

Trust Alliance

Protecting your assets against attack

Many companies when considering Estate Planning Strategies for clients concentrate solely on the effects of Inheritance Tax on the estate of the deceased. Although very important this is not the only concern that most clients have. When giving estate planning advice, we at Trust Alliance can offer strategies that consider all of the following threats on the deceased's estate:

1. Blood Line planning i.e. ensuring the deceased assets are not threatened by the following:
 - **Remarriage of the survivor**
 - **Divorce / Separation within the beneficiaries normally the children**
 - **Bankruptcy of the beneficiaries**
2. The effect of the deceased assets if the survivor enters Long Term Care.
3. Protecting assets if the beneficiaries are disabled.
4. Minimising the effects of Inheritance Tax

The Inheritance Tax problem

Inheritance tax has been described as a 'voluntary levy' - as the late Lord Jenkins once said,

"It is paid by those who distrust their heirs more than they dislike the Inland Revenue."

Yet the Revenue currently collects more than £3bn a year in inheritance tax. This is partly due to the fact that people are reluctant to give away sums of money during their lifetime and partly because full use is not made of available exemptions and reliefs, often because people are unaware of what they can and can't do.

The estate on death (broadly all property the deceased owns or is deemed to own) is reduced by the value of assets left to an exempt person such as a spouse or charity and is then liable to tax at two rates

- The first 'slice' of the estate is taxed at a rate of 0% or nil - and is thus known as the 'Nil Rate Band'. The Nil Rate Band for the current 2009/10 tax year is £325,000.

The balance of the estate is taxed at a flat rate of 40%.

- Many married couples avoid paying inheritance tax altogether on first death because everything is left to the survivor. Although this ensures that the widow/er is provided for financially, it did waste the Nil Rate Band of the first to die. However since 9th October 2007 it is now possible on second death to claim the proportion of the unused Nil Rate Band from the first death.

Pre Budget Report 2007

Firstly it is important to clarify the Nil Rate Band has not been doubled which was perceived in some quarters.

Alistair Darling announced his Pre Budget Report of October 2007. Within the Report he announced that with immediate effect it would be possible to transfer any unused Nil Rate Band allowance of a spouse or civil partner to the surviving spouse or civil partner for use following their death. So if the Nil Rate Band was not fully utilised on the first death, then on the death of the surviving spouse, their representatives could claim the proportion of the unused Nil Rate Band not used on the first death.

The ability to claim is only available to married couples or civil partnerships. It is not available to unmarried couples, single persons or divorced persons.

Furthermore the claim is not automatic. A claim form (IHT 216) is required to be submitted to HMRC along with a range of potential evidence from the first death. It is only possible to claim up to the value of one Nil Rate Band.

Please note that should a person wish to make this claim then the documents from first death will be required, so they should be stored safely in advance.

The claim made by the accountable persons has to be made no later than 24 months after the end of the month in which the deceased died.

It is worthy to understand the impact this legislation has had on the possibility of Inheritance Tax liabilities.

Example of Inheritance Tax liability PRIOR to Pre Budget Report.

Example 1. Mr & Mrs Smith. Total estate £500,000.

Mr Smith died first and his individual estate was valued at £300,000. His Will left his total estate to his wife and then their children. So Mrs Smith inherited £300,000 absolutely. There was no Inheritance Tax to pay whatever the Nil Rate Band was, as the whole estate passed to Mrs Smith. In this situation Mr Smith's Nil Rate Band was not used. Mrs Smith's estate was then valued at £500,000. Mrs Smith then dies in June 2007 when the Nil Rate Band was £300,000. Her Will passed the whole estate to her children. The estate exceeded the individual IHT Nil Rate Band (£300,000) by £200,000 and the excess was subject to 40% tax. So an Inheritance Tax liability of £80,000 was due to HMRC. The children then inherited £420,000.

What then has changed following the 2007 Pre Budget Report?

Basically the issue is that the first Nil Rate Band that was previously lost (Mr Smith's) can now be claimed for, following the death of a surviving spouse or civil partner (Mrs Smith).

