period, there is broadly a three-year time frame to reinvest the proceeds and retain the prior ownership period, without having to restart the two-year qualifying clock. As such, BR qualifying assets must have been held for two out of the preceding five-year period at the point of death or any other CLT. But, if a person dies holding cash from the sale of a BR qualifying asset (i.e. before reinvestment) that cash does not qualify for BR.

Qualifying investments include unquoted companies and those quoted on the AIM and NEX markets (they are not 'recognised exchanges'), although some specific industries/activities are 'excluded'. So, if the company deals in shares, makes or holds investments,

% Available BR Relief:

100%
Relief Available on

- ★ A business or an interest in a business
- ★ Shares in an unlisted company

50%
Relief Available on

- ★ Shares controlling more than 50% of the voting rights in a listed company
- ★ Land, buildings or machinery owned by the deceased and used in a business they were a partner in or controlled
- ★ Land, buildings or machinery used in the business and held in a trust that the deceased has the right to benefit from

or deals in land or buildings (although property development companies are eligible, whilst property lettings businesses are not), its shares will not qualify for BR. The qualifying activity must constitute at least 50% of the firm's activity, if this is not the case, none of the activities will qualify for BR. Companies must also be 'actively trading' in order to qualify for BR.

Specialist asset managers invest in portfolios of listed companies or other unlisted companies that may qualify for 100% BR. AIM listed shares offer the potential of greater liquidity.

Outside of an ISA BR qualifying investments will not mitigate IT on income generated, or CGT if and when shares are sold. This might happen, for example, if a portfolio company planned activity which would cause it to cease to qualify for BR when the investment manager would generally sell any relevant shares. However, the option (provided by a wide variety of investment managers) to hold AIM listed shares that potentially qualify for BR within an ISA offers relief from both IT and CGT, as well as IHT.

BR is assessed by HMRC on a case by case basis at the time a claim is made. One of the scenarios under which an investee company could lose its BR qualification is if it changes its activities so that it is undertaking activities that are 'wholly or mainly' non-qualifying for the relief or if the company lists on a recognised stock exchange. Or, excepted assets may reduce the BR available by their value.

While it is possible to self-select BR qualifying investment opportunities, this would require a lot of time on the part of the investor or adviser, as well as some experience of investment analysis and portfolio construction; identifying BR qualifying companies, with decent returns, diversifying across a portfolio at reasonable cost and monitoring the activities of the investees, is no small task. Specialist BR discretionary investment managers can take on these tasks.

This means that the manager's experience, their understanding of the qualification criteria and the implementation of regular, detailed reviews of the investments are important considerations. A long track record of shareholders being granted BR in the portfolio companies they invest into is certainly reassuring as, if a company ceases to qualify for BR before the investor passes away or gifts assets (a chargeable event), no relief will be granted.

Qualifying conditions for 100% IHT relief

Unquoted shares in qualifying 'trading' companies (a business run on a commercial basis with a view to profit), subject to the relevant conditions, qualify for 100% relief from IHT with the benefit of BR. **The relevant conditions that must be met are:**

- The shares (and relevant business property) must be held for at least two years prior to death.
- The company's main activity must not be non-qualifying (more than 50% of the activity), allowing the entire shareholding should still qualify for BR subject to any excepted assets. Property development companies are eligible, whilst property lettings businesses are not. Then the shares may not qualify for BR or some will qualify with a proportionate reduction in relief in relation to the value of the non-qualifying assets held.
- The shares must not be listed on a recognised exchange. Totally unlisted shares and AIM listed shares are allowed.
- Excepted assets in the business will not qualify for BR.
- If the business is subject to a binding contract for sale, then it will not qualify for BR.
- Ownership of a BR investment remains with the investor and within their estate. This may provide advantages when an LPA is in place.
- If debt is used to purchase BR qualifying investments: the liability will be added back into the investor's estate.

i *MORE INFO. For more information on BR, its history, an example of the replacement business property timeline, BR qualifying conditions for 100% relief, the BR qualification clock, unlisted BR shares, discretionary investment management by BR estate planning services (including insurance), BR structures and UCIS, listed AIM BR portfolios, AIM discretionary ISA portfolios, corporate BR for trading businesses and the use of subsidiaries and partnerships in corporate BR, see the first edition of this guide*.*

Corporate BR for Trading Businesses

While many businesses are likely to meet the qualification criteria and qualify in full for BR, excess funds which are not held for an identifiable future use in the business could be treated as 'excepted assets' and excluded from the relief (a proportionate reduction in the total amount of relief available).

BR qualifying investments can provide an exit route for business owners looking to sell, but keen to retain IHT relief. It allows for the business to be sold and, provided the proceeds are reinvested in other BR qualifying assets within three years, and the individual owned their shares in the business being disposed of for at least two years so that the two years out of five rule applies none of the IHT relief is lost.

SUBSIDIARIES AND PARTNERSHIPS

For businesses looking to preserve or regain their BR status, some managers provide corporate BR solutions whereby a subsidiary company is established which invests surplus cash into BR qualifying investments. This can potentially reinstate BR but allows the business to retain access to the funds should they be required (subject to the liquidity of the underlying investments).

Certain managers set up a wholly-owned subsidiary for the corporate client and the subsidiary then becomes a partner in a number of underlying LLPs. Other managers operate a structure whereby the corporate client directly becomes a partner in a single LLP.

EIS

The EIS is a long-standing government initiative to encourage investment into small and medium sized businesses. EIS brings generous tax benefits, but they are riskier investments, with lower levels of liquidity and higher levels of fees and charges compared to investment in larger companies and shares traded on the main market of the London Stock Exchange.

In 2018, a principles-based test was introduced to ensure that EIS investments pose a genuine 'risk to capital' rather than simply being a de-risked method to access tax reliefs. The aim is to remove investments with a prevailing focus on capital preservation from the EIS qualification roster and to funnel more money into growing, innovative firms.

The company in which the investment is made must have objectives to grow and develop over the long term (ostensibly already required as a result of rules changes in 2015) and the investment in it must carry a significant risk that the investor will lose more capital than they gain as a return (including any tax relief).

A 'Knowledge Intensive Company' classification was also established where companies undertaking significant research and development enjoy more beneficial EIS qualification rules.

HMRC is prepared to give its view as to whether the shares to be issued are regarded by them as meeting the requirements for EIS in advance of shares being issued (Advance Assurance). Obviously it is sensible to restrict investment into arrangements where advance assurance has been received.

*https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning

Subject to a minimum three year period of holding the shares (after the commencement of a qualifying trade):

- 30% IT relief on investments of up to £1,000,000 per tax year (£2 million if at least £1 million of the investment is in knowledge intensive companies) (limited to the amount that reduces the individual's income tax liability to nil).
- 100% CGT relief for any gains made on qualifying shares. (For CGT relief to be available IT must have been claimed and received and must not subsequently have been withdrawn.)
- Loss relief against IT or CGT for losses made on disposals at any time. This can be set against the investor's IT in the year of disposal or the previous year, or against CGT in the year of disposal or carried forward.

Individuals may elect to treat their investment in EIS shares, up to their maximum annual allowance, as if made in the previous tax year, thereby effectively carrying income tax relief back one year. In other words, up to £2 million (£2 million where at least £1 million of the investment is into knowledge intensive companies) may be invested of which £1 million could be applied to the previous tax year.

There is also unlimited CGT deferral potentially available if the EIS shares are bought within one year before or three years after the disposal which gave rise to the gain being deferred. There is no minimum holding period for the EIS shares – instead, the deferred gain is brought back into charge when the EIS shares are disposed of. Hence, EIS has an obvious planning advantage in the potential ability to defer gains again and again until the investor's death. Where an individual owns an EIS qualifying investment at the time of death which has been used to defer a capital gain, the deferred gain is not brought back into charge and no CGT will be due on subsequent disposal.

However, there are restrictions to qualification which are subject to the legislation in force at the date the shares are issued.

Withdrawals during the three-year minimum holding period would result in relief being withdrawn and a business established with a particular exit in mind is unlikely to qualify for EIS relief.

EIS qualifying investments (comprising shares in unquoted trading companies) will generally qualify for BR, subject to the minimum holding period and any 'excepted assets' because the qualifying trades for EIS purposes are very similar to those which qualify for BR. In general terms, clients seeking to mitigate IHT may be relatively cautious and therefore perhaps not natural EIS investors, particularly now that capital preservation strategies do not qualify for EIS. EIS qualifying investments can legitimately be described as high risk and relatively illiquid. But there are some situations when combining EIS and BR can be suitable. Once an exit has been achieved, if the BR is to be preserved, the investment must be rolled over to a new BR qualifying investment within the 'replacement business asset' window of BR.

EIS qualification criteria include that the shares must be ordinary and fully paid up in cash before being issued, not listed on a recognised stock exchange, the company must not have gross assets of more than £15 million before the EIS investment and no more than £16 million afterwards, must carry on a qualifying trade (non-qualifying trades are similar to those in BR, with the addition of all energy generation activities) and the capital injected by EIS investment must be employed within the trade within two years.

EIS and SEIS investments are sometimes referred to as funds. While EIS and SEIS investments can be set up as Alternative Investment Funds (AIFs), many are not technically pooled investment vehicles but rather a series of investments in individual EIS qualifying companies which are collectively referred to as a 'fund'. In effect the management team behind the fund provide a discretionary investment management service within the parameters of a common investment policy for all investors.

KNOWLEDGE INTENSIVE COMPANIES AND EIS APPROVED KNOWLEDGE-INTENSIVE FUNDS

On 6 April 2020, new legislation came in, replacing the old 'Approved EIS Fund' structure with the 'Approved Knowledge Intensive EIS Fund' (KIF). These are designed to promote investment in the types of company which require extra capital compared to normal EIS recipients, over a slightly longer period of their life.

KIC's are defined as those which spend a substantial amount on research and development, in order to develop intellectual property that will drive the greater part of their future business.

Knowledge Intensive Companies (KIC) have more flexibility when it comes to raising EIS funding, compared to non KICs.

Nevertheless, it's worth remembering that it can be more time consuming and costly for these firms to develop because of the amount of research that can be required to reach the stage at which products can be commercialised. This could translate to the requirement for a longer investment term.

Approved KIFs have a number of criteria they must fulfill to remain approved. These are:

- At least 50% of capital must be invested within 12 months of the fund closing date
- At least 90% of capital must be invested within 24 months of the fund closing date
- Within that 24 month period at least 80% of the fund's capital must have been invested in the shares of companies that were knowledge-intensive at the time the shares were issued. (Up to 20% may be invested into non KIC EIS qualifying companies)
- The fund must invest in at least 4 companies, and no single company must receive more than 50% of the capital the fund invested.

Investments into a KIF are treated as if they were made in the tax year the fund closes. So if a fund closes in May 2021 (early in the 2021/22 tax year, but some of the capital raised is not invested until April 2023 (late in the 2022/23 tax year), it is treated as still treated as if invested in 2021/22. In a normal EIS situation, that investment would be considered as made in 2022/23. Hence, in an approved KIF, the tax reliefs will be available sooner.

This can be compounded by the fact that the investor can carry back the investments into the fund into the previous tax year, assuming they haven't used up the previous year's annual limits. This may allow for more certain tax planning.

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MORE INFO

For information about when it may be suitable to combine EIS and BR, the Seed Enterprise Investment Scheme (SEIS), a derivative of EIS focused on earlier stage companies and Agricultural Property Relief (APR), an IHT relief applicable to commercially managed UK woodland, see the first edition of this guide.*

**https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning*

	Knowledge-intensive Companies	Non knowledge-intensive Companies
Max trading years	10 years. From April 2018, a KIC is able to use the date from which its annual turnover exceeded £200,000, instead of the date of its commercial sale, when determining the date from which the end of the initial investing period is calculated	7 years unless total investment represents more than 50% of the company's average turnover over the preceding 5 years and the company is using the funds to ender a new product or geographic market, or it received previous risk finance within its first 7 years
12 month investment limit	£10 million	£5 million
Lifetime investment cap	£20 million	£12 million
Employee limit	Fewer than 500 full time explyees	Fewer than 250 full time employees
Annual investment limit for each investor	£2 million, provided any amount above £1 million is invested in KICs	£1 million

VCTs

Venture Capital Trusts (VCTs) are specialised investment companies that are listed on the London Stock Exchange (LSE). Like EIS they are a government initiative granting various tax reliefs to VCT investors to encourage investment into portfolios of small and medium-sized enterprises (SMEs) in the UK.

The same growth objective and 'risk to capital' condition that apply to EIS also apply to VCT investee companies and the other qualification criteria are broadly the same as for EIS.

Business Relief-qualifying offers can provide a flexible way for investors to pass on their investments to loved ones, free from IHT."

SAM MCARTHUR, PUMA INVESTMENTS

The potential VCT tax reliefs are:

INCOME TAX RELIEF: Up to 30% income tax relief (subject to the permitted maximum investment of £200,000 p.a. And five-year minimum holding period). There is no income tax relief for VCT shares purchased on the secondary market. The relief is applied to the investor's income tax bill in the same tax year as the shares are issued (no carry back to a previous year). Withdrawals during the five-year holding period result in relief being clawed back.

TAX-FREE DIVIDENDS: 100% income tax relief on dividends (subject to the permitted maximum). Tax relief is available for VCT shares purchased on the secondary market.

TAX-FREE CAPITAL GROWTH: Subject to the permitted maximum. CGT relief is available for VCT shares purchased on the secondary market.

VCTs commonly fall into THREE broad categories:

- **GENERALIST** – investing in unquoted companies across a range of sectors;
- **SPECIALIST SECTORS** – for example, technology or healthcare;
- **AIM** – investing in shares listed on AIM.

VCTs generally operate a much bigger pool of investee companies than EIS, giving increased diversification. Additionally, VCTs are listed on a recognised exchange and hold more liquid assets than EIS portfolios.

However, a VCT investor is investing into a fund, rather than directly into an individual or a series of individual companies. Consequently, there is no BR qualification for VCT shares.

VCTs are fully listed shares and are therefore treated in the same way as other equities, and are liable for Inheritance Tax, unless an exemption such as the spousal exemption applies. However, as VCTs are long term investments and the tax advantages are attractive in a low interest rate environment, there is evidence that many investors investing in them, are considering doing this for the benefit of the next generation.

If an investor exceeds the pension annual allowance in a year, they won't receive tax relief on any contributions that exceed the limit and will be faced with an annual allowance charge. High earners may be concerned that they can't get enough money into their pension as a result of this restriction. In this situation, an investment into a VCT alongside the pension could provide an appropriate longer-term and tax-efficient investment.

However, it should be remembered that a VCT (which invests in what most would classify as high-risk companies) should NOT be considered as a replacement for pension investments, which will typically be lower risk.

Some VCT providers offer VCT investment via an ISA, whereby an investor can choose to transfer their existing ISA to a VCT ISA (so no new cash investment is needed to fund the investment and the investor can still benefit from 30% VCT income tax relief on the investment, subject to the permitted maximum). While there would be no change to the tax position on dividends for those who subscribe to the VCT within the annual permitted maximum (currently £200,000), it would theoretically enable an investor to subscribe more than the VCT annual maximum and receive tax-free dividends on the additional level of the investment held within the ISA. However, as mentioned, an investor is only able to claim tax relief on up to £200,000 invested in a VCT in any single tax year.

There is no limit to the value of the estate that can be passed on tax-free to a spouse or civil partner. Of course, when that spouse or civil partner comes to pass those assets to a non-spouse third party, IHT will apply. The surviving spouse or civil partner will also benefit from a one-off ISA allowance (Additional Permitted Subscription (APS)) equal to the total value of the deceased's ISAs, whether or not the ISAs were left to them in the will.

WHAT NEXT?

The EU State-aid rules were designed to guarantee a level playing field in trade relations within the EU by defining what constitutes reasonable levels of state aid, or government subsidies for business. The EU state aid rules have been cited as one of the reasons for the limits in tax reliefs and the restrictions to those companies that could qualify for funding via SEIS, EIS and VCT.

Since the UK's exit from the EU, the EU state aid rules no longer apply. Instead, the EU-UK trade deal takes a principles based approach to controlling subsidies and the UK is free to design a system that meets these principles. If the UK or EU creates a subsidy which the other party feels could create a negative effect on trade or investment between the parties, it may then take remedial actions proportionate to remedy the negative effect. However, the new regime is more permissive than the EU State aid regime, with no EU regulator nominated to adjudicate what subsidies may be deemed in compliance.

One of the UK-EU Trade deal subsidy principles is that "Subsidies are designed to bring about a change of economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of subsidies being provided." The approval of the current SEIS, EIS, VCT and BR rules under the previous EU State-aid requirements suggests that they meet this principle. The more permissive nature of the new regime, suggests that changes to encourage more SEIS, EIS, VCT and BR investments may be possible, although the chancellor did not attempt to push these boundaries at the 2021 Budget.

The UK's interim Subsidy Control regime was set up at short notice and involves public bodies making assessments of the compliance of subsidies they award against certain criteria. The Subsidy Control Consultation ran from February to March 2021 and is expected to form the basis of the fleshing out of the new regime.

2.6 Life Insurance

Gender, age, state of health, lifestyle and personal habits (ex. smoking) are all factors in determining the cost-effectiveness of a life policy. There are two types worth considering:

Term life	Whole life
Provides protection for a specific, **limited amount of time** such as 10, 15, 20, 25 or 30 years; or to a maximum age, such as 80	Designed to stay in force for individual's **entire life** - normally to age 120
Typically provides **no cash value** but offers a lower premium	Has a **cash value that accumulates** over the life of the policy
Often provides **protection** for specific times of need, such as mortgage or a child's college tuition	Cash value **can be accessed** if needed for any reason and can provide guaranteed income after retirement

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MORE INFO

For more information about term insurance and whole of life insurance,Purchased Life Annuities and Back-to-Back Schemes, Care planning, care planning annuities, using artwork of cultural gifts to pay IHT liabilities and Deeds of Variation, see the first edition of this guide.*

**https://intelligent-partnership.com/research-hub/ the-professionals-guide-to-estate-planning*

Estate planning solutions comparison

	TIMEFRAME	IMPLEMENTATION	COSTS	RISK	FLEXIBILITY	MITIGATION
BR	2 years from the acquisition date of the shares*	Relatively simple	Varies up to 2.5% initial and 1-3% p.a. after beating a hurdle	Medium to high	Liquidity available from between <30 days to >3 months, depending upon the service	50% or 100%
EIS	2 years from the acquisition date of the shares* (3 years for EIS qualification)	Relatively simple	Varies, up to 2.5% initial and 1.5% ongoing AMC	High	Yes, access subject to liquidity and implications to the tax reliefs	100%
Trust	7 years	Requires relatively complex legal structures	High	Depends on how assets are invested	Any access or control depends on legal structure	Can be 100%, depending upon the structure (after 7 years)
Gifts & PETs	Some gifts are exempt, others may be subject to taper relief between years 3 and 7 from the gift	Specialist advice is highly recommended	Low, but there will be a charge for the advice	None	None - access and control is lost	100% after 7 years
Life assurance	As soon as the policy is in place	Depends on age and health status - can be restrictive	Monthly premium or lump sum - will vary depending on sum assured, age & health	None	Can cancel the policy, subject to costs	No mitigation - just pays the bill with sum assured
Pensions	As soon as funds are inside the pension as long as annual and lifetime limits aren't breached	Depends on pension arrangements. Specialist advice is highly recommended	Varies, around 0.85% ongoing AMC + transaction costs and taxes if the pension fund buys & sells + cost of advice	Depends on how the assets are invested	Big tax penalties to access funds when under 55	Usually 100% if the deceased is under 75. For over 75s, up to 55% tax is payable, depending on the size of pension pot
Charitable giving	For lifetime gift, as soon as gift is made. For other gifts, on death as long as the gift is in the will	Simple, but estate value/Will must be correct	Varies, professional valuation of estate and ongoing Will updates	None	Can rewrite Will at any time	IHT on estate reduced by 10% (to 36%) if 10% of estate is left to charity

*However, if the company is not trading when the shares are issued, the period ends on the second anniversary of the commencement of the trade for BR qualification and on the third anniversary of the commencement of the trade for EIS qualification.

Thought Leadership

CHOOSING AN INHERITANCE TAX SERVICE THAT INVESTS IN UNQUOTED COMPANIES

JESSICA FRANKS

HEAD OF TAX, OCTOPUS INVESTMENTS

Recommending the right provider of BR-qualifying investments for your client is important. MICAP gave me their input into choosing an inheritance tax service that invests in unquoted companies.

MICAP is the leading provider of independent due diligence, research tools and panel support services for the tax-advantaged investment market. We asked them what advisers should look for in an inheritance tax service that invests in unquoted companies.

MICAP believes in a three-pronged approach:

FILTER THE MARKET. Shortlist the whole market fown to a manageable few products based on your client's needs

RESEARCH THE MANAGER AND PRODUCT. Review due diligence reports from third party commentators.

EVIDENCE THE PROCESS. Each case should show a clear audit trail for how you came to make your recommendation.

THE MANAGER

These are long-term investments. So you want a manager that is financially strong. That's why MICAP scores each manager based on 23 different data points, which include:

- Net assets
- Last three years' net profits
- Length of trading history
- Experian credit rating
- AUM, BR AUM, tax-advantaged AUM
- Regulatory permissions
- Board members
- Size of investment team

There are other considerations relating to the manager and their approach to managing a BR product.

- Consider the size, experience and strategy of the investment team managing the underlying investments.
- Are there any key-person risks?
- Does the team have any experience managing institutional investments?
- Is there an independent investment committee and does it have any external members?
- Are there independent members on the boards of the underlying companies?

THE PRODUCT

Each product should be considered in terms of how well it matches a client's objectives. MICAP scores products across six different areas.

We have summarised some of the key areas MICAP considers – which criteria is most important will depend on the client.

- **BR qualification:** There is no advance assurance for BR. So look at the steps a manager is taking to ensure the company or companies your client will hold shares in maintain their qualifying status. You can also look at how many successful claims for BR have been made by the estates of clients who have passed away holding shares in the same company. This suggests that HMRC have had the chance to assess that company many times previously.

- **Liquidity:** With these types of investments, liquidity cannot be guaranteed. If being able to access some or all of their investment is important to your client, you could look at a manager's track record of providing liquidity in response to withdrawal requests. How much have they provided? What's the longest it's taken them to respond to a request? What safeguards do they have in place?

- **Track record:** Not all products will target the same level of growth. Those targeting higher growth will typically have to take more risk to achieve this. Looking at whether a product has delivered what it set out to achieve over the long term is a useful metric. Similarly, you should consider the track record of the manager in the sectors the product is invested in.

- **Diversification and concentration of the portfolio:** You could assess concentration risk by, for example, looking at the underlying company's largest asset, or its top five assets, as a percentage of the company's total value.

You may also want to consider any large exposures to individual counterparties, such as renewable energy operators, film distributors and property developers to which the underlying company lends.

THE RISKS

It's also important to consider the risks when recommending a BR-qualifying investment.

The value of an investment, and any income from it, can fall as well as rise. Investors may not get back the full amount they invest.

Tax treatment depends on individual circumstances and tax rules could change in the future. Tax relief depends on portfolio companies maintaining their qualifying status.

The shares of unquoted companies could fall or rise in value more than shares listed on the main market of the London Stock Exchange.

They may also be harder to sell.

NEXT STEPS

Choosing the right manager and the right product will depend on your client's objectives.

To find out more about MICAP and how they can help you with the BR due diligence process, visit micap.com.

To see the Octopus Inheritance Tax Service on MICAP, visit micap.com/review/56

Estate Planning

PROVIDER CASE STUDIES

Disclaimer

The following case studies are designed to demonstrate a number of different scenarios that might apply to certain prospective investors. Nothing here should be viewed as advice.

BLACKFINCH INVESTMENTS

Ethical Investing in Estate Planning

Edward is an elderly retired widower. Following the death of his wife Susan, he has been updating his financial plans. His aim is to protect their combined estate to pass on to their two adult children, and ensure he can finance his remaining years of retirement and cover any care costs he may incur.

Edward has a strong focus on protecting the environment, which he shared with Susan. He would like this to be reflected in his plans. He's looking for an Inheritance Tax (IHT) solution giving him access to cash if needed, that's aligned with environmental, social and governance (ESG) concerns.

Benefits

- Edward is able to keep control & access of his capital
- BR investment can be used to fund care costs
- Potential IHT liability reduced to zero
- Edward's children will inherit their family home plus a legacy of a BR-qualifying ESG-focused investment

Edward is looking for an IHT solution with ESG alignment

Edward's estate: £1.5m

£500,000	£1 MILLION
HOUSE	OTHER TAXABLE ASSETS

Edward and his adviser calculate potential IHT savings arising from Edward inheriting Susan's nil-rate band (NRB) and residence nil-rate band (RNRB)

£325k x 2 = £650k NRB + £175k x 2 = £350k (2021/22 & tax years to April 2026)

= £1million IHT free

= £500k Taxable estate, IHT 40%= £200k

£500,000

Blackfinch Adapt IHT Portfolio

They select the Ethical Investment portfolio from Adapt IHT to mitigate the IHT on the taxable estate:

- Focused on renewable energy + low carbon construction
- Target 3% return

He is investing in Business Relief (BR)-qualifying shares in firms with a focus on ESG

He can access all or part of the money if required, either as regular income or a lump sum

After two years he can see up to 100% IHT relief from the BR investments (assuming still held at death)

Blankstone Sington

Business Relief and Vulnerability Consideration

Mr Cunningham is 90 years old and has £600,000 of investments with a net disposable income of £65,000 p.a. The overall value of his estate, including his home and other taxable assets, is such that, notwithstanding existing tax reliefs and exemptions, there is likely to be an inheritance tax liability.

Mr Cunningham wishes to mitigate this liability by taking advantage of Business Relief and decides to invest £65,000 in to the Blankstone Sington IHT Portfolio. He understands that the funds must remain invested for at least 2 years and until his death if a claim is to be successful.

As he is over 90 years old an assessment of Mr Cunningham's potential vulnerability takes place and additional care is taken with regards to investment advice. Studies suggest he is increasingly more likely with each passing year to suffer from physical and mental ailments which may impact his ability to look after himself and to understand his investments and make financial decisions.

Mr Cunningham applies to invest into Blankstone Sington IHT Service (BR)

Vulnerability and Suitability Assessment considers

- Increasing likelihood of physical or mental ailments and any subsequent care costs and loss of ability to make financial decisions
- Net worth and income
- Current IHT liabilities
- Experience and confidence in investing
- Investment timescale

Blankstone Sington determines:

- Attitude to risk - High
- No requirement to access portfolio, incl. for future care needs
- Displays no signs of vulnerability

APPROVED

£65,000
investment

2 years

- 100% IHT exemption
- 40% IHT saving of £26,000
- Continued control over asset and access at any time
- Normal portfolio yield of 2 - 3% p.a gives income of £1,300 to £1,950p.a

canada life

Wealth Preservation Trust

Tom wants to reduce the potential inheritance tax liability when he dies. He is unsure what the future holds and wants to retain access to help cover unexpected expenses, such as a shortfall in retirement income, potential care costs and so on.

Benefits

Inheritance tax planning

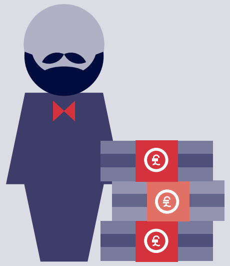
- Tom has made a gift into trust which is outside of his estate after seven years.
- Any growth is outside his estate immediately.
- Tom retains the right to the proceeds from any maturities.
- Compliant with legislation.

Flexibility

- Maturities can be structured according to needs.
- The trustees can defer maturities when proceeds are not required.
- They can distribute money to beneficiaries at any time.
- Trustees can defer maturities to any future year

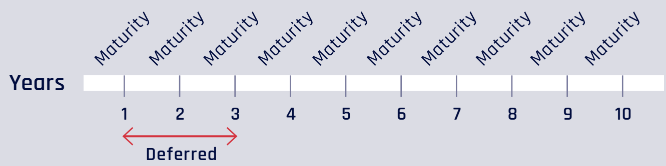
Investment options

- Offshore investment with a choice of jurisdiction; Isle of Man or Ireland.
- A full range of open architecture investment options including funds, platforms and discretionary investment managers.
- No need to adopt an unrealistic risk profile.

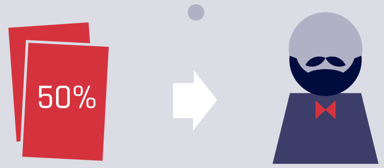


Tom invests £325,000 into a Wealth Preservation Account **(WPA)**

WPA: series of policies each with specific maturity date. when each matures, the proceeds including any growth go to Tom. But if he doesn't need money at that point, the trustees can defer the maturity dates and keep the policies in the trust. Tom decides to have 10% of the policies maturing for each of the first 10 years.

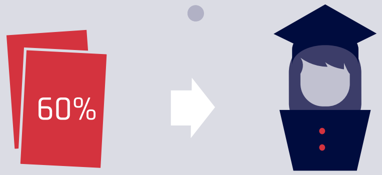


The trustees defer the first 3 years' maturities and decide to keep a rolling 10 year period



Year 4

Tom needs money from half the maturities. The remaining policies due to mature that year are deferred to future years.



Year 8

A few years later, the trustees decide to help Tom's daughter at university. As they have the ability to surrender or appoint policies to the potential beneficiaries at any time they can make sure that Tom's daughter receives the right amount from the trust.

Past performance is not a guide for the future. The value of units can fall as well as rise and currency fluctuations can also affect performance.

key partnerships

Equity release, gifting and IHT

Geoff and Mary are both 78 years of age and in reasonable health. According to the Office for National Statistics, their life expectancy is about 10 to 11 years. They are in good financial shape with a substantial property on the south coast, a self-invested personal pension (SIPP) and an investment portfolio. Both the SIPP and share portfolio are managed by a well-known wealth manager.

Their objectives are to have sufficient income to maintain their lifestyle, a rainy-day fund in case of an emergency and to leave as much money to their children as possible, which means keeping any IHT liability to a minimum. More specifically, they need £25,000 of income (gross) in addition to their state pension and want to give £100,000 to each of their four children.

Key Partnerships does not provide advice on tax planning and our equity release advisers do not give tax advice.

Equity release is not the right solution for everybody. If your client is using equity release as part of a wider estate planning strategy, an individual should always refer to a qualified tax specialist prior to considering equity release to ensure it is tailored to their individual circumstances. Tax treatment depends on individual circumstances and could vary on location within the United Kingdom. This is intended for intermediaries only and is not intended for customer use.

Geoff and Mary's Estate: £2m

£1.25m Property

£250k Investments

£500k Pension

Their financial adviser in association with their wealth manager recommended:

Income

£25k gross p.a by pensions drawdown = 5% of pension fund. Although it exceeds the 4% rule, this should be sustainable given their age and chosen investment strategy

Gifts to children

They don't have sufficient savings to pay this and in any case they want to retain a readily available rainy day fund. So £400,000 will be released through equity release

Minimising IHT

(continues on next page)

based on action at 78 and death 7 years later at 85

scenario 1

No equity release

£294,343 IHT bill

scenario 2

Gift of £400,000 equity release to children
Assumed 2.5% p.a property value increase

£97,563 IHT bill

scenario 3

Gift of £400,000 equity release to children
No property value increase

£3,220 IHT bill

But overall inheritance value of estate is also lower and as with scenario 2, the children had the value of a £100,000 gift 7 years earlier and any growth achieved over that period.

	SCENARIO 1 No equity release & 2.5% property growth	SCENARIO 2 Equity release & 2.5% property growth	SCENARIO 3 Equity release but no property growth
Age in seven years time	85	85	85
House[1]	£1,485,857	£1,485,857	£1,250,000
Equity Release[2]	-	-£491,950	-£491,950
Investments	£250,000	£250,000	£250,000
Total Assets	£1,735,857	£1,243,907	£1,008,050
Less IHT allowance[3]	-£1,000,000	-£1,000,000	-£1,000,000
Net estate for IHT	£735,857	£243,907	£8,050
IHT at 40%	£294,343	£97,563	£3,220
Net inheritance value[4]	£1,441,514	£1,546,344	£1,404,830

Notes and assumptions

[1] House values at £1,250,00 at outset.

[2] £400,000 mortgage with interest at 3% rolled up for 7 years.

[3] Nil-rate band = £325,000 + Residence Nil-Rate Band = £175,000 x 2 (Mr & Mrs)

[4] Value of the house and investments, net of IHT payable, plus equity release.

Pension pot is not included as it will fall outside IHT and allowances and tax rates remained unchanged.

***This is for illustrative purposes only, tax treatment depends on individual circumstances and is subject to change. For this reason, you should seek the advice of a tax specialist before proceeding if IHT mitigation is the primary goal.**

PUMA INVESTMENTS

How Business Relief can mitigate IHT on the sale of a business

Sheila, a widow aged 68, sold her IT business for £1.6m in order to retire. Sheila decided to take some of the proceeds from the sale to spoil her children and grandchildren as well as herself and her sister. She had a health scare five years ago and wishes to make the most of her time but also realises the need to plan for the worst. In particular she is keen to leave as much of the proceeds of the business sale as possible to her family without them paying any more inheritance tax (IHT) than they need to.

Sheila owns some other valuable assets such as her house, however the NRB and RNRB have been used by other assets. She has sufficient income from her pension.

This example is for illustration purposes only and should not be read as advice. For the purpose of this scenario, the nil rate band and residential nil rate band have been used by other assets, no investment growth or losses are assumed, and Sheila is assumed to be fully invested in BR-qualifying companies.

An investment in BR-qualifying assets carries risk and may not be suitable for all investors. Capital is at Risk. Tax reliefs depend on individuals' personal circumstances, minimum holding periods and may be subject to change.

Sheila, a widow aged 68, sold her IT business for £1.6m

BR Qualification

If Sheila owned the shares in her IT company on death

No BR Qualification

In planning to sell the businesses, Sheila needs to be aware the proceeds will no longer be eligible for BR and consequently no longer exempt from IHT

with no planning, the outcome on Sheila's death would be:

- £1.6m from sale of the business
- £640,000 IHT
- £960,000 to beneficiaries

But Sheila's adviser recommends she invests £1m in BR shares.

Because the investment is made within **36 months** after she sold her company, the replacement relief rule means Sheila's investment is exempt from IHT on day 1, assuming she still holds the investment at the point of death. Sheila's adviser makes it clear that BR investment is not without risk.

With planning*, by investing £1m into BR qualifying assets that Sheila is holding when she dies:

£240,000 due in IHT on death
£1,360,000 to beneficiaries

**If nothing is spent or given away. No growth or loss assumed.*

TIME INVESTMENTS

Tax efficient investing and IHT mitigation

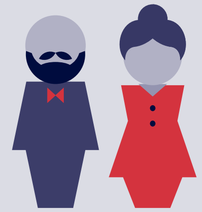
Mr & Mrs Wright have accumulated Stocks and Shares ISAs worth £50,000 and £65,000 respectively. When combined with their other assets, their estate would be valued at £1.2m.

Did you know?

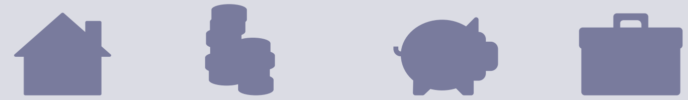
Since 2013, it has been possible to invest ISA funds in companies listed on the Alternative Investment Market (AIM). Certain companies listed on AIM (but not all), qualify for Business Relief and investment into such companies can provide 100% IHT relief after a two year ownership period. As every ISA manager must offer the ISA holder the opportunity to transfer their account to another manager, it is possible to make a transfer of funds into an IHT efficient AIM ISA portfolio. Such a transfer preserves the lifetime tax efficiency of the ISA whilst adding on the potential for significant IHT savings.

Naturally, when advising on such transfers, careful consideration must be given to the suitability of the investment approach and its corresponding risk profile.

This example is for illustration purposes only and should not be read as advice. Past performance is not necessarily a guide to future performance and there is no guarantee that the target return objectives of TIME:AIM will be achieved, you should recognise that your clients' capital is at risk and investors may not get back what they invest. The levels and bases of, and reliefs from, taxation may change in the future. Tax treatment depends on the individual circumstances of the investor and any favourable tax treatment, such as BR, is subject to government legislation and may change in the future.



Mr and Mrs wright Estate: £1.2m



£600,000	£125,000	£360,000	£115,000
House	Cash allocation	other investments	ISAs

They're informed £200,000 of estate value could be liable to IHT when they die after their NRBs

Following an assessment of their circumstances, objectives, risk profile and capacity for loss, they are advised to transfer their ISA funds to **TIME:AIM ISA**

They can also contribute further subscriptions in future tax years from their cash or other investments

After 2 years BR qualification is achieved, Mr and Mrs Wright can sleep at night knowing upon their death these funds will not suffer a charge to IHT and the capital can pass efficiently to their children

WAY Investment Services

Using flexible trusts for wealth preservation and inter-generational planning

Amber is a 60-year-old widow with two grown-up children. She is still working as a doctor and wants to make plans for a sound financial future. She would like to support her children when they are ready to get on the housing ladder but is also concerned about the impact of potential future care costs for herself. She has built up a substantial ISA fund of £600,000, but together with her home which is worth £500,000, is concerned about her potential Inheritance Tax (IHT) liability.

Amber's IFA recommends the WAY Flexible Inheritor Plan

She appoints **WAY Tax and Trustee Advisory Service** as trustee and names her 2 children as beneficiaries

Amber makes a one-off gift of £325,000 to the trust. After 7 years it is outside the estate for IHT purposes.

She also makes regular payments of £10,000 p.a from surplus income into the **WAY Gifts from Income Plan** (second flexible reversionary interest-in-possession trust). The payments fall outside her estate immediately for IHT purposes.

5 yrs	Her son bororows £50,000 from the trust for a flat deposit
10 yrs	After divorcing, her son borrows another £100,000 from the trust to buy his wife's share of their home
20 yrs	At 80, Amber needs care at home, funded by her WAY Gifts from Income Plan
28 yrs	Amber dies

All her residual assets including investment growth are outside her estate and pass to her children without the need for probate and with no IHT liability

The WAY Flexible Inheritor Plan is a flexible reversionary interest in possession of trust.

Estate Planning

OTHER CASE STUDIES

Disclaimer

The following case studies are designed to demonstrate a number of different scenarios that might apply to certain prospective investors. Nothing here should be viewed as advice.