In the example above with Mr & Mrs Smith it would be possible for Mrs Smith's representatives following her death to claim the unused Nil Rate Band of Mr Smith-as long as Mrs Smith had died after the date of the Pre Budget Report (9th October 2007). As none of Mr Smith's Nil Rate Band had been utilised Mrs Smith's representatives could claim 100% of the unused Nil Rate Band. The amount of the Nil Rate Band will be the Nil Rate Band at the time of the second death. So in the case of Mrs Smith a further £300,000 could be claimed upon as when she died this was the current days Nil Rate Band. If a successful claim is made then £600,000 would not be liable to Inheritance Tax. This would be made up of Mrs Smith's own

Nil Rate Band and the claimed unused Nil Rate Band of Mr Smith. With the estate of Mrs Smith being £500,000 then no Inheritance Tax would be due. The children would inherit £500,000, not £420,000 that they would have done under the previous legislation.

The amount of the Nil Rate Band that can be transferred does not depend on the value of the first spouse or civil partner's estate. Whatever proportion of the Nil Rate Band is unused on the first death is available for transfer to the survivor.

Example 2. Mr & Mrs Smith. £500,000 estate.

Assume on Mr Smith's death he left £150,000 of his £300,000 estate to his children and £150,000 to his wife. This equates to 50% of Mr Smith's Nil Rate Band being used if on his death the IHT Nil Rate Band was £300,000. If Mrs Smith died in 2008/09 tax year when the Nil Rate Band was £312,000 then her representatives could claim a further 50% of the 2008/09 Nil Rate Band to be IHT free.

So Mrs Smith estate was £350,000 (£200,000 + £150,000 inherited from Mr Smith) on her death, which is over the Inheritance Nil Rate Band of £312,000. However Mrs Smith's representatives can claim a further 50% of the Nil Rate Band (£156,000) which was not utilised on Mr Smith's death. Assuming a successful claim then up to £468,000 (£312,000 + 50% of £312,000 (£156,000)) would be IHT free following Mrs Smith's death. With her estate being £350,000 then again there is no Inheritance Tax due.

A major question following the introduction of this legislation is that with a combined estate valued under two times the Nil Rate Band is there any reason to make any plans now?

Consider the following if no planning is made at all.

Intestacy Law

1. If no planning or Will is made then an individual's estate is subject to Intestacy Law. Currently the spouse receives the chattels, and the first £250,000 of the deceased spouse estate and a life interest in the remaining half. The children get the other remaining half immediately and the other half on second death.
2. If there are no children then the spouse gets the first £450,000 and half of the rest with parents or siblings the other.

Consider the following if there are Wills leaving all to the surviving spouse

If clients have an estate valued under the 2 x NRB then it is argued that everything could be left to the survivor by a basic Will. There is no Inheritance Tax due by virtue of the legislation of the Transfer of the unused NRB detailed above. This is exactly the strategy the treasury would like married couple/ civil partners to take and so leave their assets attackable by the following:

1. On first death all the assets are then solely owned by the surviving spouse. What if the surviving spouse remarries? The inherited estate could be lost to the new spouse, disinheriting the children.
2. If the surviving spouse needs nursing care then the whole estate including the family home would be susceptible to the cost of that care.
3. If the surviving spouse was subject to creditor claims then the inherited estate is fully at risk.
4. What if this legislation is changed and the ability to transfer the NRB is reduced or even lost?
5. As noted above the unused NRB has to be claimed for to HMRC with appropriate evidence of the first death. There is no guarantee the claim will be successful.

6. Consider then on second death the remaining estate is likely to be directed by the survivors Will to the children absolutely. This then adds to the children's estate and could impact their Inheritance Tax.

Furthermore if the children are then subject to divorce proceedings then half of the inheritance is at risk.

If they are subject to creditor problems the whole inheritance could be at risk. If the children then also need long term care then their inheritance is again at unlimited risk.

Example.