1

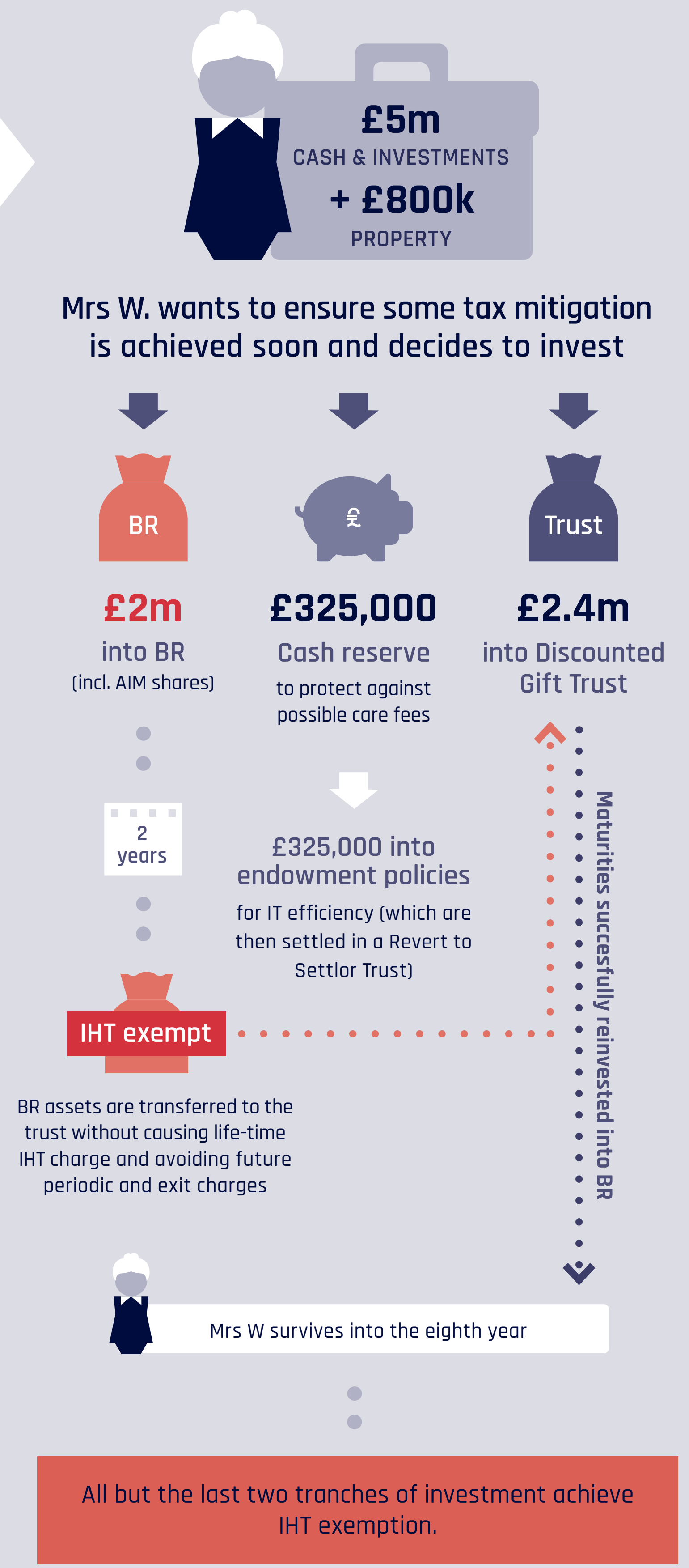
Mitigating a substantial IHT liability

Revert to Settlor Trust/ Discounted Gift Trust

Mrs W is a widow in her late 70s, who has substantial income, more than sufficient to meet her foreseeable needs, and an estate valued at £5.8 million. The estate comprises property worth £800.000 and £5 million held in cash and investments which have largely been inherited following the death of her husband. Her sole objective is to mitigate the very substantial IHT liability of her estate. She is in good health and a seven-year planning time horizon is felt to be feasible.

Summary

The initial gift into the Revert to Settlor Trust expired after seven years and her estate regained the use of a NRB. The full amount of the remaining funds held within the Discounted Gift Trust also achieve IHT exemption. The latter fund is distributed to family members free of IT, CGT and IHT. At the date of her death Mrs W's investments are valued at approximately £6.2 million of which a total amount of approximately £5.6 million had been exempted from IHT.



2

Remarriage, children and step children

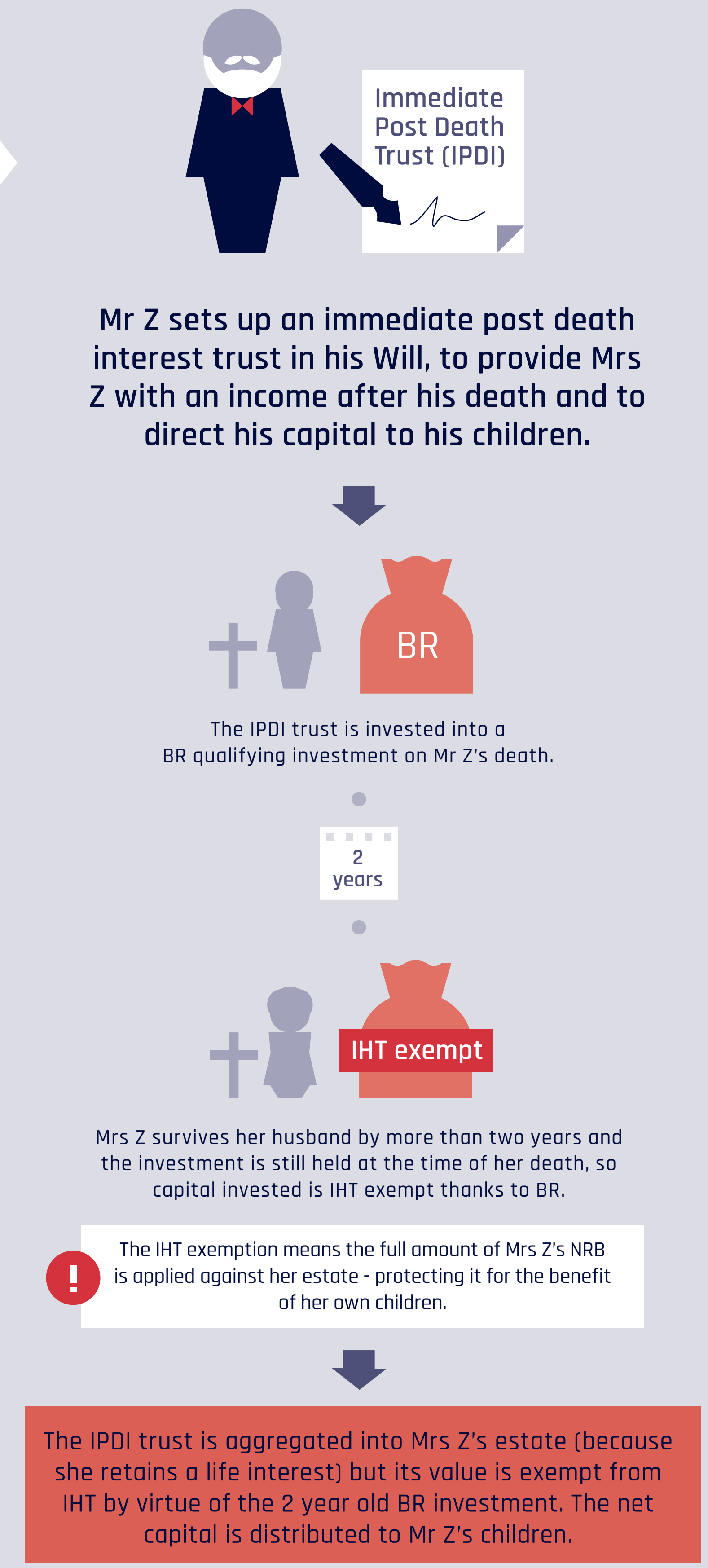
Life Interest Trust

Mr and Mrs Z are both in their seventies and have been married for 20 years. They both have adult children from previous marriages and would like their respective children to inherit their individual estates.

Mr Z has a much higher income than his wife who has little pension provision and he is very concerned about the income she would receive if he were to die first.

BR Benefits

Mr Z could also reduce the timeline by investing in BR qualifying assets during his lifetime and directing the investment to the IPDI trust in his Will. If his death occurred within two years Mrs Z would then only have to survive for the balance of that period to ensure the capital achieved IHT exemption.



3

Immediate Care Needs Annuity

Securing care fees and reducing an IHT liability in a short space of time

Mrs T is 88 and has dementia. Her sons have been jointly appointed under Lasting Powers of Attorney to manage her Property & Financial Affairs and hold a LPA in relation to her Health & Welfare. She is in a residential care home and has been found ineligible for statutory funding towards her care fees. She has a modest income comprising state pension and Attendance Allowance, but there is a shortfall between her income and expenditure on care fees and personal expenditure. Her only capital asset is her house (her sons are due to inherit the house in equal shares through her Will).

IHT

Just over two years have elapsed. Mrs T's financial security for life is absolutely assured, investments are regularly monitored and performing as expected. Eligibility for state funding is under regular review. When her death occurs, as is shortly expected, her estate will be exempt from IHT and the net value bequeathed to her beneficiaries will have been very substantially increased.

Mrs T sells her home for £1.9m

Immediate Care Needs Annuity is purchased to meet Mrs T's income shortfall. Capital protection is built into the annuity to prevent loss of capital to the estate unless Mrs T dies within two to eight months of the annuity purchase.

The annuity purchase cost is deducted from the top slice of her estate and the true cost to the estate is, net of IHT, only 60% of its purchase price.

The annuity income is structured to increase at a rate of 5% per annum - a rate the care provider confirms will offset any fee increases in Mrs T's fees in that home for life. This leaves significant remaining capital from the house sale.

Cash reserve and cautious portfolio is established up to the value of Mrs T and her late husband's NRB allowances. Cashflow modelling shows that these are sufficient to meet her financial needs for life in a worst-case scenario, and the remaining capital, £800,000, is surplus to her needs.

£800,000

To take the excess, unneeded capital out of her estate and protect it from IHT, the sons get Court of Protection approval for them to gift their mother's surplus capital to themselves immediately.

They realise that if their mother dies within seven years of the gift (as is likely), IHT will become payable.

Instead, they invest into BR qualifying assets in the expectation that they will receive capital through her will that will be 100% IHT exempt if she lives for 2 years or more.

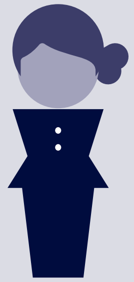
4

Health issues in later life

Whole of Life Cover

With people living longer there is also the prospect that they may need more care in later life and they may need to contribute to the associated costs.

Mrs X is 40 and married with two teenage children. Both her parents suffered from dementia in later life. To speed up the care process and to enhance the care provided, Mrs X and her husband spent considerable sums of their own money on her parents' care at home. When her parents died they had no life cover in place and very few assets. Mrs X paid for the funeral costs.



Mrs X sets up a whole of life plan in trust that will pay out a lump sum of £200,000 tax free when she dies.

The plan can offer **assistance for care costs** whilst she is still alive - payments of 50% of the sum assured if she suffers from ill health and is no longer able to look after herself.

In her early 60's

She suffers a stroke that leaves her with mobility problems and needing help to look after herself.

The policy pays out **£25,000** to assist with conversions to the house. Her husband takes early retirement to help look after her

In her 70's

She suffers dementia and needs more specialist at home care.

Her policy pays out **£75,000** for home care costs, including more carers & further home conversions

Mrs X dies in her 80s

The policy has already paid out £100,000 to fund care costs, but the balance of the plan (the life assurance element) now pays out to her beneficiaries.

Because the plan was set up in trust the death benefit is paid out to Mr X and their children without forming part of Mrs X's taxable estate.

The proceeds allow Mr X to cover all funeral expenses and for the children to use the monies to assist with school fees for their own children.

5

Gifting to grandchildren

Controlled Access Gift

Mr & Mrs P have recently established IHT planning with discretionary trusts up to the value of their unused personal NRBs of £662,000 (2021/22) (neither had used their £3,000 annual gifts in the current or previous tax years hence their available NRBs were uplifted by £6,000 each). The beneficiaries of these trusts are their children. They also have a granddaughter Hilary and want to take care of her education needs.

*As a bare trust, normally Hilary would have an absolute right to the remaining value of the trust fund at age 18. But the controlled asset trust allows them to re-date policies that mature prior to age 18 (not those maturing post age 18) for specific dates in the future.

Mr & Mrs P want to retain personal control of the monies to ensure they are used at their discretion for Hilary's education.

A series of maturing policies are established with an offshore insurance company, settled into a controlled access trust established as a bare trust.

!

These policies are PETs and they don't combine with the discretionary trusts to create a 20% charge for IHT on entry, but it takes seven years for the PETs to be fully IHT exempt.

Growth on the policies is free of IHT immediately, taxed on Hillary and not Mr & Mrs P and the offshore bond means no UK tax is payable until monies are brought back into the UK.

Maturity proceeds are paid directly to the school.

Prior to theirgranddaughter turning 18*, two of the policies' payouts are deferred to ad hoc future dates as they are not immediately required. (By establishing multiple endowment policies with deferrable maturity dates the trust can fund education needs until the age of 18)

They choose age 21 to pay off university fees and 25 to help towards a house purchase.

6

Mitigating an IHT liability whilst preserving future financial security

Revert to Settlor Trusts

Mr & Mrs Q are in their seventies and in reasonable health. They have an estate valued at £1.8 million and have sufficient income to meet current expenditure.

They want to mitigate their IHT liability, particularly to ensure capital growth does not result in the loss of the RNRB, remain living in their home for the rest of their lives and to ensure that funds are available to meet a reasonable standard of care and giving them independence and choice in later life, and to pass responsibility for managing their investments to a professional investment manager.

Mr and Mrs Q's Estate: £1.8m

£800,000	£250,000	£750,000
Property	Cash	ISA Portfolios

They want to mitigate their IHT liability and they decide to use £600,000 of the ISA portfolio to fund two Discretionary Trusts

Trust 1

Trust 2

Each trust is settled by a single spouse in their sole name using different trustees

Each spouse makes IHT efficient gifts to their trust whilst also ensuring that they can receive sufficient distributions from their own individual trusts during their lifetime to fund care provision if necessary. With a revert to settlor trust, after they die and their benefit ceases, their surviving spouse can then benefit as widow or widower. (20% CLT fee applies)

reinvestment

reinvestment

Investment policy statements are drawn up, investment managers are interviewed and the capital gifted to each trust is reinvested to achieve the target return while minimising the risk taken with investments.

The remaining ISA portfolios are transferred to the oversight of a different investment manager and reinvested into BR qualifying AIM shares. A proportion of the cash is reinvested into unlisted BR qualifying investments. As Mr and Mrs Q survive for two years after their BR investment their estate is exempt from IHT.

7

Tax efficient trust investment

Discretionary Trust

Mr V is a widower who wants to assist his six grandchildren, aged between seven and 10.

Summary

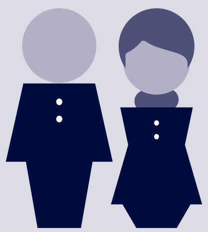
The strategy obviously did not utilise the trust's annual capital gains allowance but, given the tax treatment outlined above, the loss of this allowance was felt to be immaterial. Wrapping an offshore bond around a discretionary trust enabled a tax efficient and administratively straightforward solution with minimal HMRC reporting.

Mr V wants to pay the university fees and property purchase for his grandchildren in due course

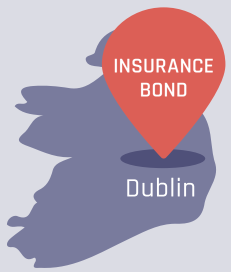
£42,000

settled into a discretionary trust

to ensure that his children, the grandchildren's parents, retain control over the timing and extent of distributions



The trustees want to preserve the real purchasing power of the capital in relation to increases in university fees and property prices



The trust property is invested in a Dublin based insurance bond "wrapper" through a major international insurance company.

A diversified portfolio is constructed within the bond to achieve an appropriate balance between the target return and the risk taken, and to ensure charges are cost effective.

Investments within the bond can be modified at any time without any tax consequences. Chargeable gains on insurance bonds are taxed as savings rather than investment income. The returns achieved were exempted from CGT.

0% tax

The beneficiaries pay zero tax on the first £5,000 (2021/22) of gains in excess of their personal allowance.

The insurance company assigns the bonds to the grandchildren (the beneficiaries) before any encashment, while they are still minors and the trustees are then deemed to hold the policies on a bare trust for the minor – thereby enabling the minor's allowances to be brought into play. IT is therefore charged at the beneficiaries' rate and not the rate applicable to the trustees. There is potentially no tax charge on the distributions while the young beneficiaries have personal allowances available.

All IT is deferred until capital is withdrawn from the bond, so any IT liability that does accrue will fall upon the bond owner at the time of withdrawal.

As no reportable income or gains are likely to accrue, the trustees' tax reporting involves minimal administration and, HMRC may not require any returns.

8

Drawing on taxable estate instead of pension

Preservation of Pension Funds

Mrs DM & Mrs OM are both retired and in their mid sixties. They both have a full state pension. Mrs DM receives a final salary pension from a former employer. Their joint income after tax from these sources is approximately £20,000. Their home is worth £700,000 with no outstanding mortgage or liabilities. They also have ISAs and other investments which total approximately £450,000 and an 'emergency fund' of £40,000 held in Premium Bonds. They have three adult children, none of whom are financially dependent on them. They have both made Wills, leaving their estate to the surviving spouse, then their children.

Mrs DM has built up an uncrystallised personal pension of approximately £400,000.

Mrs DM has writes a letter of wishes, nominating her wife and children as beneficiaries to receive death benefits from her pension fund.

Yearly Expenditure:

£22,000 day to day + **£5,500** holidays + **£2,500** car renewals

£30,000

NON-PENSION INVESTMENTS → **£500 per month**

Mrs DM and Mrs OM are advised to take a regular 'income' from their non-pension investments, withdrawing £500 per month.

They also make lump sum withdrawals from their non-pension investments when they change their cars.

75th birthday

PERSONAL PENSION → **25% tax-free withdrawal**

Mrs DM takes 25% of her personal pension as a tax-free lump sum shortly before her 75th birthday.

They suspend withdrawals from their non-pension investments and use this money to supplement their income, until these funds are depleted.

Mrs DM dies at 78

Mrs DM's letter of wishes states that, if she dies before the age of 75, her uncrystallised pension will pass to her beneficiaries entirely tax free. But she dies at 78, so the funds remaining after the tax free lump sum has been withdrawn, pass to her beneficiaries and any income drawn is taxed at their marginal rate.

MRS OM'S INVESTMENTS

Mrs OM survives Mrs DM, and continues to draw on her investments within her estate to supplement her income, only drawing on her inherited pension once these non-pension funds have been depleted.

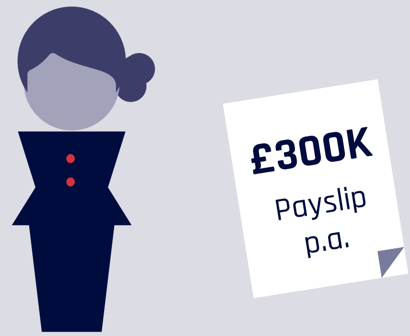
Her taxable estate remains above her available NRB and that transferred on first death, with the NRB available at that time, so she makes PETs to her children from her non-pension investments to reduce her taxable estate.

Any funds remaining in the pension at the end of her life, pass to her children, either entirely tax free or taxed at their marginal rate, depending on Mrs OM's age at death (pre- or post-75).

9

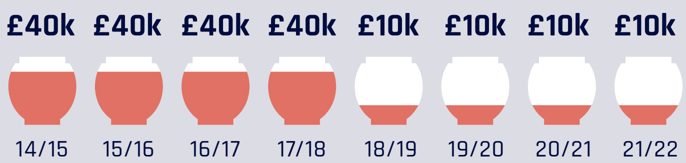
Tax efficient saving when annual pensions allowance is restricted

Ms R earns £300,000 and therefore, with her savings income, pays tax at the 45% additional rate.



She has fully funded her pension setting aside at least £40,000 a year. However, due to the tapered annual allowance Jenny is now restricted to just £10,000 annual pension contributions

Ms R's annual pension contributions



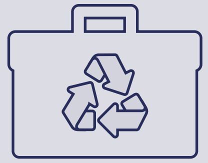
£30,000 p.a.

Looking for a tax-efficient home for Ms R' future

Her IFA recommends VCT investments

£30,000 p.a.

Ms R invests £30,00 p.a into VCTs for the next five years



She reinvests the dividends

To create a tax free pot when she retires, with VCT dividends being tax free and any profits on the sale of her VCT shares being exempt from capital gains tax

The diagram below illustrates how Jenny invests £30,000 into a VCT over five years, and reinvests dividends (at a rate of 4% per annum paid from the fourth year onwards). It assumes no gains or losses on the VCT or any IFA charges and that Jenny chooses not to reinvest her tax relief. Also note the timing and value of any disposal of VCT shares and access to funds is dependent on deployment and liquidity factors.

	Year 1	Year 2	Year 3	Year 4	Year 5	TOTAL
Investment	£30,000	£30,000	£30,000	£30,000	£30,000	**£150,000**
Tax relief (30%)	£9,000	£9,000	£9,000	£9,000	£9,000	**£45,000**
Dividends	-	-	-	£1,200	£2,448	**£3,648**
Tax relief on reinvested dividends	-	-	-	£360	£734	**£1,094**
Value carried forward	£30,000	£60,000	£90,000	£121,200	£153,648	
Total return (including tax relief)						**£199,742**

It should be remembered that each VCT investment must be held for 5 years in order for the income tax relief provided not to be withdrawn.

10

Reducing an IHT liability whilst deferring a CGT liability

EIS & BR

Mrs L is an 84-year-old widow who has full mental capacity but is in relatively poor physical health. She receives a substantial income from an occupational pension scheme and is a higher rate taxpayer. She also owns cash and her home which has a substantial value. Her income is sufficient to meet the cost of care which she receives in her own home. If she ultimately requires more care or residential care she could bridge any shortfall, either from cash or by accessing the equity in her property or by renting it out.

EIS benefits

The use of an EIS alongside investments that qualify for BR enabled a taxable estate to be free of both CGT and IHT when Mrs L died after three years

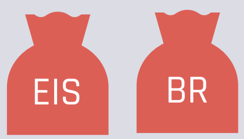
Mrs L's assets are valued significantly in excess of the NRB, in particular a portfolio of stocks and shares which cost £600,000 but has a current value of £825,000

£225,000
CGT deferral + 30% IT relief

£600,000

She sells her shares and invests the profits into EIS and BR qualifying investments

The £225,000 CGT liability is deferred for the life of the EIS investment. The EIS investment also generates 30% IT relief against her income in the current tax year and she can carry back the claim to the previous tax year. This tax relief effectively provides some financial return even if the value of the EIS shares fall.



100% IHT exempt

After two years, the EIS and BR investments qualify for 100% IHT exemption

Mrs L dies 3 years after taking action, so the qualification period for EIS is achieved and no clawback of tax reliefs is applicable. The deferred CGT liability dies with her.

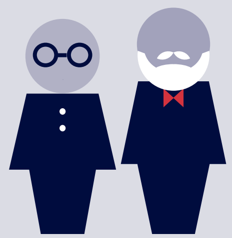
11

RNRB planning

It is September 2021. Mr PT & Mr ST have a property worth in excess of £400,000. Their total assets are £2.8m and they are concerned to pass on as much of their estate value as possible to their children.

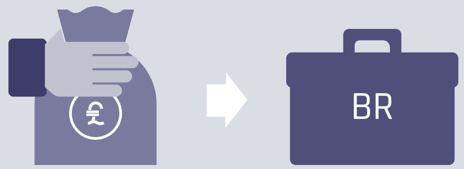
BR

If the trustees disposed of the BR qualifying assets within seven years the transfer into trust would become chargeable and IHT would become payable on the amount by which the value transferred exceeds the NRB.

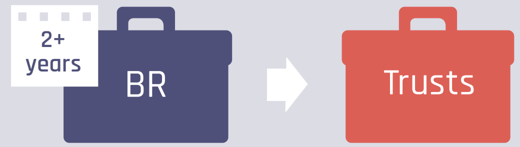


Their £2.8 million estate value is £800,000 above the RNRB £2,000,000 (2021/22) taper threshold

Above this threshold, £1 of RNRB relief is lost for every £2 the estate exceeds it. So, the full £350,000 joint RNRB for 2021/22 (and following tax years to April 2026) is tapered away to £0.

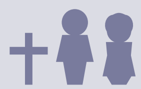


So, Mr PT and Mr ST invest **£800,000** into BR qualifying assets.



Once they have owned assets for 2+ years, the BR assets are settled into **Discretionary Trust(s).**

(This would still represent a CLT but, as the BR assets are exempt from IHT at that point there is no immediate 20% charge for transferring the assets into trust. The tax is charged at 0%)



At their death the £800,000 investment into BR is exempt from IHT thus saving £320,000 of IHT.

The BR assets are outside of the estate, meaning the value of the Estate on death is £2,000,000 so the RNRB taper does not apply. So, the full joint RNRB of £350,000 is reinstated saving a further £140,000 of IHT.

Without any planning total IHT liability is £860,000; with planning **total IHT liability is £400,000.**

Professional connections

4.1 An update

The drive to increase collaboration between the professions by regulators and the wealth advice and planning industries, has now been underway for some years. The main reason for drawing solicitors, accountants and financial advisers out of their silos is the better client outcomes that combined expertise and joined up thinking can bring.

There has certainly been significant progress. But it is still a work in progress for some.

Estate planning can throw up some extremely complex scenarios. For example, Rod Smith, partner at solicitors Royds Withy King and co Chair of the Law Society Wills and Equity Committee, stated in his panel session at Intergen2020, *"It is simply impossible for a lawyer to sit down and give inheritance tax planning advice without touching on pensions…so it's really really important that very early on in the planning, a financial adviser is introduced."*

Trust may well be an issue for some. Fear of client relationships being tarnished by the sub-par advice of referred advisers, or of losing the main relationship with a client may seem reasonable. But there is also a growing understanding among all three wealth advisory professions that, in fact, there are plenty of clients to go round:

The impact of Covid-19 has pushed many more people to seek later life planning advice. At the start of April 2020, The Gazzette quoted research that found will enquiries had increased by 76% since the start of the Coronavirus (COVID-19) outbreak in the UK. In May, the Financial Times reported, *"Pandemic accelerates desire to pass down wealth."* And in December, Unbiased announced that nearly twice as many people were seeking pension drawdown advice from them in the wake of the coronavirus crisis.

Add that to the massive intergenerational wealth transfer of £5.5trn over the next 30 years in the UK, with more deaths and growing house values projected to result in a 14% increase in the number of adults receiving an inheritance between 2017 to 2027 (without taking account of Covid deaths). By 2047, the numbers are even more notable, with a 35% increase in annual deaths and over 1.5 million adults receiving an inheritance per year - a 50% increase, since 2017 (Centre for Economics and Business Research).

In her presentation at Intergen2020, Gillian Roche-Saunders, partner at compliance firm, Adempi Associates, said, *"The more intergenerational in nature your advice, the more complex the considerations on the table."*

In addition, there is a notable shift in how non-collaboration is now viewed. John Gaskell, Head of Personal Financial Planning at the ICAEW in his panel session at Intergen2020, said, *"There is a benefit to making an informed referral, and indeed, not making an informed referral is a risk to your business and a risk to your professionalism and carries a cost."*

The FCA and SRA both require that the firms they regulate to work hard to create the best outcomes possible for their clients and work in their best interests. While this does not mean that legal, accountancy and financial advisory professionals are legally obliged to refer clients who would benefit from the expertise of one of the other two professions, it is becoming more and more difficult to justify if this is not the case. To say nothing of the missed commercial opportunity.

DAVE SEAGER

MANAGING DIRECTOR, SIFA PROFESSIONAL

Thought Leadership

DEVELOPMENTS IN PROFESSIONAL CONNECTIONS

Whilst not suggesting that clients in 2021 are more sophisticated than clients that came before them, it would, I believe, be fair to say that their problems potentially are and so are the solutions available. In the estate planning space this is particularly true, with Pension Freedoms and other legislative changes blurring the lines between estate, retirement, and later life planning.

More complex issues and problems not only require more professional and well qualified advisers but crucially they need advisers with differing specialisms working hand in hand.

With estate planning it will often be the solicitor and financial planner working in tandem for the mutual benefit of the client or clients and their dependents/beneficiaries. Solicitors have not always trusted financial planning professionals or referred clients to them readily, but this is changing all the time. This change in mindset has been driven by commercialism, by a greater understanding of how the advisory community has taken strides to be more professional, the move away from commission and by legal regulation.

In November 2019, the Solicitors Regulation Authority ushered in a new regime, driven by consumer research and by a desire to simplify rules, to assist solicitors to compete with new entrants and other legal professionals. Those behind the changes recognised not only that modern client's need for a more holistic view of their affairs but also the benefit of a more firm-wide approach to how they are treated.

Therefore, when it comes to referrals from solicitors to third parties, the solicitor code anticipates the recommendation must be demonstrably in the client's best interests. Of course, to demonstrate this there is an expectation that due diligence will have been undertaken to ensure the recipient of the referral is the best qualified for that client. Critically, for the first time the regulator introduced a 'Firm' Code of Conduct. This requires the management, specifically the 'Compliance Officer for Legal Practice', to introduce systems to ensure the individual solicitors are acting with the highest levels of professionalism and this includes those governing third party referral.

The SRA Rules, and how legal professionals behave, are governed by seven principles and it is not only 'best interests' solicitor firms need to consider when referring to third parties. Acting with 'Independence' and acting with 'Integrity' also come in to play. The regulator might consider a firm passing referrals to the same financial planning partner, to be acting other than with independence so a short panel or preferred list based on specialisms such as 'estate planning', might be ideal. The SRA has also suggested that not making a positive referral when a need for complementary financial advice has been identified might be deemed to be acting without integrity and certainly not in the client's best interests.

The SRA is not resting on its laurels with the next three-year cycle of regulation aiming to embed the 2016-19 reforms and go further. One of the central tenets of the new plans is to ensure they are on the front foot regarding technology. The need to assist solicitors embrace technology to deliver better client outcomes by using it, has been accentuated by the pandemic. Certainly, advisers using secure communication portals and IT such as cash-flow modelling are well placed to have positive conversations with their solicitor connections.

4.2
Tips on the intersection of professional collaboration and intergenerational wealth transfer

Proactive engagement with clients to overcome wealth transfer planning inertia

- Mine your current client base for opportunities to educate clients to understand the issues of the upcoming transfer of their wealth. This includes solicitors.

- Offering the collaboration of other professionals to give consolidated consideration of the complex issues could add significant value to your service.

Ensure all advice needs are taken into account when providing your services

- E.g, research from 2019 suggested just 31% of financial advisers have all or most of their advice incorporated into a client's will. If that is the case, will the full wishes of the deceased be carried out? Will valuable tax efficiency arrangements be unwound at substantial cost to beneficiaries and their loss as clients?

- *"There is a moral duty, in my mind, for accountants to ask about the client's personal financial health so they can get the business planning right."* Richard Bertin, Tether. Engagement with not only clients but their other advisers can facilitate this.

Awareness of and routes to socially responsible and impact investing

- Offering services connected to this area and an understanding of the possibilities as well as how this market is developing should make you a more attractive prospect for both younger clients and the other professionals working with them.

Early engagement with younger generations

- Engender family conversations about inheritances and succession and don't simply ignore needs outside your current scope of advice.

- Engage with beneficiaries - why not get them accustomed to the attentions of all 3 wealth advisory professions at once in an efficient, one stop shop process that could rival the services of an app?

Don't forget the older generation

- Research from Sanlam suggests that half of UK over 65s have never taken any financial advice. That is an untapped client source some of whom may well be existing clients of your professional wealth advisory counterparts. Imagine the value your financial advice introduced by those service providers could add to their relationship with those clients.

Consider technology-focused tools for client communications

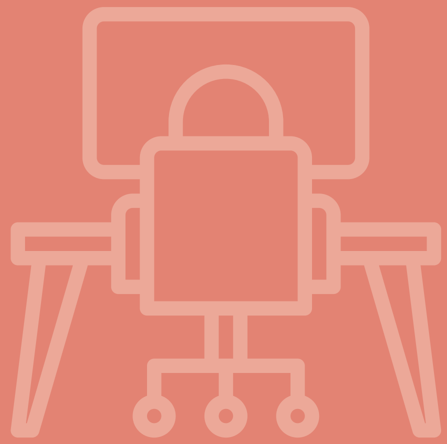
- This has been much accelerated by Covid 19, making single meetings with lawyer, accountant and IFA at the same time much easier to arrange, without travel time and costs.

Have a process in place for when a client passes away

- This is likely to include some involvement in the estate administration/probate process and connection with those other professionals who will be involved in it. See the next section on Estate Administration.

Enhanced governance standards for your business

- Not only could these attract younger clients, but also like-minded and relevantly qualified or aware wealth advisers from the other professions who are well-placed to advise them with you.



Estate Administration

5.1
An update

For all the work that can go into helping an individual plan their finances while they are alive, much of that work can be undone after their death if the transfer of wealth is not managed properly.

An executor of the deceased's estate is faced with a wide range of actions to be taken in the immediate aftermath of the death - and as executors are often close relatives, this can provide another great stress at an already highly emotional time.

If the executor has not been involved in the financial planning of the deceased's estate, this could lead to mistakes being made and potentially tax being paid that is not necessary. For example, an executor may not be aware that some of the deceased's shares qualify for Business Relief and instead simply pay inheritance tax on the investments even though they would be exempt if an application for Business Relief were made.

Furthermore, research suggests many advisers will be sacked by their clients' children once the inheritance is completed, in part because the younger generation do not have any relationship with the adviser in question. Figures published by the Kings Court Trust in 2018 showed 15% of practices lost more than 50% of the value of assets under management through intergenerational transfers in the previous financial year.

This could mean that, while some will no doubt be taking their business elsewhere, there may well be a significant number of inheritors who are not receiving any expert advice on how to manage their new-found wealth.

Despite the obvious business advantages of getting involved with the next generation and supporting them through the transfer of wealth, there remains a tendency to see the estate administration process as outside of a financial adviser's remit.

The Kings Court Trust's research found that 74% of advisers polled consider probate to be a legal service, even though they can offer probate services directly. And even though 42% believe that probate will increasingly be seen as a financial service, 32% said they would not offer probate services in the future due to commercial viability.

There may well be a range of different professionals involved in estate administration, including solicitors and accountants, so it is important that all parties are properly engaged with each other, including the deceased client's financial adviser.

In this section, we will consider the main things that need to be undertaken during estate administration, as well as taking a look at the main roles of the different professionals involved in the process. Scotland has a different process, so here we have mainly focused on the rules as they are applied in England and Wales.

5.2

What executors/ administrators need to do

Where there is a will, an executor is financially and legally responsible for dealing with the deceased's estate. If there is no will, the relevant person is known as an administrator. Once the death has been registered, the funeral planned and the government informed of the death, the executors/administrators will then begin administering the estate. This will include:

- Closing bank accounts and paying debts
- Notifying any pension providers
- Dealing with shares and investments
- Selling property and assets
- Dealing with inheritance tax and income tax forms
- Dealing with specialist legal work

Where an estate is particularly complex, it may be beneficial for the individual to have nominated a legal professional in their will to act as a professional executor. As well as being able to deal competently with complex issues such as inheritance tax and other liabilities, a professional executor can be useful where there are a wide range of beneficiaries and the individual may be concerned about the potential for conflict between those beneficiaries over the best course to take.

In most cases, however, the executors will not be legal professionals and as a result will need support in dealing with the deceased's estate.

The first thing for an executor/administrator to do will be to apply for probate (see boxes). In England and Wales, the probate process provides the legal authority to deal with the deceased person's estate. Applying for probate costs a flat fee of £215 if the estate is worth £5,000 or more (there is no fee if the estate is worth less than £5,000). However, if the deceased's estate was jointly owned, this will not be necessary as the estate will automatically pass to the surviving owners.

As part of applying for probate, the executor will be required to swear an oath confirming three things:

- their right to administer the estate;
- that the information in the application is true; and
- that the estate will be distributed according to the law and the wishes stated in any will

Note: A similar process applies in Scotland, where a 'confirmation' document is applied for from the sheriff court.

PROBATE WITH A WILL

If the deceased has left a will, the executors named therein will be the ones tasked with applying for a Grant of Probate. To do this, they will need to complete a PA1 form.

This must then be returned to the Probate Registry, along with the correct inheritance tax form, an official copy of the death certificate, the Probate Registry office fee, the original will and three copies of the will (as well as any codicils).

Working out the value of the estate can take time, but this is also an opportunity for the executors to ensure all parties, including financial advisers, solicitors and accountants are involved, so that the estate can be accurately surveyed. Probate will not be granted until any outstanding inheritance tax is paid, so it is important for executors at this point to make sure they are aware of any investments that may be exempt, for example through Business Relief.

Once the Probate Registry is happy with the application, it will issue a Grant of Probate allowing the executors to administer the estate.

PROBATE WITHOUT A WILL

If the deceased has died intestate (without a will), it usually falls to the next of kin to apply for probate. As the administrator, they will still need to fill in a PA1 form, although some sections will not be relevant and can be left blank.

This form will then be returned to the Probate Registry, along with the correct inheritance tax form, an official copy of the death certificate and the Probate Registry office fee. Again, the administrator must pay any inheritance tax due, so this is again a vital time for the administrator to confirm with relevant parties whether there are any parts of the estate that qualify for Business Relief.

Once the Probate Registry is satisfied with what has been provided, it will issue a Grant of Letters of Administration. This is similar to a Grant of Probate and allows the administrator to administer the estate.

Once probate or Letters of Administration have been granted and the estate has been valued, the executor can begin to administer the estate. To begin the process, financial assets can be transferred to an executorship account. This can make it easier to pay debts, including any tax due, which is the first requirement.