Mr & Mrs Smith have a combined estate value of £500,000, so no Inheritance Tax to be paid on second death considering the current Nil Rate Band Transfer legislation.

They have no planning in place but leave the assets to the children who already have their own assets accounting for their Inheritance Tax Nil Rate Band.

So on the death of the children the £500,000 estate of Mr & Mrs Smith will be subject to 40% Tax = £200,000.

The grandchildren receive £300,000 of grandparent's estate.

As noted above however the grandchildren's inheritance could be even less than £300,000 if their parents were subject to divorce, creditor problems and/ or care fees.

This subsequent IHT and the threats mentioned above can all be saved by appropriate Trust planning through Trust Alliance.

Trust Alliance advice to married couples and civil partners is to forget about the transferable Nil Rate Band (except in the case where the first to die had no planning in place) and continue to implement strategies that give their assets maximum protection against the following:

- 1. M.A.D – Marriage after death of the first to die**
- 2. Divorce, separation and bankruptcy of the surviving spouse and beneficiaries**
- 3. Assessment for care payments**
- 4. Limit the effects of generational inheritance tax.**

So we have established that there are a multitude of risks if estate planning is either neglected through having no Wills established or if basic Wills are established and assets are passed absolutely to a spouse.

So what other alternative death planning options are there?

Option 1 - Leave all or part of Nil Rate Band to children via the Will

This option was a potential option when the transfer of Nil Rate Band was not available. This utilised the Nil Rate Band on first death as it was directed to the Children. To avoid any potential Inheritance Tax on first death the residue could be directed to the surviving spouse.

However the surviving spouse would not have access to the Nil Rate Band of the first spouse as it went to the children. This could then leave the surviving spouse in financial trouble as he/she does not have access to the assets left to the children.

If part of the residence is left to children who do not live in the property then Capital Gains Tax will be due when the home is sold.

The assets left to the children are also in their estates susceptible to future Inheritance Tax charges and will be included in any future divorce proceedings.

In conclusion this strategy does not provide any protection for the assets on first or second death, or to the future generations of the family bloodline.

So Trust Alliance would not advocate this strategy.

Option 2 – Gift the Family Home to the children.

Very often the family home is the largest single asset in the estate. It can very often be the cause for Inheritance Tax liabilities being due. Couples are also concerned that the Family Home will be assessable to Long Term Care costs if they arise.

It is then not uncommon that the parents 'gift' the house to the children by virtue of changing the Legal Title of the home into that of the adult children.

It is then believed that the home will not be in the parents estate for Inheritance Tax, nor be assessed for care costs should they arise.

Unless the parents pay a commercial rent to the 'owners' of the property then the gift will be still in the parents estate for Inheritance Tax as it will be a deemed a 'Gift with Reservation'. That is the donors of the gift are retaining a benefit from it.

In addition as the Title owners of the home, it will also be in the children's estate for Inheritance Tax purposes on their deaths.

Furthermore, assuming the children do not live in the home either, on the sale of the home they would also be potentially liable to Capital Gains Tax pending the valuations of the property over the appropriate period.

In terms of protecting the home in this way from Care Costs much will depend on the circumstances but it is feasible that a Local Authority who assesses an individual, has purposely deprived their estate of an asset for the intention of protecting it from care costs. To that end the Local Authority would still deem the asset to be part of the client's estate and hence the home would be included in any financial assessment.

Again this strategy would not be advocated by Trust Alliance.

Option 3 - Nil Rate Band planning using discretionary trusts.

Many existing Wills established by Solicitors use the Discretionary Will Trust. Again these were popular prior to the legislation introduction for the transfer of Nil Rate Band.

Such Wills established a Discretionary Trust on death. The Will then directed the Inheritance Tax Nil Rate Band into the Trust, for the surviving spouse, children (and sometimes their spouses/ widows) to be the beneficiaries of. Any residue estate would be directed by the Will absolutely to the surviving spouse.