Once all debts and taxes have been paid, the estate can be distributed as detailed:

- in the will; or, if there is no will
- according to law

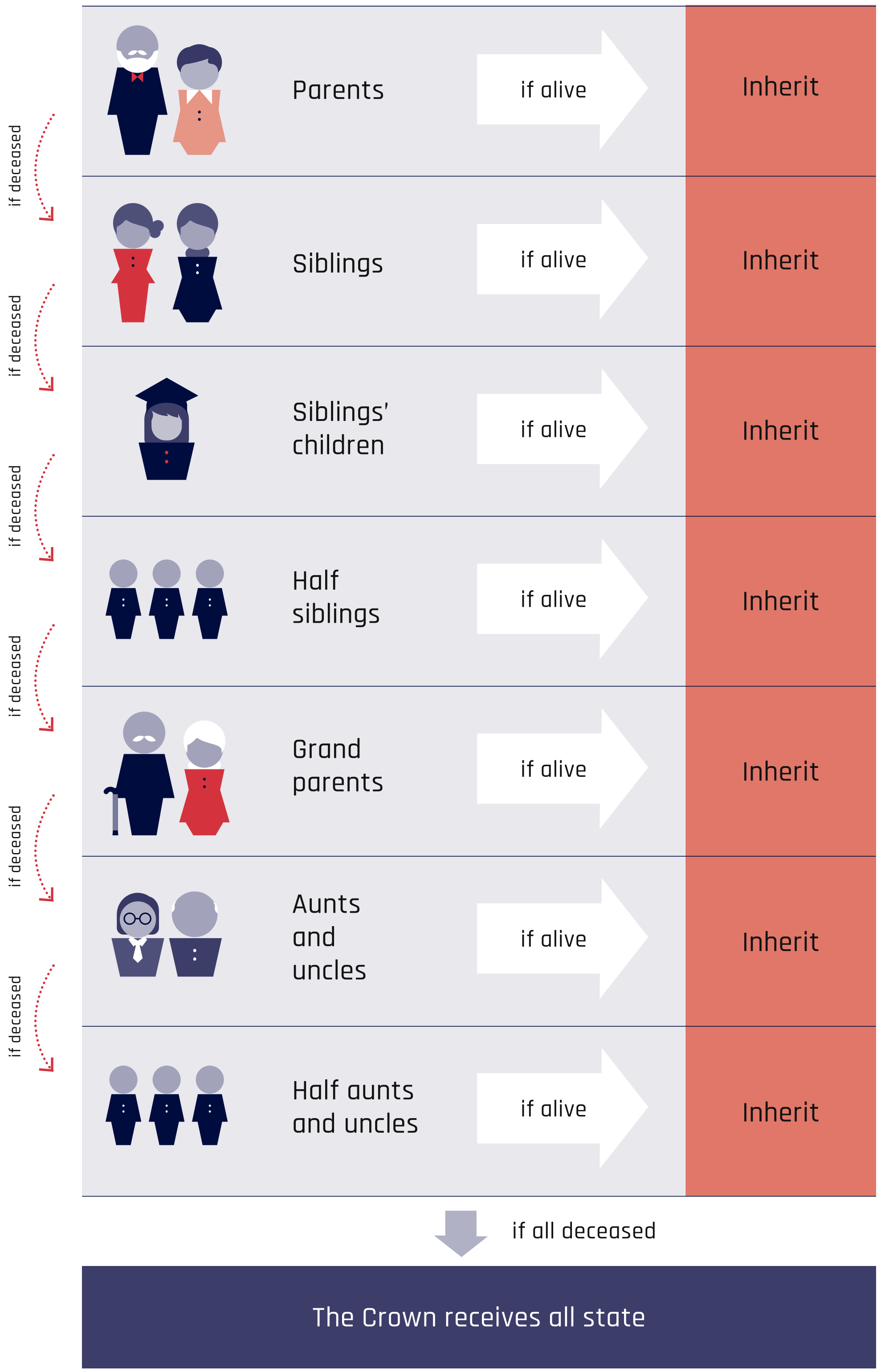
In the event that there is no will and the individual has no living relatives, the whole estate will go to the Crown.

If the deceased does have living relatives, a range of different situations apply. Where the estate is worth more than £250,000, a surviving spouse or civil partner will keep all of the estate where there are no surviving children.

However, where there are surviving children or grandchildren, the surviving spouse or civil partner will keep assets (including property) up to £270,000 (as of February 6 2020, up from £250,000 previously) and all personal possessions, whatever their value, plus an absolute interest in half of the remainder, with the rest divided equally among the surviving children (with any grandchildren inheriting in place of a deceased child).

In the event that there are no surviving children, grandchildren or other direct descendants, the estate is transferred in its entirety and distributed equally between any members of the next group in the following flow chart.

Inheritance where there are no direct descendants



Thought Leadership

MAKE FINALISING YOUR AFFAIRS EASIER BY LEAVING A WELL-WRITTEN WILL

CORIN HOLNESS
HEAD OF CORPORATE PARTNERSHIPS, KINGS COURT TRUST

Why should you create and leave a valid and up to date Will? The most cited reason is to ensure the deceased's estate is passed down to the people they wish to inherit. An often-overlooked additional reason for leaving behind a Will is to make the estate administration process as clear and straightforward as possible.

Estate administration is the process of dealing with a person's legal and tax affairs after they've died. This can include dealing with all their assets (such as property, shares and personal possessions), paying debts, paying Inheritance Tax and Income Tax, and transferring the inheritance to the beneficiaries. Estate administration is required after every death, whether there is a Will or not.

When a valid and up to date Will has been left, there is a clear outline of how the estate will be distributed and who will be inheriting from the estate. A Will also names the individual(s) who are legally responsible for administering the estate, known as the Executor(s). It's important to let the Executor(s) know where the Will is located in advance, as a missing Will can delay the estate administration process and cause additional stress.

If someone dies without a Will, their estate is intestate and must be distributed following the rules of intestacy. People often assume that their closest loved ones will inherit even when they die without a Will, but that is not always the case. For example, a partner will not inherit unless they are married or in a civil partnership, step family are not entitled and relatives who have lost touch with the deceased could inherit.

When faced with an intestacy, the estate administration process is undoubtedly more complicated and the next of kin can apply to be the Administrator. The Administrator, similarly to the Executor, is legally and financially responsible for the correct distribution of the estate and will be held accountable for any mistakes. This is automatically more complex upon intestacy as no Will dictates who will inherit. Therefore, genealogical research work is required to ensure the correct people inherit under the rules of intestacy.

Upon intestacy, if the family believes they have accurate knowledge of the family tree, it should be professionally verified. If it is not clear who should inherit, then the family tree will need to be reconstructed, which takes time and slows down the estate administration process.

Once the family tree has been confirmed, there may be further delays in searching for the beneficiaries and tracking down all of the deceased's assets. A well-written Will should clearly outline the assets within the deceased's estate. However, when there is no Will, the Administrator will have to thoroughly search and collect all the assets, ensuring no assets are missed.

Preparing the estate accounts

The executor will need to keep certain records once the estate has been valued, as HMRC can ask to see them up to 20 years after inheritance tax has been paid.

The executor should keep copies of:

- will
- signed inheritance tax forms and supporting documents
- records showing how the value of assets in the estate was worked out
- documents showing any unused inheritance tax threshold that can be transferred to a surviving spouse or civil partner
- final accounts

The final accounts will include any documents showing how money, property or personal belongings from the estate were distributed. This may include, for example:

- letters from HMRC confirming that inheritance tax was paid
- receipts showing debts paid, for example utilities bills
- receipts for the executor's expenses from dealing with the estate
- written confirmation that the beneficiaries received their share of the estate

The executor should then send copies of the final accounts to all beneficiaries.

Companies allowed to undertake probate work

Probate is a 'reserved' activity under the Legal Services Act 2007 (the Act), which permits two methods by which a firm of advisers, accountants or solicitors may undertake probate work:

- As an authorised firm (where all the principals and shareholders are individually authorised to carry out probate work); or
- As a licensed firm (where not all the principals and shareholders are individually authorised

Authorisation is by an approved regulator, licensing is by a licensing authority. The Institute of Chartered Accountants in England and Wales (ICAEW), for example, is both and therefore can authorise or licence firms, which are then required to carry out their work in compliance with the Act's regulations.

The definition of probate work under the Act:

"The preparation of any papers on which to found or oppose a grant of probate or a grant of letters of administration and the administration of the estate of a deceased person."

The role of IFAs

Whether the adviser gets involved in the probate application or not, they can still provide invaluable support to the client's executors and family.

To begin with, the client may choose to nominate their financial adviser as one of their executors. While the adviser is not obliged to accept this role, it does give them an opportunity to play a central role in the administration of the estate.

Where the financial adviser is not an executor, he or she is still likely to have all the relevant financial information relating to the deceased client's estate and therefore should be a source of support and guidance for the executor or administrator as they seek to untangle the estate. Even a well-designed will can be complex and having an adviser with all the relevant documentation on hand can be of huge benefit to the executor.

Perhaps one of the most important aspects a financial adviser can help with is determining how much - if any - inheritance tax is to be paid on the estate. First, they are likely to have advised the client on any Business Relief-qualifying investments and so will have the paperwork on hand to make the relevant claims.

Second, the financial adviser will be able to help the executor or administrator to determine what else may or may not be exempt from inheritance tax. This can be a tricky calculation: everyone is entitled to pass on £325,000 free of IHT, or £650,000 for married couples and civil partners (the nil-rate band). However, the estate might also qualify for an additional relief due to the RNRB.

The tapering restrictions that may apply to the RNRB, as well as any main residence downsizing and partial transfer of a spouse or civil partner's allowance can further confuse matters.

Therefore having a financial adviser on hand to support in these circumstances can clearly be beneficial.

One other area in which financial advisers can be of great benefit is, of course, in helping the beneficiaries of the deceased client to manage their newfound wealth. Those who have just inherited money may be unsure of what to do with it and the new cash may also have significant tax implications for the new generation. Former minister Lord Willetts, who has written on the issue of intergenerational wealth transfer, has pointed out that the median age of an inheritor is 61 - an age at which they are already likely to be thinking about their own financial planning and how to transfer their wealth to their own children.

However, for IFAs, this needs to be handled sensitively and is one reason why advisers should get to know their clients' beneficiaries and family as much as possible before the death of their clients. Appearing to be simply interested in following the money is unlikely to endear an adviser to a grieving family, although doing a good job of easing the estate administration process is a valuable opportunity to demonstrate to both existing and potential clients why they should retain the services of the responsible IFA.

Key points:

- Executor manages the administration of the estate
- Adviser knowledge of IHT is very useful to client's executor
- Advisers should be proactive by having client's solicitor details

Thought Leadership

IFAS AND ESTATE ADMINISTRATION

NATALIE WRIGHT

PARTNER AND HEAD OF UK FAMILY BUSINESS, MAZARS

As financial planners, we delve into personal conversations, explore personal beliefs and values and ultimately help clients achieve the lifestyle they truly want. We get to know our clients in a different way to many other professional advisers; often working directly with different members and generations of a family. This invested relationship can still have significant benefits after a client dies and play an important role in the estate administration process:

Practical tips for IFAs:

Understanding the family relationships and dynamics will not only help with the estate administration process and ensure that the clients' wishes are carried out, It will help safeguard client relationships and potentially the income of the financial adviser as beneficiaries and the next generation have the opportunity to experience first hand what your IFA service can do.

Annual meetings with a client's other advisers keep all parties in the loop regarding what will happen when the client dies, ensures that any actions do not negatively impact other areas of their planning and that there is a cohesive strategy that takes into account their wants, their needs, tax, regulation and legal considerations.

Make a list of contact details of all beneficiaries and those who need to be contacted in the event that something does happen. As families grow, relocate and potentially become fragmented over time, central list will allow you to contact them without delays.

Working closely with an accountant is also key. Large levels of volatility in markets (as we saw throughout 2020), mean day to day valuation of assets can change substantially which can have a direct impact on the proceeds paid to beneficiaries and also the potential IHT liability. Working with an accountant means that IFAs may be able to maximise value and minimise tax where there has been a change in the valuation between the date of death and the proceeds being distributed.

Many investment bonds have been placed into trust historically, typically using Discretionary Trusts for IHT purposes. The death of the settlor, or distribution to beneficiaries is likely to mean that the trust will need to formally register with HMRC and various returns will need to be submitted. This work needs to be done in conjunction with legal advisers and accountants to ensure everything is declared in the right way and at the right time.

During the Estate Administration process, IFAs and wealth managers may take different approaches with regards to invested funds – some leaving portfolios invested and some choosing to liquidate them so the funds are ready for future distribution. It is important to understand who will benefit from each asset and what their needs will be in order to ensure that the most appropriate action can be taken.

There is a lot that a financial adviser can do to aid the estate administration process and not only is this good professional practice, it is good commercial practice too.

The role of Solicitors

A solicitor can provide a range of services to support executors or administrators when dealing with a complex estate.

The first and most obvious role is helping to prepare probate and some solicitors will be probate specialists. If a solicitor is being used, they will usually prepare the oath that is to be signed by the executors as part of the probate process - and are usually able to do this faster than the probate office.

Such experts will generally be useful in a wide range of situations, including:

- When the value of the estate is over the inheritance tax threshold and where there may be a range of taxes due
- Where there is a complex estate where the deceased died intestate (without a will)
- If there are doubts over the validity of the will
- Where the estate includes complex arrangements such as assets held in trust
- If the estate is bankrupt (insolvent) or there are doubts about whether this is the case
- Where the estate includes foreign property or foreign assets
- When the deceased lived outside the UK for tax purposes

Where an individual plans to challenge a will, a specialist solicitor will be critical. This can be a complex and emotionally challenging move for an individual - often a relative - and therefore the legal expert will need to provide a range of support, including careful advice in the first place on whether such a move is wise.

There are a number of grounds for appealing a will, including lack of capacity of the person creating the will; a failure to properly execute the will; coercion by another of the person who created the will; and fraud.

Any attempt to contest the will should be made quickly, because a time limit of six months from the issue of grant of probate applies to some challenges, such as a claim in lieu of the Inheritance Act or a claim for maintenance. A beneficiary making a claim against the will has 12 years from the date of death, while there is no time limit in the case of a claim of fraud.

Whether the solicitor is acting for the claimant or those defending the will, they should work towards an amicable solution that can be agreed without having to go to court.

The inheritance trap for solicitors - case study

There is one significant trap that solicitors can fall into when working for a client who is preparing their will: failing to ensure the client takes independent legal advice before leaving money to the solicitor in their will. This can cause problems for the solicitor when the estate is being administered.

For example, in January 2020, the Solicitors Regulation Authority (SRA) fined solicitor Stuart Quail Murphy £2,000 after he acted for a Mrs C in preparing her will in 1996. Even though he had advised Mrs C to obtain independent legal advice, the SRA said he had *"failed to ensure that Mrs C took independent legal advice before she signed the will".*

Over the following 15 years among other things Mr Murphy acted for Mrs C in amending and making new wills and failed to advise her again of the need to take independent legal advice.

As well as being fined by the SRA, Mr Murphy (who had already retired) agreed to remove his name from the roll of solicitors.

The role of Accountants

While an accountant can carry out many of the functions undertaken by a solicitor during the probate and estate administration process of a complex estate, they can also help with some specific aspects where their skills are more relevant than a solicitor:

- Where the deceased was a UK taxpayer, the accountant may be best placed to prepare a tax return to the date of the deceased's death - particularly if they had an ongoing relationship with the deceased and therefore have a good understanding of their tax position (and potentially any tax reliefs due on the estate).
- The accountant can ensure that the executor complies with the duty to report any taxable events during the administration period to HMRC and pay any tax that is due.
- If the deceased had an interest in a business, business accounts to the date of death will be prepared by the company accountant.
- In almost all cases, a certificate R185 will be required for each beneficiary and this will show the income collected by the executors during the administration. This allows the beneficiary to complete their own tax return or claim if necessary, and again an accountant can help in this process.

The exact role of an accountant, financial adviser or solicitor will depend on whether they have been granted probate authorisation or a licence. If they have, they will be able to handle the entire probate process, except for the swearing of the oath, which must be undertaken by the executor (although as explained previously, a solicitor may prepare the oath). An accountant or financial adviser with a probate licence or authorisation cannot take on contentious probate cases, however, as these need to be referred to a practitioner who is licensed for contentious work, such as a solicitor.

Authorised or licensed accountants are able to complete and submit the relevant inheritance tax forms to HMRC (IHT400 if inheritance tax is to be paid; IHT205 if there is no inheritance tax due). This can be a significant weight off the executor's shoulders, but should be done in conjunction with the deceased's adviser to ensure that no elements, such as exempt investments that qualify for Business Relief, are missed.

As a licensed or authorised probate accountant, a company is able to advise the client on the appropriate treatment of assets and liabilities, and can also put together the documentation required for probate.

> ***Each client scenario is unique, so an IHT calculator, such as www.IHTcalculator.com, can prove useful for financial planners, allowing them to input assumed growth rates for the value of different assets and calculate potential future IHT liabilities on the rising value of the estate."***
>
> **HENNY DOVLAND, BUSINESS DEVELOPMENT DIRECTOR, TIME INVESTMENTS**

RICHARD BERTIN

CEO AND FOUNDER, TETHER

Thought Leadership

HOW TO TURN A PROBATE LICENCE INTO A FAMILY OFFICE SERVICE

Estate administration comes at the end of a client life cycle. ICAEW members have been able to apply for a Probate Licence for some five years now. But it is a competitive business, lawyers are typically at the front of the queue, having advised the deceased and their family on the will.

How Chartered Accountants jump the queue

Creating a "Family Office" is one way. Often it is associated with the wealth management industry or leading private client legal firms. However, many of the large accountancy practices have created family office departments.

Historically, accountants looked after family businesses, passed from one generation to another. Many entrepreneurs set up a business to enjoy a liquidity event, not to simply hand the reins onto their next of kin. Looking forward it is important that accountants have a "cradle to grave" solution for the business owner not just the business itself.

In order to compete in the probate market, a Chartered Accountant needs to be at the forefront of family, as well as business advice.

If the endgame is to build a successful probate business let's consider what goes into the process.

Where Probate meets Family Office services

Let's look at some of the tips for accountants:

- Don't wait until death to know your clients' personal balance sheet
- Understand your clients' personal goals and plans from the day you onboard them
- Document your clients' personal financial situation at the start of the business relationship and have a process to update regularly
- Clients often need to nominate pension benefits into trust - do you have a structured process for supporting their advice needs?
- Clients typically require life insurance for family or debt protection - are you able to advise on their trust and trustee requirements?
- It is good practice to have an LPA in place if you run a business - can you support your clients with a structured in-house, or referral, process?

From business exit to probate administration

It is common for Chartered Accountants to attach their service proposition to the business, but what happens when the entrepreneur sells up?

It is here that a full cycle proposition for the entrepreneur comes into its own, i.e. the family office approach. Where the accountant has acted as the "family finance director," there is an ongoing role beyond the life of a business, other than a simple tax return.

Services in retirement could include:

- A sounding board for the client when considering gifting money to children
- A reality checker on how much wealth can be given away
- Helping implement insurance for a gifting strategy together with appropriate trust structuring

In theory the choice of the Chartered Accountant to deal with probate matters should be easy for the family if the accountant can demonstrate a true "cradle to grave service."

Practicalities and Tips

6.1
Temporary Annuities

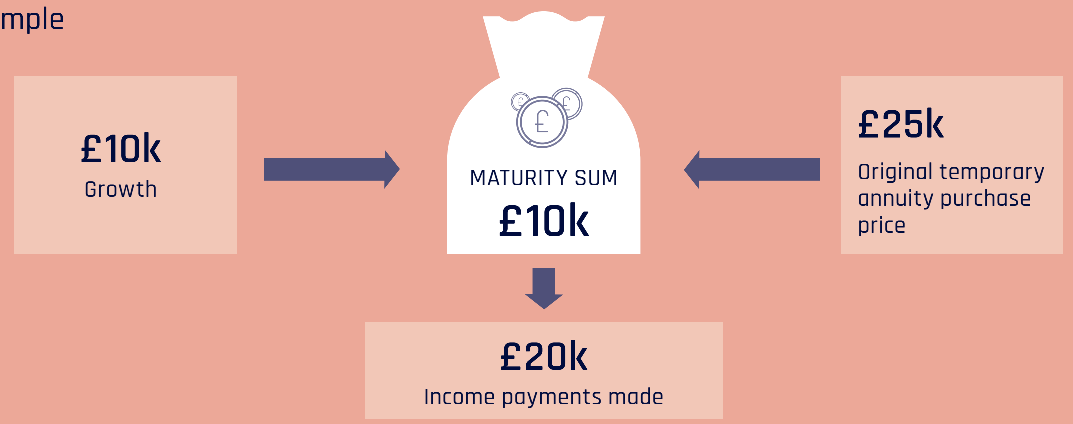
Annuity rates have been declining for some time. In fact, research by Moneyfacts.co.uk released in September 2020 found that *"an annuity for a single life male aged 65 who has a £50,000 lump sum and takes out a level without guarantee annuity will receive an annual annuity income of £2,295 on average paid monthly in advance, but this is £1,080 less than the same time ten years ago"*. This rate will apply for the rest of his life.

With annuity rates at record lows, there is a real concern about committing to poor rates now that then increase, but which the purchaser is unable to access. Even if they don't, an annuity purchased in five or ten years will likely give a better return as – obviously – the client will be older. They may also have health issues, making impaired life annuities with a lower cost potentially suitable.

Therefore, it might be useful to consider a temporary or fixed term annuity. A fixed-term annuity will pay a regular income for a limited period (typically five to 10 years), followed by a lump sum (maturity sum) at the end of this period. This can be used to buy another product – such as another annuity or a drawdown scheme.

Another option is to use pension drawdown in early retirement and then annuitise at a later date to benefit from a higher income derived from higher annuity rates.

Example



6.2
Unauthorised pension payments

The tax penalties on these payments can be significant and it is useful to have an understanding of when they apply and to what extent.

Any payment from a pension that is not an authorised payment is, by definition, an unauthorised payment. Pension legislation sets out the authorised payments, and broadly speaking, they are:

- member benefits
- death benefits
- recognised transfers
- payments relating to pension sharing orders (on divorce)
- scheme administration payments
- genuine errors

There are also certain payments permitted under specific regulations, such as pension advice allowance payments, small lump sum payments, and PPF payments.

When an unauthorised payment occurs up to three separate tax charges can arise.

Unauthorised payment charge of 40% of the unauthorised payment: usually payable by the member and it cannot be offset against any other losses the taxpayer has.

Unauthorised payment surcharge of 15% of the unauthorised payment: usually payable by the member, applicable when the total unauthorised payments in a 12 month period, starting with the first unauthorised payment, exceed 25% of the member's pension pot in that scheme. Once the surcharge threshold has been breached, the next unauthorised payment will start the next 12 month period.

Scheme sanction charge of between 15-40% of the unauthorised payment: payable by the scheme administrator at a standard rate of 40%, but a credit can be given against this once the unauthorised payment charge has been paid, effectively reducing the charge to a minimum 15%.

All three of these charges may be payable in relation to a single unauthorised payment and the scheme administrator is required by regulations to report all unauthorised payments to HMRC and will notify the scheme member. The member will then need to notify HMRC in their self-assessment or, if they don't complete a self-assessment, by reporting it direct.

Examples of when an unauthorised payment could take place include:

- Withdrawal by a member before age 55 (and where they did not meet the ill health criteria nor had a protected early retirement age)
- A transfer not made to a registered pension scheme, which would not constitute a 'recognised transfer'
- investment in taxable property eg the pension purchases a residential property
- benefit payments paid to someone other than the member
- benefit in kind for a member or connected person arising from a pension asset eg the member's company uses a property owned by the pension without paying rent at a commercial rate.

6.3

Funding rounds and risk in EIS, SEIS and VCT investments

The restrictions that apply for companies to qualify for EIS, SEIS and VCT status mean that the companies in an EIS, SEIS and a VCT portfolio are all 'early stage'. But, within this classification, there are various stages of fundraising depending on the development stage of the investee.

The funding stage definitions are not fixed, but are typically:

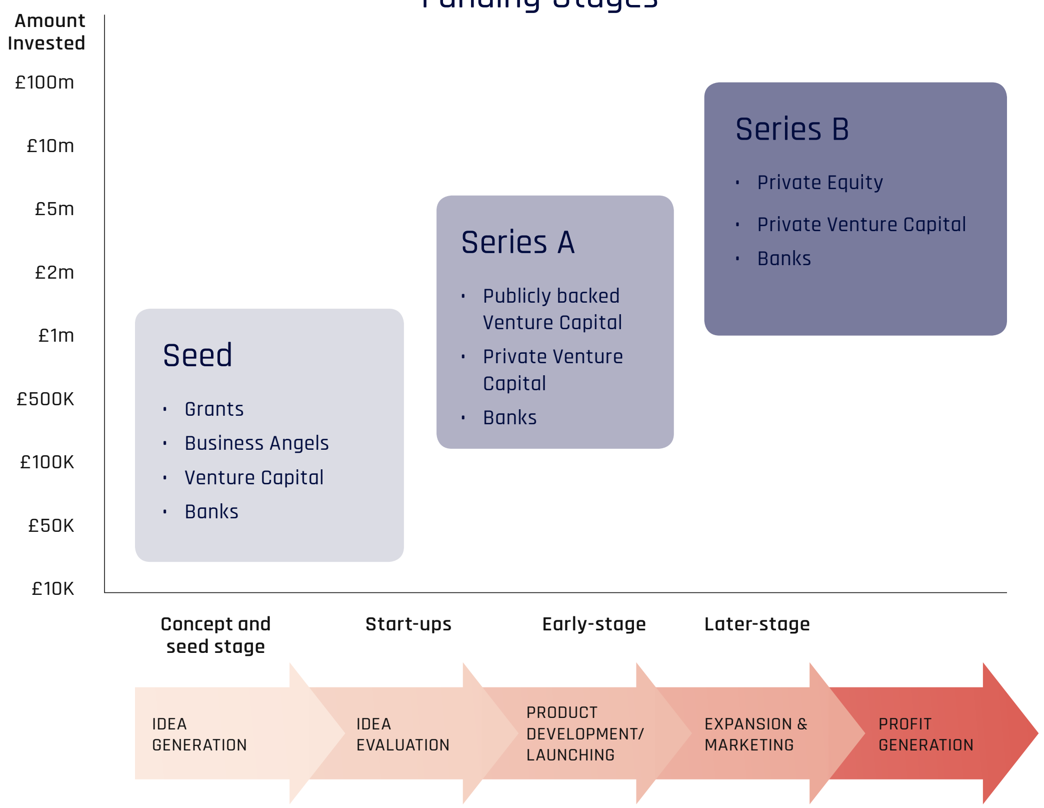
Seed: Seed rounds are among the first rounds of funding a company will receive, generally while the company is young and working to gain traction and build a product from an idea. Likely to be pre-revenue.

Series A: The company may have some established revenues and is typically preprofit. At this stage, it is seeking to identify the commercial viability of its product or service (product-market fit).

Series B: The company may be making small profits but is looking to scale and has growth aspirations outside current revenue streams.

Therefore, the funding round is an indicator of risk, with earlier stage funding likely to be higher risk, but lower cost. This brings the opportunity for higher returns, but also greater potential for losses.

Funding Stages



6.4

Maximising Charitable Gifts for the estate and the charity

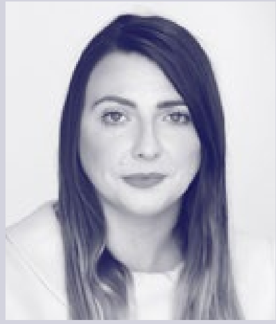
> *People spend a lifetime accumulating wealth and this can be ravaged by tax – planning can increase the amount going to future generations."*
>
> **NEIL JONES, TAX AND WEALTH SPECIALIST, CANADA LIFE**

Lifetime gifts to charities or via a will are IHT efficient in that there are no limits on the amounts that can be given without reducing the donor's NRB, and the value of any charitable gifts via a will are considered outside the donor's estate. Additionally, if at least 10% of the donor's net estate is gifted to charity, the IHT rate paid by the executors on the remainder of the taxable estate is reduced to 36%.

However, although the Gift Aid provisions allow for an additional 20% to be claimed on the gifts received, these gifts don't qualify. What's more, the executors can not claim higher or additional rate Gift Aid relief on the death of the donor.

But there is a possible solution:

1. The donor leaves a legacy to an individual rather than a charity in their will.
2. The beneficiaries of the will exercise a Deed of Variation so that the legacy is treated (subject to the Deed being executed within two years of death) as being made by the deceased for IHT purposes.
3. The beneficiary to whom the legacy intended for a charity was left, makes a lifetime gift of the corresponding amount to the charity and claims Gift Aid relief.
4. For income tax purposes that original will beneficiary is able to obtain tax relief under Gift Aid rules.



CHARLOTTE COYLE

SENIOR ASSOCIATE, GOODMAN DERRICK LLP

Thought Leadership

PENSION SHARING WITHIN DIVORCE PROCEEDINGS: PRACTICAL CONSIDERATIONS

In December 2000, the Welfare Reform and Pensions Act 1999 came into effect which allowed pension sharing provisions to be made within divorce proceedings.

This meant that personal pensions, workplace pensions and the earnings-related additional State Pension (or the "protected element" for people entitled to the new State Pension) could be divided as part of the financial settlement between ex-spouses.

The pension sharing provisions include:

- **Pension Sharing Order:** where a percentage share of one party's pension(s) is either transferred into a pension in the other party's name or allows them to join their ex-spouse's pension scheme;
- **Pension Offsetting:** where the value of any pension is offset against other assets. For example, an ex-spouse might decide to have a bigger share of the former matrimonial home in return for their ex-partner keeping their pension;
- **Pension "earmarking":** where the ex-spouse gets a proportion of their ex-partner's pension when it starts being paid to them (N.B. the ex-spouse will not receive any pension payments before their ex partner has started taking their pension).

Not every divorce will result in a pension sharing order and some settlements may include the more traditional method of "offsetting" against other matrimonial assets, such as the former matrimonial home.

However, in August 2017, a report published by the Ministry of Justice suggested that the number of divorced couples applying for pension-sharing orders increased by 43%. This rise could be attributed to a number of factors but one theory could be that individuals are focusing on how central pensions are when splitting marital wealth and the security associated with having a pension later in life instead of having a lump sum now and/or a larger proportion of the former matrimonial home.

It is important individuals are aware of the benefits of having a pension in place after divorce, particularly if they do not have one. Some individuals may have stopped working in order to look after children and therefore after the divorce proceedings have concluded they may not have the ability to enter back into the workforce in order to generate a large enough pension(s) to provide for them in retirement.

Another important consideration is the costs of a pension sharing order. Splitting a pension pot will likely incur administrative costs and any pension report (which will assist in establishing the value of the pension sharing order) can also cost thousands of pounds depending on the complexity of the pension scheme.

Lastly, it is important to note that divorce does affect pension rights. Once the final order of the Divorce is made (Decree Absolute), the marriage officially comes to an end and the parties will no longer be entitled to a widow/widower's pension under any occupational or personal pension schedule. Therefore, it is really important to try and finalise financial matters before first applying for Decree Absolute because there may be pension rights or life policies from which the ex spouse may benefit as their spouse, but would lose should they no longer be their Husband or Wife.

JULIA DREBLOW

DIRECTOR, SRI SERVICES

Thought Leadership

SUSTAINABLE INVESTMENT AND ESTATE PLANNING

Many people with estate planning needs will have investments in equity or bond funds and it is increasingly likely that they will have opinions on environmental and social issues also. Whether or not they will have joined the dots between the two is probably 50:50 - however for many good reasons people increasingly do and sustainable investment and related areas are now more popular than ever.

Funds with names like 'sustainable', 'responsible', 'ethical' and 'ESG' (which stands for 'environmental, social and governance') - have made significant progress since the COP21 2015 Paris Climate Agreement was signed as it shifted the business landscape dramatically. (It is likely that COVID has accelerated interest also – but its longer-term investment implications are yet to emerge).

In June 2019 the UK became the first major economy to commit to 'net zero' carbon emissions by 2050, BP surprised many by making the same commitment in February 2020. And in October 2020, China also caught many unaware by committing to 'net zero' by 2060. All of these have profound implications for investors.

Financial regulators will have a key role in making country level targets achievable and have been working on new frameworks and rules. The Bank of England and Prudential Regulation Authority (PRA) were first off the mark, notably with the development of the Task Force on Climate-related Disclosures (TCFD), but the FCA is now increasingly involved also.

The financial services regulator's strategy cannot be finalised until the government spells out what 'equivalence' and 'matching the ambition of the EU sustainable finance plan' mean - but as the UK is hosting the next UN climate talks 'COP 26' in Glasgow, in November 2021, we can reasonably expect some action.

Current FCA activity in this area is largely focused on improving existing regulation. Specific areas of interest include consistency of fund messaging and approaches (including name, strategy, holdings, stewardship), the way ESG criteria - including impact measurement – are described in fund objectives, the clarity of fund information and reporting (relating to both stock selection and stewardship activity) and the use of data. Once bedded down these should make fund strategies easier to understand - and trust.

In the meantime, our open-source Fund EcoMarket database will help you to recognise different SRI styles, screens, themes and fund approaches. When researching funds keep in mind that there are almost as many legitimate fund strategies as there are personal opinions. This area is far from being 'black and white'.

Getting started however can be as simple as a question like 'What do you care about?' It is simple enough, but with one's legacy in mind it could prove to be far more interesting and with far more profound implications than almost any other you might ask.

As for deciding whether or not to get involved in sustainable investment – if you or your clients are in doubt - I'd suggest either speaking with their children (or anyone under 30) – or perhaps less painfully given the context, setting aside some quality lockdown time with David Attenborough.

Providers in Focus

BLACKFINCH INVESTMENTS

01452 717070
enquiries@blackfinch.com
blackfinch.com

About the provider

We're an award-winning investment specialist with a heritage dating back over 25 years. A trusted provider, we work in partnership with advisers. Our businesses offer tax-efficient solutions, early stage investing, managed portfolio services, property financing and renewable energy. Together they can provide solutions for investors in almost any situation.

Blackfinch Investments was our first business to launch. Bringing tax-efficient expertise, our focus is on capital protection, security and growth. Our offerings are known for flexible designs, lower fees and value, with simplicity and transparency assured. We draw on Business Relief (BR) for a swifter route to Inheritance Tax (IHT) exemption. Our solutions include the Adapt IHT Portfolios and the Adapt AIM Portfolios.

We're also committed to an Environmental, Social and Governance (ESG) approach across all our investment ranges and are a signatory to the Principles for Responsible Investment (PRI). Across our businesses we work for a positive impact and more sustainable future. We're proud to be entrusted with over £450 million in assets under management and administration.

Our Estate Planning Solutions

We offer a range of estate planning solutions, designed in response to adviser and client needs. As an ESG investor, we support advisers catering to clients' responsible investment concerns. Our offerings have internal ESG approvals as well as meeting ongoing requirements for diversified IHT solutions.

The range is based on BR. In comparison to gifts or trusts clients can expect a swifter route to IHT relief after just two years (and if held at death).

And with no complex or expensive structures, investors have flexibility and control, able to access cash if circumstances change.

The Adapt IHT Portfolios give clients the chance to invest across property, asset-backed lending and renewables. We're a leading investor in all of these areas, working for a greener world. The expanded portolios now have an even stronger ESG focus. They provide four options, targeting returns from 3-5%+:

- **Ethical portfolio** – focused mainly on renewables and low carbon projects
- **Balanced portfolio** – formerly the Capital Preservation portfolio
- **Balanced Growth portfolio** – a blended focus on capital preservation with growth
- **Growth portfolio**

The Adapt AIM Portfolios bring return potential alongside IHT relief, through investments in firms listed on the Alternative Investment Market (AIM). With AIM investments eligible to be held in an ISA, the portfolios can also deliver ISA tax benefits. They offer two options, targeting dividend yields from 2-4% p.a.:

- **Income** – Bias towards firms with attractive dividend yields
- **Growth** – Dividends retained in portfolio to cover costs

The portfolios combine our tax-efficient specialism with the expertise of Chelverton Asset Management in selecting AIM stocks. The partnership is exclusive to the service, creating highly diversified portfolios relative to other providers. We work with Chelverton to identify growing BR-qualifying firms focused on ESG factors.

Capital at Risk.

Blackfinch Investments Limited is Authorised and Regulated by the Financial Conduct Authority

ESG Committed

Blankstone Sington
0151 236 8200
n.blankstone@blankstonesington.co.uk
blankstonesington.co.uk

About the provider

Since 1976 Blankstone Sington has been one of Liverpool's leading investment management and stockbroking firms.

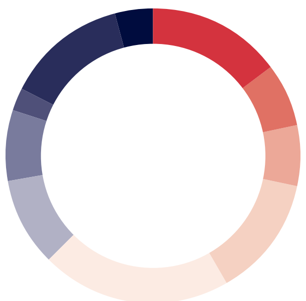
Thorough yet flexible, Blankstone Sington provides a bespoke, trusted service and prides itself on being independently owned, meaning the firm isn't burdened by a rigid 'corporate view'.

We have worked in close association with other professionals for many years, supporting their clients and businesses through our range of services, including: Bespoke Investment Management, Model Portfolio Service, Inheritance Tax Portfolio Service and Stockbroking.

Our approach is tailored to clients' needs and objectives. We will work with you to review and develop investment strategies and create a portfolio to meet specific financial targets.

Whether you are Solicitors, Accountants or Financial Advisers, we will work collaboratively with you and deliver the same high standard of service that you provide.

BLANKSTONE SIGNTON INHERITANCE TAX PORTFOLIO



- Commercial Services
- Consumer Non-Durables
- Distribution Services
- Electronic Technology
- Finance
- Health Technology
- Industrial Services
- Producer Manufacturing
- Technology Services
- Transportation

Our Inheritance Tax Service

Established in 2010 in response to client demand, Blankstone Sington's Inheritance Tax Service provides an award winning approach to sheltering part of your estate from IHT, with the potential for capital growth.

- Discretionary Management
- Bespoke, tailored individual portfolio of Business Relief qualifying AIM shares
- Fast, uncomplicated IHT mitigating solution with capital growth potential
- Access to Capital and Income without affecting IHT integrity
- ISA qualifying – tax free income and growth
- Clearly identified investment philosophy – "More Art than a Science"
- Competitive charging structure
- Available either as a direct offering or via your financial adviser

The portfolio comprises companies traded on the Alternative Investment Market (AIM), which is a sub market of the London Stock Exchange, with the objective of securing Business Relief (BR) against IHT by investing in a range of qualifying companies, yet still enables investors to maintain control of their assets.

We have been successfully investing in smaller companies for over 40 years, and in our Inheritance Tax Portfolio since 2010, through our specialist in-house research department.

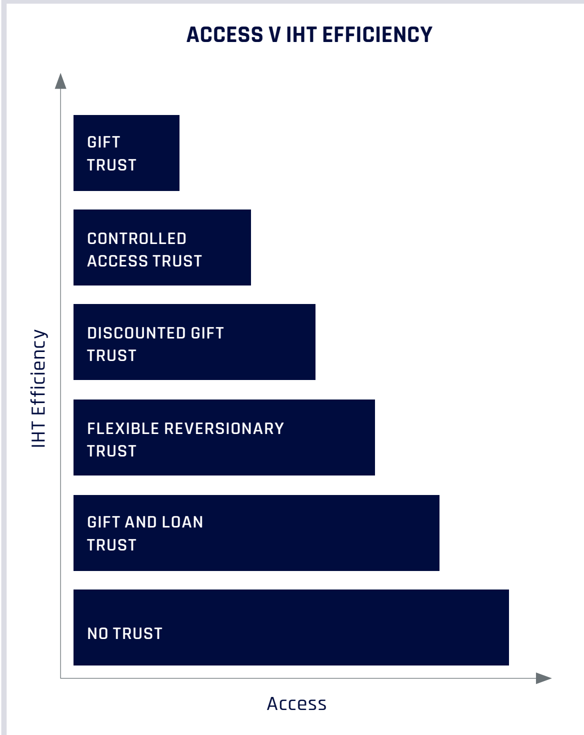
> ***Worthy of consideration by investors who seek a managed AIM portfolio for estate planning purposes, or indeed as an investment in its own right for those investors who already hold a diversified portfolio."***
>
> **M.J. HUDSON, ALLENBRIDGE**

canada life
0333 015 1382
focus@canadalifeint.com
canadalife.co.uk

About the provider

We offer a comprehensive range of solutions for successful estate, retirement saving and investment planning as well as group and individual protection.