On death, the executors of the first to die transfer assets or cash, up to the value of the available Nil Rate Band, to the trustees of the Discretionary Will Trust to hold on the terms of the trust. To ensure that this can be done simply and efficiently, it will normally be essential to ensure that each party owns assets to the value of the Nil Rate Band by equalising the estate.

The trustees of the Discretionary Trust will often be the surviving spouse plus an adult child, but appointing a Professional Trustee may also be desirable. The beneficiaries of the trust will usually be the surviving spouse, the children and grandchildren. Should the surviving spouse require capital or an income, the trustees can appoint money to him/her as required. However, as the spouse benefits only at the discretion of the trustees, the value of the trust property will not be included in the survivor's estate and be protected from remarriage, divorce, creditor claims and care fees.

The balance of the estate (if any) can be left to the surviving spouse and covered by the spousal exemption, thereby deferring any residual liability on the joint estate until second death.

The Discretionary Will Trust would however state that if their spouse was not alive then their estate was to go to the children absolutely.

So all the Discretionary Will Trust achieved was that the Nil Rate Band was utilised on first death and as long as it was appropriately managed would not add onto any other persons estate for Inheritance Tax. Any residue over the Nil Rate Band would be absolutely inherited in the estate and that would then be at risk from remarriage, divorce, creditor claims and long term care fees.

The residue estate and the estate of the surviving spouse would all be susceptible to Inheritance Tax on second death but also would add onto the children's estate, again to be at risk from Inheritance Tax, remarriage, divorce, creditors and care fees.

Worryingly following the legislation for the transfer of Nil Rate Band there are Solicitors recommending these Wills are amended and that Trusts are not utilised at all.

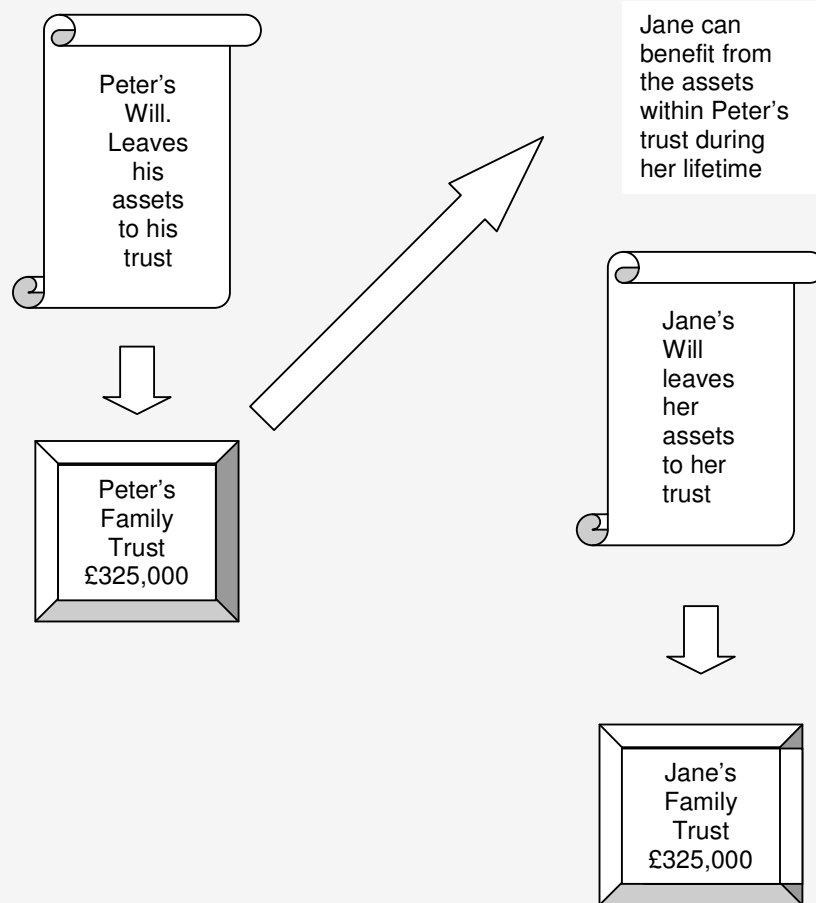
Despite the obvious benefits of planning, it is thought that less than one third of the adult population have made a will. Those who have not rely instead on the not necessarily tax-efficient laws of intestacy as briefly noted above- and many of those who have made wills tend, if they are married, to leave the entire estate to their spouse and hence the estate can be at risk from the threats highlighted above.