As part of the Great-West Lifeco group, we are amongst the world's largest companies. Advisers and clients trust us with more than £987 billion of their money (as at 20 June 2020).



Canada Life offers:

- **GIFT TRUSTS, DISCOUNTED GIFT TRUSTS, GIFT & LOAN TRUSTS** (all in bare trust or discretionary trust versions)
- **PROBATE TRUST, EXCLUDED PROPERTY DISCRETIONARY TRUST**
- Packaged solutions:
  WEALTH PRESERVATION TRUSTS – flexible reversionary trust and **CONTROLLED ACCESS ACCOUNT** [Isle of Man only] – a bare trust similar to an old Accumulation & Maintenance trust).

Our Estate Planning Solutions

Since 1975, Canada Life has worked with industry experts and tax specialists to develop a comprehensive range of trusts and estate planning solutions.

Many inheritance tax (IHT) arrangements require individuals to give away capital and the income it produces. This situation is not acceptable to many and, over the years, arrangements have been devised which can – under certain circumstances – avoid this restriction. Generally, the greater the amount of flexibility, the less effective the arrangement is in terms of IHT mitigation. Conversely, the more restrictions on access to capital and income, the more IHT-efficient an arrangement is likely to be.

The Canada Life range of UK and international estate planning solutions allows individuals to continue to receive regular payments of 'income' and capital in varying amounts and circumstances.

Our Wealth Preservation Accounts allow clients to remove money and growth from their estate whilst giving the trustees flexibility over payments back to the investor and our Controlled Access Account is designed specifically for a gift into trust for a grandchild when the donor wants the money to be used for the child's benefit. The trustees control when benefits are paid, even past the beneficiary's 18th birthday.

We understand how important high quality, accessible technical support for advisers is, in both maintaining and generating business, employing a dedicated ican Technical Services Team to support professional advisers across the UK.

key partnerships

0800 138 1663
refer@keypartnerships.co.uk
keypartnerships.co.uk

About the provider

Key Partnerships is the referral service arm of Key Group, one of the UK's largest equity release service providers.

At Key Partnerships we don't provide tax advice, but we work with advisers who want to help their clients realise the financial potential in their home through equity release.

It's our view that equity release should be included as part of a holistic approach to later life advice, and, for many wealthy clients, advisers are well-placed to evaluate and explain the net benefits of equity release.

By referring equity release clients to Key Partnerships, advisers have a risk-free way to expand their scope of service by offering an alternative option to a wealthy subset of their clients. They also stand to benefit from a referral payment. Our average referral payment for each completed case in 2020 was £1,766.

Key Partnerships does not provide advice on tax planning and our equity release advisers do not give tax advice.

Equity release is not the right solution for everybody. If your client is using equity release as part of a wider estate planning strategy, an individual should always refer to a qualified tax specialist prior to considering equity release to ensure it is tailored to their individual circumstances. Tax treatment depends on individual circumstances and could vary on location within the United Kingdom.

*Source: Key Market Monitor - Full Year 2020

Our estate planning solutions

Decades of property price rises have left many individuals and couples aged 55 and over with large sums of money locked in their homes.

Many advisers have traditionally seen a client's home as a last resort for increasing liquidity when other assets such as pensions, savings and investments had been used to supplement any income shortfalls. Equity release has now evolved into a mainstream option for later life financial and tax planning - £3.4 billion* of cash was released in 2020 alone.

There are advantages in considering equity release in the context of estate planning including, providing an additional tax-free income, one way to transfer wealth to children and/or grandchildren and reduce inheritance tax liabilities.

Equity release is a specialist area, ensuring customers have the right advice is vital. We search the whole of the market to find an equity release plan to suit your client's needs.

Our referral proposition is simple. We never forget whose client it is, so we provide a process that puts you in control and your client at ease. A name, address and contact number are all we need.

Many referral partners recognise the importance of clients having a Will and Lasting Power of Attorney in place. Outsourcing this service to our experienced estate planners is a popular choice. Our qualified estate planners, who are all members of the Society of Will Writers, ensure clients receive a high quality service whilst the referring adviser benefits from a share of commission.

Whether you already refer equity release leads to Key Partnerships or if you are simply looking for a trusted partner to help your clients with their standalone estate planning needs, we can also assist with Wills and Lasting Powers of Attorney.

octopus investments

0800 316 2067
support@octopusinvestments.com
octopusinvestments.com

About the provider

Octopus Investments has been a trusted fund manager since 2000 and is part of a group of ambitious companies, which includes the energy provider Octopus Energy.

We're specialist investors in renewable energy, smaller companies, healthcare and property lending. We look after substantial assets on behalf of retail investors and large institutions, with more than £9.1 billion under management. And our scale means we're rated financially strong by independent ratings agency, AKG.

We're the largest provider of Venture Capital Trusts, Enterprise Investment Scheme-qualifying portfolios, and investments that qualify for Business Property Relief in the UK.

OCTOPUS INHERITANCE TAX SERVICE TRACK RECORD

	since inception
Lenght of Service	13 years
Investor withdrawals facilitated	£859m
Longest time taken to provide liquidity	4 weeks
Number of estates that have been entitled to claim BR	3,882
Number of investors	17,881

As at 5 January 2021. What the Service has delivered in the past is no guarantee of what it will deliver in the future.

AKG B
FINANCIAL STRENGTH RATED
DFM SECTOR STRONG
OCTOPUS INVESTMENTS LTD

Our Estate Planning Solutions

Octopus AIM Inheritance Tax Service

Since 2005, the Octopus AIM Inheritance Tax Service has offered the potential for capital growth, as well as a way for clients to plan for inheritance tax.

Clients are invested in a portfolio of 20-30 carefully chosen companies that are listed on AIM and that are expected to qualify for Business Property Relief (BPR). The team looks to invest in companies that are profitable and paying dividends.

Octopus Inheritance Tax Service

Since 2007, the Octopus Inheritance Tax Service has helped clients pass on more wealth to their loved ones, while targeting predictable growth from their investment.

We only invest in companies we believe are capable of delivering a consistent level of long-term growth. We target an average annual growth of 3% for investors net of our annual management charge, compounded over the lifetime of the investment. And we only take our annual management charge if the target return has been met.

The discretionary portfolio service invests in one or more unlisted UK companies operating in sectors that make a valuable contribution to the UK. We focus on areas in which we have built expertise, including renewable energy, healthcare and property.

Most investors hold shares in Fern Trading Limited, a £2.3 billion trading group which comprises more than 250 subsidiary companies, with businesses split across four core sectors and 600 assets.

By carefully selecting a blend of businesses that work together, we target long-term predictable growth and offer increased diversification for investors.

PUMA INVESTMENTS

020 7408 4070
info@pumainvestments.co.uk
pumainvestments.co.uk

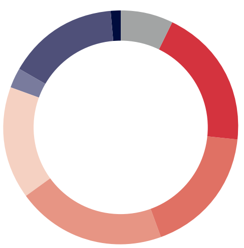
About the provider

Puma Investments is an award-winning investment manager and offers a range of investments across private equity, property finance and quoted equities. We provide carefully selected investment opportunities for your clients whilst also supporting growing SMEs and professional property developers across the UK. The asset management division of Shore Capital, which includes Puma Investments, manages over £1 billion in assets.

PERFORMANCE OF THE PUMA AIM IHT HERITAGE SERVICE PORTFOLIO

● Puma AIM IHT Portfolio ● FTSE AIM All Share Index ● FTSE All Share Index

SECTOR BREAKDOWN OF HERITAGE EPS LOANS - % DEPLOYED



Industrial	8.3%
Residential	22.6%
Care Homes	20.3%
Retirement Living	23.6%
Hotel	17.8%
Build to Rent	0.1%
Supported Living	3.3%
Student Accommodation	17.6%
Commercial	1.3%

Puma Investments is a trading name of Puma Investment Management Limited (FCA no. 590919) which is authorised and regulated by the Financial Conduct Authority. Past performance is no indication of future results and share prices and their values can go down as well as up. Investors' capital may be at risk and investors may get back less than their original investment. Tax reliefs depend on individuals' personal circumstances, minimum holding periods and may be subject to change. Some investments should be regarded as illiquid and it may prove difficult for investors to realise immediately or in full the proceeds.

Our Estate Planning Solutions

Our Puma Heritage Estate Planning Service (EPS) is a discretionary portfolio service that invests in private trading companies that are expected to qualify for Business Relief. Its primary objective is to generate stable returns for shareholders through a versatile service that aims to mitigate risk whilst also supporting private companies and the UK economy.

Puma Investments has been managing Business Relief-qualifying investments since 2013. Puma Property Finance, which deploys the Puma Heritage EPS funds, has arranged £800 million of real estate loans and construction projects to date, whilst incurring 0% capital losses.

Launched in 2014, our award-winning Puma AIM IHT Service is a discretionary portfolio service that seeks to mitigate Inheritance Tax by investing in a carefully selected portfolio of Alternative Investment Market (AIM) quoted shares. Its mandate is to achieve long-term, defensive growth whilst mitigating Inheritance Tax by the use of Business Relief, which takes effect after just two years from the acquisition of qualifying AIM stocks. The service can be accessed via leading wrap platforms such as Ascentric, Funds Network, Standard Life and Transact.

It is also available via the Puma AIM ISA IHT Service so that investors can retain the benefits of an ISA wrapper whilst also qualifying for Business Relief.

Our Puma Alpha EIS fund and our two latest VCTs – Puma Alpha VCT and Puma VCT 13 – invest in growing businesses with strong management teams that operate in sectors providing structural support for growth. They enable investors to support these companies and the UK economy whilst capitalising on their success. These three offers have the same sector agnostic investment mandate and can co-invest alongside each other. This enables swifter deployment and greater portfolio diversification for investors, together with the full range of VCT and EIS tax reliefs.

TIME INVESTMENTS

020 7391 4747
questions@time-investments.com
time-investments.com

About the provider

With over 24 years' experience running Inheritance Tax (IHT) services, the investment team at TIME Investments (TIME) currently manages over £750 million of tax-efficient investments for over 6,000 private investors and business owners who are seeking to maximise the financial legacy they leave for future generations.

TIME specialises in investments that use Business Relief (BR) to help investors reduce their IHT liability and currently manages one of the longest running BR services in the market. To date over 8,000 investors have successfully invested in our IHT services.

Our nationwide Business Development team of 30 is dedicated to supporting the adviser community and professional connections.

We have received consistent recognition from independent reviewers and award bodies. Our recent wins include:

- Investment Week Tax Efficiency Awards 2019/20

  Tax-efficient Group of the Year

  Best IHT Portfolio Service

  Best AIM Portfolio Service – Tax Efficient and Estate Planning Specialist

- Growth Investor Awards

  Best BR Investment Manager Listed 2019

  Best BR Investment Manager Non-AIM 2018

Our Estate Planning Solutions

We offer three IHT planning services designed for both individual and corporate investors. We offer two asset-backed services, TIME:Advance and TIME:CTC (Corporate Trading Companies), and an AIM portfolio service, TIME:AIM. All our services allow investors to access BR, which can provide clients with 100% exemption from IHT after two years. Importantly, this approach also allows investors to retain access to their money.

Asset-backed BR service

TIME:Advance is our flagship IHT service for individuals and its sister service, TIME:CTC, offers a corporate solution for business owners. Both services target a net return of between 3% and 4.5% p.a. TIME:Advance invests in a diversified portfolio of BR qualifying asset-backed businesses, including renewable energy, secured property lending, commercial forestry and self-storage. TIME:CTC invests in BR qualifying asset-backed businesses, predominantly focused on secured property lending.

Both services have a deferred annual management charge that is only taken on exit and only from performance above an annualised return of 3.5%. TIME:Advance and TIME:CTC have access to relevant industry experts who form the Advisory Committee for TIME:Advance and act as Non-Executive Directors for each TIME:CTC company. We offer an innovative fee rebate policy with a portion of our fees returned if early death occurs within the first two years of investment in TIME:Advance.

AIM BR service

TIME:AIM provides investors with the opportunity to achieve 100% IHT relief on their investments after just two years. TIME:AIM follows a disciplined, data driven approach when building portfolios and targets high quality companies that have the potential to deliver attractive long-term returns.

TIME:AIM is available in both an ISA and non-ISA wrapper. For clients that have contributed to and grown ISA funds over the years, a transfer into the TIME:AIM ISA provides the additional potential benefit of IHT efficiency.

TIME Investments is the trading name of Alpha Real Property Investment Advisers LLP, a limited liability partnership registered in England under number OC355196. TIME is authorised and regulated by the Financial Conduct Authority, under FCA number 534723. Capital is at risk. Past performance is not necessarily a guide to future performance and there is no guarantee that the target return will be achieved. Tax treatment depends on the individual circumstances of the investor and any favourable tax treatment, such as BR, is subject to government legislation and may change in the future.

WAY Investment Services

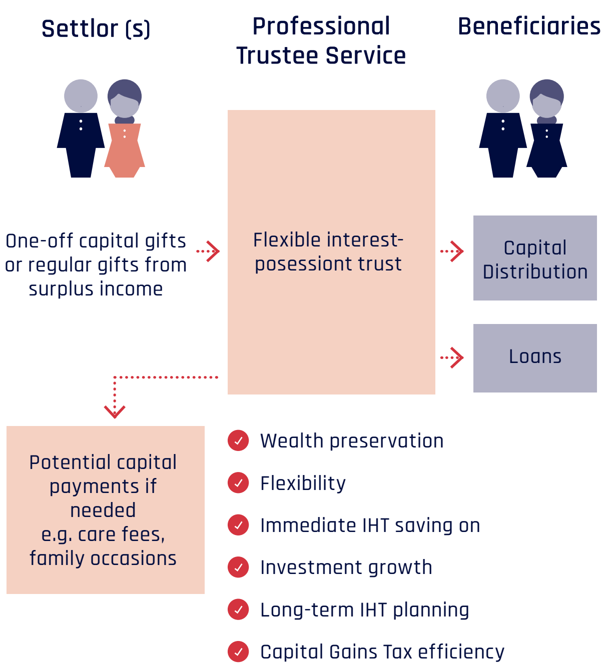
01202 890895
advisersupport@waygroup.co.uk
wayinvestments.co.uk

About the provider

WAY Investment Services Limited is an award-winning *provider of flexible trust solutions, designed to help families plan for the future as well as manage inheritance tax (IHT) liabilities. WAY offers a range of unique and innovative trust solutions, designed by an expert team and supported by our first-rate technical and administrative support. Our trust solutions are designed to allow investors to pass on wealth to later generations whilst mitigating potential IHT liabilities, yet retain flexibility for the future through potential access, for the family, to the investment.

Through our sister company, WAY Tax and Trustee Advisory Services Limited, we also offer an expert and specialist corporate trustee service, for trusts provided by WAY as well as other types of trust.

Both companies are subsidiaries of WAY Group Limited, founded in 1996 as an independently owned investment company. WAY operates across the UK solely through independent financial advisers.



Our Estate Planning Solutions

Inheritance tax (IHT) is no longer solely a tax issue for the very wealthy. With rising property values, more and more people have to consider inheritance tax planning. That's where WAY's estate planning trust solutions can help.

After lengthy consultation with expert tax and legal advisers, WAY launched its award-winning WAY Flexible Inheritor Plan* in 2003. This was the first time a company had launched a reversionary-interest trust plan based on collective investments, and the flexibility of the plan's design made it immediately popular with estate planners.

Since then WAY has expanded its trust-based plans and today offers a range of innovative estate planning solutions alongside dedicated support services for you and your clients.

WAY understands that, in the complex world of estate planning, you need complete reassurance about the plans you recommend to your clients. These plans must be legally and fiscally robust as well as sufficiently flexible to cope with future changes in client or family circumstances. They must also be placed with a provider who is easy to do business with, operates in an efficient, professional manner and delivers excellent technical and administrative support.

WAY's range of trusts provide greater flexibility than is normally found in conventional estate planning arrangements, and thereby also offers clients more peace of mind. Its solutions do not look at IHT in isolation but take account of the impact of other UK taxes. For example, UK authorised unit trusts and OEICs are the underlying investments for our plans which are taxed under the Capital Gains Tax regime, often resulting in a more tax-efficient outcome for many people.

**Best IHT Portfolio Service, Money Age Awards, 2018*

Appendix

Glossary

Annuity: a financial product that, in exchange for a fixed payment, pays out a fixed stream of payments to an individual, primarily used as an income stream for retirees.

Bare Trust: a basic trust in which the beneficiary has the absolute right to the capital and assets within the trust, as well as the income generated from these assets.

Capital Protection Lump Sum: an option that returns a lump sum if the pension holder dies without having received the full value of their pension fund.

Capped Drawdown Pension: arrangements, with withdrawal limits defined by HMRC, that are intended to provide some security that the level of withdrawals taken from a Drawdown Pension is affordable and will not cause the pensioner to have to fall back on the State.

Flexi-Access Drawdown Pension: arrangements that remove any limit on the amount which can be withdrawn from a pension scheme in any tax year.

Chargeable Lifetime Transfer: a transfer of value which is made by an individual and is not an exempt or potentially exempt transfer. E.g., a transfer into a discretionary trust, because the gift is not to an individual or one of the specified trusts to which CLTs apply, and a transfer to a company. The rate of tax for lifetime transfers that exceed an individual's NRB is 20% (subject to any reliefs).

Controlled Access Gifts: generally facilitate a PET of capital to a trust beneficiary while the donor is able to retain a high degree of control over the date at which the donor is able to benefit and the amount of funds which can be accessed at that point. The plans are based upon insurance bond policies, which are purchased by the trustees using cash gifted into trust.

Crystallised: where an individual has received benefits from their pension fund.

Death benefit: the amount on a life insurance policy (or a large lump sum), annuity or pension that is payable to the beneficiary when the insured or annuitant passes away.

Defined Benefit Pension Scheme: occupational schemes under which the benefits generated are defined by reference to length of service and salary.

Defined Contribution Pension Scheme: personal pension arrangements under which the benefits generated depend upon the contributions paid.

Deprivation of Assets: where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they will be charged towards their care and support.

Discounted Gift Trust: an arrangement that allows the client to give away capital while keeping a payment stream for life. The settlor makes a gift for IHT purposes and therefore relinquishes control of capital. The investment bond within the trust is set up in such a way to ensure that regular withdrawals are paid to the settlor at pre-agreed dates and in pre-agreed amounts, normally for the settlor's lifetime.

Discretionary Trust: a trust where the beneficiaries and/or their entitlements to the trust fund are not fixed, but are determined by the criteria set out in the trust instrument by the settlor.

Drawdown Pension: a Defined Contribution arrangement that allows the member to draw an income and/or a tax free lump sum from the investments held in the fund. Capital remains invested and remains under the control of the pensioner, but the income is 'unsecured' as the value is determined by performance of the investments within the pension fund.

Entry Charge: when a CLT is created, an entry charge equivalent to half the rete payable on death is paid on the transfer of any value above the available NRB. Previous CLTs will affect the amount of available NRB.

Excepted Assets: for Business Relief, assets which are not being used wholly / mainly for business purposes throughout the two years before the transfer on death or in lifetime, nor required for future use in the business. They do not qualify for Business Relief.