Perhaps this is due to concerns about leaving such a large amount to the children on first death - such action could result in loss of control; potential loss of certainty as to who will benefit; and above all, loss of access for the surviving spouse and could leave the spouse in financial trouble in the future.

Trust Alliance Will and Trusts Strategy

The good news is that it is often possible to use the Nil Rate Band on first death and retain the possibility of access for the surviving spouse by using a trust. The trust can be one that is set up during lifetime, such as our Family Trust which is a Discretionary Trust when utilised as a Lifetime Nil Rate Band Trust or it may be a discretionary trust that is incorporated into the client's will to take effect on death

Assume Peter and Jane each have estates of £325,000. Peter draws up a will leaving his estate to a discretionary trust on first death. The trustees of Peter's trust can ensure that Jane is provided for as necessary, but on second death, Jane's assets are separate and distinct from the assets owned by the trust.
(see illustration)



Children have access to £650,000 all protected by Trusts.

On first death, Peter's share does not add onto Jane's estate for IHT. Peter's Trust Funds can be managed for and on behalf his Family as they were the potential beneficiaries Peter chose when he established the Trust in his Lifetime. None of the Trust Funds could be assessed for care costs should any of the beneficiaries, including Jane required care. Similarly Peter's estate is protected should any of the beneficiaries are subject to creditor claims or divorce.

Planning can be further enhanced where the trustees are given power to grant interest-free loans to beneficiaries. Loans granted to the surviving spouse following the death of the settlor

will create a debt against the survivor's estate, with the potential to reduce the liability to inheritance tax still further pending the size of estate.

Note that in Scotland, the question of legal rights claims (which are open to a surviving spouse and/or children and can apply whether or not there is a will) can expose the estate to unexpected results and in some instances have an adverse inheritance tax effect on will planning. Care must therefore be taken in drafting.

Trust Alliance's strategy is to make use of the Nil Rate Band by leaving a legacy in the will up to the available Nil Rate Band into a Family Trust. The Family Trust provided by us is a Discretionary Trust.

Our preference here is to always use a trust established during lifetime rather than one established in the will as a trust established in lifetime has the following additional benefits:

- There is scope for further inheritance tax planning following first death where the value of the Trust Fund exceeds the Nil Rate Band.
- The quick and easy set up process. The draft settlement deeds are supplied by us and the planning can be implemented quickly and simply.
- Certainty. For assets placed in trust during lifetime the planning is not dependent on the will being proved and will not fail if the will is revoked. Furthermore, in Scotland, the use of a lifetime trust can minimise the potential for the settlor's wishes to be upset by a legal rights claim.
- The trust is set up as of the date of the last signatory, meaning it is established now and represents today's tax legislation – not subject to future changes which could be less favourable.

THE EXCESS ABOVE THE NIL RATE BAND.

Previous to the 2006 Budget, Interest in Possession Trusts were the most effective way of dealing with the excess above the Nil Rate Band.

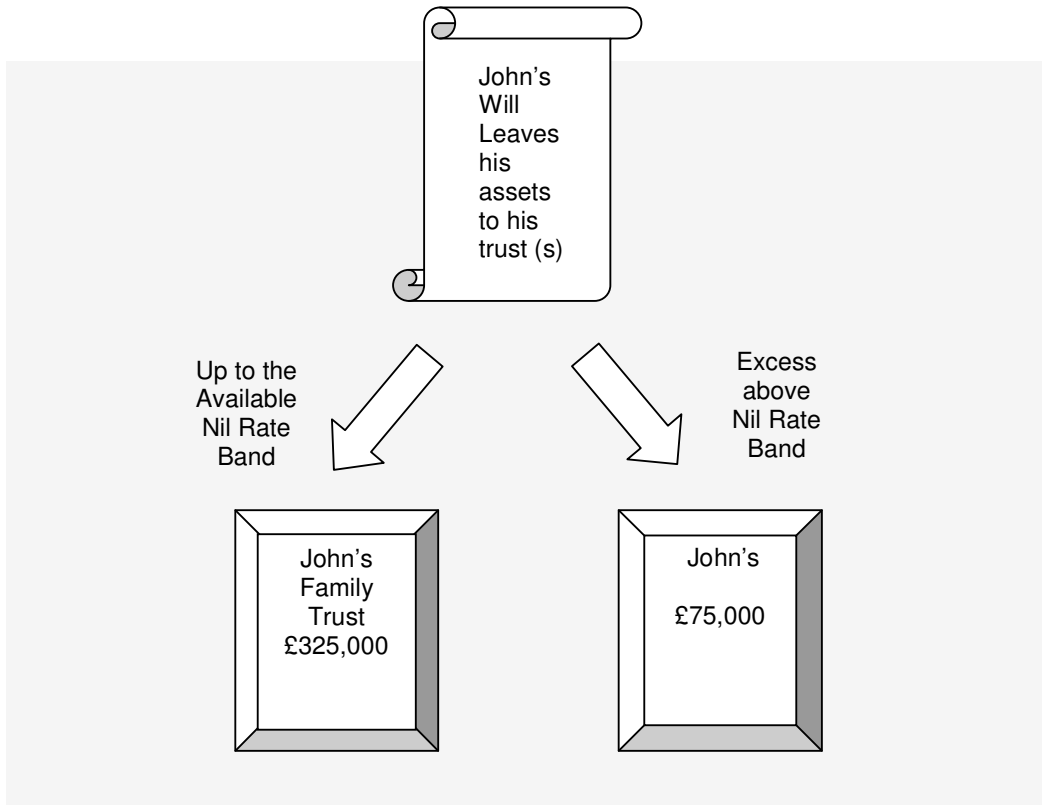
The March 2006 Budget, when it was first announced sounded the death knell for Interest In Possession Trusts because instead of the value of the assets left into the Interest in Possession Trust being part of the survivor's estate for Inheritance Tax, the chancellor had changed the rules and they became Relevant Property Trusts and were to be taxed as Discretionary Trusts. This created an Inheritance Tax liability on the excess above the Nil Rate Band and then in the future suffering further taxes from Periodic and Exit Charges.

When Royal Assent for the budget was passed in July 2006 due to pressure from The Law Society and the Society for Trust and Estate Practitioners (STEP) the Chancellor had exempted certain Interest In Possession Trusts from becoming relevant Property Trusts and instead the value of the assets for Inheritance Tax added to the Survivors estate. One of the exemptions being if the trust was settled by a Will and the trust gave an Immediate Post Death Interest In Possession (now referred to as the IPDIP rules for short).

So as long as the Interest In Possession Trust was settled by the will then the pre budget rules applied and no Inheritance Tax will be payable on the value of the assets entering the Interest in Possession Trust if the Interest in Possession Trust beneficiary is the spouse of the deceased. However in this circumstance, the value of the Interest in Possession Trust will add to the value of the survivor's estate on their death.

Whatever the value of the funds in the Interest in Possession trust settled by the Will, Periodic and Exit charges WILL NOT apply.

Let's assume that Mary and John who are married both have estates valued at £400,000 each. Then the solution assuming John dies first is to leave the Nil Rate Band to a our Family Trust (Discretionary Trust) and the excess above the Nil Rate Band to a our Interest In Possession Family Trust.



The survivor has use of all the assets available in both the Family Trust and The Interest in Possession Family Trust.