Excluded Property: assets that are exempt from IHT legislation.

Excluded Property Trust: a trust for clients who are non-UK domiciled.

Exempt transfer: an exempt transfer is a gift that qualifies for a specific exemption from IHT, such as gifts to spouses, civil partners or charities.

Exit Charge: where the entry charge or 10 yearly periodic charge has given rise to a tax actually payable, an exit charge will be paid on any distributions made by the trustees out of the trust fund. The rate charged is dependent on the entry and 10 yearly calculations but can never be greater than 6%.

Gift: For IHT, a gift can be anything that has a value, such as money, property, possessions, or a loss in value when something is transferred, for example if you sell your house to your child for less than it's worth, the difference in value counts as a gift. Unless it is an exempt transfer or a Potentially Exempt Transfer, a gift is a Chargeable lifetime transfer and is liable to an immediate charge to inheritance tax at the lifetime rate, which is half the rate at which tax applies on death.

Flexible Reversionary Interest Trust (FRIT): when the settlor invests in a series of identical single premium offshore endowment life assurance policies or unit trust/OEICS; Often, with sequential maturity dates. Because the settlor and their spouse or civil partner are excluded from benefitting under the trust, except from the annual potential reversions and retain no interest in either the death benefits or the surrender values these elements of the plan should not be subject to either POAT or GROB. Since the right retained by the settlor is not certain to generate any income as a result of the trustees' overriding power to defer the reversion, it should have little or no open market value for the purposes of an IHT calculation

Gift and Loan arrangement: when the settlor makes a gift (generally within their available annual IHT exemptions) to establish a trust, and then makes a loan to the trustees (generally interest-free) and the trustees then invest the funds loaned in an insurance or capital redemption bond. The settlor retains the right to have the loan repaid on demand and therefore the value of any outstanding loan remains within the settlor's estate. The loan repayments can usually be set to prevent any potential income tax liability arising. Growth in the value of the investments held in the bond falls outside the settlor's estate (assuming that no right to benefit in the trust has been reserved). This is because the growth is held for the beneficiaries and usually paid out after the settlor has died, or the loan has been repaid.

Gift with Reservation of Benefit (GROB): one that is not fully given away so that either the person getting the gift does so with conditions or restrictions attached, or the person making the gift keeps back some benefit for themselves.

Gift Trust: a trust that is used to hold a gift of an investment bond.

Holdover Relief: This relief may be available on a chargeable gift of business assets or unlisted shares at less than market value. Where the relief applies and a joint claim is submitted by both transferor and transferee, the chargeable gain is postponed until the transferee disposes of the asset. The gain is calculated by reference to the base cost at which the transferor originally acquired the asset and falls upon the transferee at the time of their subsequent disposal.

Impaired Life Annuity: a type of lifetime annuity offered by some insurance companies/annuity providers that is designed for people that suffer from, or have suffered from, a medical condition that results in a reduced life expectancy.

Immediate Post Death Interest in Possession Trust (IPDI): when an IIP begins immediately after the death of the person who has created the trust in their Will.

Interest in Possession (IIP): when a beneficiary has "a present right of present enjoyment in the net income of the Trust property without any further decision of the trustees being required".

Inter vivos: between living persons – referring to a transfer or gift made during the donor's lifetime, as opposed to in their Will after their death.

Lasting Power of Attorney (LPA) (Property and Affairs): a document, separate from a Will, which allows a person to appoint people to manage their financial affairs (called Attorneys) while they are still alive but unable to manage.

Letter of Wishes: guidance about your wishes, which your trustees do not have to follow.

Life Assurance: assurance is something which is 'assured' (or guaranteed) to happen. A life assurance policy therefore pays out 'when' you die, rather than 'if' you die.

Life Insurance: insurance is based on something which might happen. A life insurance policy is for a fixed time period and will pay out should you pass away within that time frame. If you haven't passed away within that time frame, the policy comes to an end and you are no longer covered. This type of policy is therefore ideal for covering a mortgage or a loan, which last for a set period of time.

Life Interest Trust: where a beneficiary is given an interest in trust assets for their lifetime, usually the entitlement to receive income, and/or live in a property owned by the trust.

Life Tenant: the beneficiary entitled to receive lifetime benefits from a Trust.

Lifetime Gifts Taper Relief: most lifetime gifts are potentially exempt transfers that become fully exempt as long as the donor lives for more than seven years from the date of the gift. However, if they don't live for the full seven years, and the gift exceeds the available NRB, taper relief applies to the tax due. If the donor dies within 3 years of the gift, no taper relief applies. From 2 to 4 years 20% relief applies, from 4 to 5 years 40% relief applies, from 5 to 6 years 60% relief applies and from 6 to 7 years 80% relief applies.

Loan Trust: an arrangement that allows the client to access the original loaned capital, either as lump sums or as regular repayments, while any growth on the capital is outside the estate.

LPA (Health & Welfare): It is also possible to have an LPA (Health & Welfare) document drafted, whereby Attorneys are appointed to help manage health and welfare issues when the customer is unable to manage.

Money's Worth: something which is of direct monetary value to a person, or capable of being converted into money or something of direct monetary value to the person.

Outright Gift: one in which you do not retain any benefit. In other words, you give away full ownership of the gift so that it is no longer part of your estate.

Pension Commencement Lump Sum: the lump sum of money an individual can withdraw from their pension pot when they retire.

Periodic Charge: every ten years the value of the trust, less the available NRB and previous CLTs, will be assessed for tax at a maximum rate of 6%.

Potentially Exempt Transfer: generally a lifetime gift to an individual, a bare trust or a disabled person's trust which does not otherwise qualify as an exempt transfer. If the donor survives for 7 years from the date the gift is made it becomes an exempt transfer. If the donor dies within 7 years, the exemption fails. The PET is counted as part of the estate, and is subject to IHT. How much tax is due depends on when it was given – the rate of tax can be lower for older gifts. Taper relief may act to reduce the tax rate on gifts made between three to seven years before the donor's death.

Pre-Owned Assets Tax (POAT): targeted at people who had previously given away assets and continued to benefit from them while avoiding the IHT GROB provisions. If an individual disposes of an asset (land or chattels) and then is in possession of or has use of the asset, POAT can apply.

Probate Trust: a trust used to speed up the payment of proceeds on death by avoiding the need for probate in respect of the trustee owned assets. (Not an IHT effective trust and possible as a bare or discretionary trust).

Relevant Property: settled property (in trust) in which no interest in possession exists, but does not include 'excluded property'.

Scheme Pension: traditionally occupational final salary schemes based on length of service and salary, now more likely to have income limits set by the scheme actuary.

Secured Pension: generally, purchasing an annuity or a 'scheme pension' using the capital of a pension fund will achieve a 'secured' pension which will not be subject to IHT.

Trust: an arrangement where property is owned by trustees for someone else's benefit.

Unauthorised payment: a payment by a registered pension scheme that is not permitted by rules contained in the Finance Act 2004 (FA 2004). For example, payment of a scheme pension before normal minimum pension age would be an unauthorised payment unless the member is in ill-health, as would a lump sum that does not qualify as one of the permitted types of lump sum referred to in the FA 2004. There is an automatic tax charge on unauthorised payments, known as the unauthorised payments charge, and in some circumstances an additional surcharge.

Uncrystallised: a pension fund from which no benefits have yet been extracted in any form.

Will Trust or Immediate Post Death Interest (IPDI) Trust: a clause written into the Will that acts like a safety deposit box or safe. When the person dies certain assets are passed into the Trust by the executors.

Summary of the Main IHT rules and allowances

IHT is levied on the assets (less deductible liabilities) of deceased persons either:

- transferred on death;
- gifts made within seven years of death or
- made at any time, when there is a reservation of benefit which continues within seven years of death: such transfers become chargeable at the time of death;
- gifts by individuals to discretionary trusts or other relevant property trusts, or to companies: such transfers are chargeable at the time the gift is made.
- For property in discretionary trusts and other relevant property trusts, there is a charge on the tenth anniversary of the creation of the trust and every subsequent tenth anniversary. Property leaving such trusts is also subject to an IHT exit charge.

Assets are valued at the price that they might reasonably be expected to fetch if sold in the open market at the time of the transfer. In the case of a transfer by gift, the value is the amount by which the gift reduces the transferor's estate. If in their lifetime the transferor bears the tax due on the transfer, the loss to the estate will include the tax.

The NRB threshold is currently set at £325,000 (2021/22). It has been frozen at that level over a decade and the 2021 budget froze it at that level until 2026. Any unused NRB from a late spouse or civil partner can be transferred for the use of the surviving spouse or civil partner when they die. This is known as the 'Transferable Nil Rate Band' (TNRB). This means that the second partner's effective NRB can potentially be as much as twice the standard threshold, depending on the circumstances, therefore up to £650,000 (2021/22 and all tax years up to April 2026).

Since April 2017, an additional NRB has been available when a residence is passed on death to direct descendants, known as the 'Residence Nil Rate Band' (RNRB). By April 2020, this was £175,000 per person and was frozen at that level until 2026 in the 2021 budget. As with the main NRB, it is also transferable between spouses.

This gives a total maximum effective NRB currently available to the second spouse to die in the 2021/22 tax year (and all tax years to April 2026), with a residence inherited by direct descendants, of £1,000,000.

The amount of IHT payable on a transfer depends on the cumulative total of transfers (other than exempt transfers) over the previous seven years. This applies to transfers made on death as well as to lifetime transfers which are immediately chargeable or which become chargeable on death. No tax is payable on the part of the cumulative total below the NRB. Currently tax is charged at a single rate of 40% on the amount above the NRB for transfers on death and within seven years before death, and at half this rate for transfers which are immediately chargeable during lifetime.

All taxpaying estates which leave at least 10% of their net value after deductions for the NRB (including any NRB or RNRB), liabilities, reliefs and non-charity exemptions to a qualifying charity, qualify for a reduced IHT rate of 36%. The charity must be subject to the jurisdiction of the UK or EU courts for the bequest to qualify for the discount.

The tax on land and buildings, a controlling holding of quoted shares, unlisted shares and securities, and businesses may be paid by instalments over 10 years. However, if the asset is sold then the tax outstanding becomes immediately payable.

Not all transfers are subject to IHT. The main exemptions include transfers between spouses and civil partners (subject to some limitation if the transferee is domiciled abroad); transfers to charities; an annual exemption for lifetime gifts not exceeding £250 to each recipient and for the first £3,000 of lifetime gifts (an annual exemption that can be carried forward one year) not otherwise exempt.

Subject to certain conditions, the value of agricultural property and business assets, including unlisted shares or securities is reduced by 100% or 50%, according to the nature of the interest transferred, and tax is assessed on the reduced value.

Where tax is payable on the death of a person who received property within five years under a chargeable transfer, the tax payable on the second occasion is reduced by 'Quick Succession Relief'. Relief is applied at 100% if the death occurs up to one year after the previous transfer, 80% between one and two years, 60% between two and three years, 40% between three and four years, and 20% between four and five years.

Similar relief also applies to a lifetime charge on the termination of an interest in possession in settled property.

The tax payable may also be reduced by double taxation relief. If death duties are paid in another country on property situated there, the foreign duty may be deducted from any United Kingdom tax on the same property.

Tax payments may be deferred in respect of Heritage property qualifying for conditional exemption (Heritage property is property which may be conditionally exempted from inheritance tax is it is judged to be 1) land of outstanding scenic or historic or scientific interest; 2) buildings of outstanding historic or architectural interest, along with their amenity land and objects historically associated with them; 3) works of art or other objects of pre-eminent national, scientific, historic or artistic interest).

The exemption will be lost if the property is sold or the owner fails to observe the conditions of the exemption. If the owner makes a gift of the property or dies, tax may be payable unless exemption is again claimed. Tax only becomes payable on timber transferred on death if timber is sold or disposed of before it is transferred again on another death.

The freezing of the main NRB at £325,000 will increase the importance of estate planning as more estates are likely to be drawn into the IHT net.

The introduction of the RNRB will take some estates back out of this net. But the freezing of the RNRB until 2026 will mean that the benefits of this additional NRB will be gradually eroded.

The basic rules are that an estate will be entitled to the full RNRB if the deceased as house price inflation takes effect:

- dies on or after 6 April 2017
- owns a home, or a share of one, so that it is included in their estate
- owns an estate which is valued at no more than £2,000,000 (2021/22 and all tax years up to April 2026) and
- their home, or share of it, is bequeathed to their direct descendants (children, grandchildren, step-children, adopted children, foster children and the spouses of all this class of person)
- their home is worth at least as much as the RNRB.

An estate will also be entitled to the full RNRB when an individual has downsized to a less valuable home or sold or given away their home after 7 July 2015 provided they pass the smaller home and/or the proceeds from the sale to their direct descendants on death.

The maximum available amount of the RNRB will increase yearly. For deaths in the following tax years it will be:

- £100,000 in 2017 to 2018
- £125,000 in 2018 to 2019
- £150,000 in 2019 to 2020
- £175,000 in 2020 to 2021 and then all tax years to April 2026.

Any unused RNRB when someone dies can be transferred to the deceased's spouse or civil partner's estate. This can also be done if the first of the couple died before 6 April 2017, even though the RNRB wasn't available at that time.

HMRC describes the calculation in two steps:

STEP 1. Work out the percentage of additional threshold that wasn't used when the first of the couple died. You do this by dividing the unused amount of additional threshold by the total additional threshold that was available when the first of the couple died and multiplying the result by 100. If the person died before 6 April 2017 the unused additional threshold and total available additional threshold are both deemed to be £100,000 so the unused percentage is 100%.

STEP 2. Multiply the percentage of additional threshold that was unused when the first of the couple died by the maximum additional threshold available at the time of the survivor's death. This gives you the sum available to transfer.

For estates valued at more than £2,000,000 (2021/22 and all tax years to April 2026), the RNRB (and any transferred RNRB) will be gradually withdrawn or tapered away. If the net value of the estate (after deducting any liabilities but before reliefs and exemptions) exceeds £2,000,000, the RNRB will be tapered away by £1 for every £2 that the net value exceeds that amount.

For example, if a couple had an estate worth £2.2 million in 2021/22 and all tax years to April 2026, they would lose £100,000 of their RNRB, increasing their IHT bill by £40,000. If they were to bring their estate back under £2,000,000, the full RNRB could be claimed.

The RNRB cannot apply to gifts made during someone's lifetime.

The RNRB is only applicable if the direct descendants become entitled to the home when the person dies. The RNRB will be lost if the property is transferred into a discretionary trust but some trusts for the benefit of children or grandchildren will not result in loss of the allowance. If the trust gives a child or grandchild an absolute interest in possession in the home the RNRB can still be claimed. Other forms of trust such as Bereaved Minor, 18-25 trust and Disabled Persons Trusts will also retain it.

It may be possible for discretionary trustees to reclaim the allowance by making a RNRB gift post-death. As long as a discretionary trust is unwound within two years of death, by the trustees appointing the trust assets to a direct descendant absolutely, this will be treated for IHT purposes as if the assets had simply been left outright. Alternatively, the trustees can confer an interest in possession on the descendant within two years of the person's death, which will be treated for IHT purposes as if the Will had conferred an Immediate Post Death Interest.

Where all or part of the RNRB might be lost because the deceased had downsized to a less valuable residence, disposed of part of a property including garden or grounds, or a share in it, or had ceased to own a residence, the lost RNRB will still be available. The RNRB would apply where the deceased has died on or after 6 April 2017, and the residence is no longer owned on or after 8 July 2015, however there is no further limit on how long the downsizing occurred before death or how many times between 8 July 2015 and the date of death that a person has downsized. The rule is that the assets (assets of an equivalent value to the house) have to be left to direct descendants and on death continue to apply to the proceeds of sale.

For the purposes of this 'additional RNRB', the value of the property is the net value after deducting any mortgage or other charge secured on it.

A part or share of the property may be disposed of or given away and the entitlement to the additional RNRB retained if assets of an equivalent value are left to direct descendants. This is only applicable to one move, sale or other disposal of a former home, however, where there are multiple homes, moves or sales, the property which qualifies for the relief can be chosen by the estate executor and, as with the NRB, any unused RNRB can be passed onto the surviving spouse or civil partner.

The estate's personal representative must make a claim for the downsizing addition within two years of the end of the month that the person dies.

Useful organisations and resources

www.lawsociety.org.uk

The Law Society is the independent professional body for solicitors

www.sfe.legal

SFE (Solicitors for the Elderly) is an independent, national organisation of lawyers, such as solicitors, barristers, and chartered legal executives who provide specialist legal advice for older and vulnerable people, their families and carers

www.sifa.co.uk

SIFA provides compliance and business support to financial advisers and facilitates professional connections

www.simplybiz.co.uk

The SimplyBiz Group is the largest provider of outsourced regulatory and business support services to the financial services market

www.societyoflaterlifeadvisers.co.uk

SOLLA helps people in finding trusted accredited financial advisers who understand financial needs in later life

www.step.org

STEP is the global professional association for practitioners who specialise in family inheritance and succession planning

www.tax.org.uk

Chartered Institute of Taxation: The CIOT is the leading professional body in the UK for advisers dealing with all aspects of taxation

www.technicalconnection.co.uk

Providing consultancy and knowledge management on taxation, trusts, financial products and product development

www.threesixtyservices.co.uk

threesixty delivers advice and personalised solutions to over 800 directly regulated IFA practices

Learning Objectives

How did you do?

Describe the range of estate planning options that are available

Covered in section 2, Estate Planning Options

Evaluate estate planning advice their clients have received

Covered in Section 2, Estate Planning Options, Section 3, Case Studies and Section 5, Practicalities and Tips

Identify key aspects that need to be taken into account when considering engaging with estate administration

Covered in section 5, Estate Administration

Explain how working with professional connections can aid in intergenerational wealth planning

Covered in section 4, Professional Connections

Define the main terms and rules that apply in the Inheritance tax arena

Covered in section 2, Estate Planning Options and section 7, Appendix (Glossary and Summary of the Main IHT rules and allowances that currently apply)

Steps after reading

Claim your CPD

This Guide is accredited for structured CPD by the PFS and CII and readers of the Guide can claim one hour of CPD for each hour spent reading the Guide (excluding breaks), up to a total of four hours. In order to test your knowledge and obtain a CPD certificate readers will need to complete a short online test.

Go to **intelligent-partnership.com/cpd** for more details on claiming CPD.

Provide Feedback

Intelligent Partnership actively welcomes feedback, thoughts and comments to help shape the development of this Guide. This Guide is produced on a regular basis.

To give your feedback please email:

publications@intelligent-partnership.com

Participation and feedback are gratefully received

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Intelligent Partnership is the UK's leading provider of insights and education in the tax advantaged and alternative investments space.

We provide a suite of materials to keep advisers and industry professionals up to date with the latest developments and on course to meet their training and CPD targets.

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A weekly snapshot of the latest articles, commentary and market data for financial services professionals, in two easy-to-read briefings on Tax Efficient Investments and Alternative Finance. Visit: *https://intelligent-partnership.com/investment-briefing-sign-up*

PROVIDER SPOTLIGHTS

A deeper dive into individual providers giving their input on particular market issues and more detail on the strategies and offerings they have developed to address them.

Estate planning is an area that intersects with multiple regulatory and social imperatives including intergenerational differences and wealth transfer, the drive to open up professional services, consumer vulnerability, impact investing and ESG and the accelerated change brought about by Covid-19. That makes it an exciting, if challenging area for those in the wealth advisory space. And one not to be ignored." **GUY TOLHURST,** INTELLIGENT PARTNERSHIP