On John's Death the trustees of the Interest In Possession Family Trust will need to consider the options available to mitigate further the Inheritance Tax liability which still remains in the survivor's estate from the assets held in the Interest In Possession Trust. The options here are many and varied and depend on factors such as age of survivor, the needs of the survivor in terms of both capital and income and the state of health of the survivor. The client may wish to appoint a professional trustee of this Trust to ensure all the available options are considered at the point of first death.

So what are the advantages of leaving the excess above the Nil Rate Band into an Interest in Possession Family Trust rather than directly to the surviving spouse.

- The options for reducing Inheritance tax on the assets in the Interest in Possession Trust are greater than if left absolutely to the survivor.
- All of the assets are in trust and so the capital is protected against being assessed if the survivor enters Long Term Care (LTC).

- All of the assets will pass to the children via a trust on second death and as such can be protected against being dissipated by either divorce separation or bankruptcy of the children.
- All of the deceased assets are protected against future re-marriage of the survivor.
- An Interest in Possession Trust settled by will irrespective of the value of assets within it does not suffer Periodic and Exit Charges.
- The Tax Rate for income generated by assets held in the Interest In Possession Trust is Base Rate rather than 40% with Discretionary or Relevant Property Trusts.

Pension Death In Service (PDIS) and Life Assurance (LA) Death Benefits.

In both of these cases, payments should be paid into a trust rather than an individual. Although there may be no inheritance tax payable on death if they are paid to an individual's estate then the following identifies other potential threats on these assets in the future.

- Re-marriage of the survivor.
- Inheritance tax payable on the Pension or Life assurance payments on the survivor's death.
- The payments are assessable if the survivor should enter care.
- The payments are attackable if the children divorce, separate or become bankrupt.

Although these payments will be initiated by the death of the client, the payments are not being settled into a trust by will so they cannot come under the IPDIP rules. Therefore which ever type of trust they enter it will be taxed as a Discretionary Trust and therefore suffer from Periodic and Exit Charges. This is why since the March 2006 Budget it is important to have separate trusts for both Pension Death In Service and Life Assurance Death Benefits in addition to the suite of Family Trusts receiving assets from the Will.

So for any Pension Death In Service Benefits the client may have, a PDIS Family Trust needs to be established and a letter of Expression of Wish sent to the Pension Company in order that on death these benefits are paid into the trust rather than an individual.

If the client has Life Assurance then a Life Assurance Family Trust should be established and the Life assurance benefits assigned to pay into the LA Family Trust rather than to an individual.

If these Life Assurance benefits or Pension Death in Service benefits individually amount to levels above the Nil Rate Band then further advice can be obtained from Trust Alliance as to whether the establishing of more than one Life Assurance or Pension Death would have advantages.

Other Trusts from the our Suite of Trusts which may be useful in protecting client's assets

Trust Alliance have established trusts for use in specific cases which may solve particular problems which clients have. Examples of some of these trusts are:

Probate Trust

This trust can be utilised to place assets in trust prior to death. The settlor is a beneficiary of the trust and has access to the assets in the trust during his/ her lifetime. The settlor is a beneficiary of this trust and as such cannot be used to reduce future Inheritance Tax. This trust may be used for the following:

- Assets placed in this type of trust are not part of the deceased estate for probate and as such probate becomes much simpler and thus cheaper.
- This type of trust used in conjunction with some investment types may protect these assets from being assessed if one enters care.

Family Gift Trust

In order to reduce an estate gifts can be made which mitigate IHT if the person making the gift gives up all benefit (capital and income) and survives more than 7 years from the date the gift is made.

Blood Line Planning

In all of the strategies advised by Trust Alliance the assets never pass absolutely to an individual, as was the treasury's objective when announcing initially the 2006 Budget. On death, all of the assets, (both on 1st death and 2nd death with a couple) pass into Trust. Whether these are Family Trusts or Interest in Possession Family Trusts the assets can be managed by the Trustees for the benefit of the beneficiaries (usually the surviving spouse, children and grandchildren).

The Trustees can consider the specific family and the beneficiary's circumstances as to how the Funds are to be best managed and distributed. By using appropriate strategies they can ensure the beneficiaries can still fully benefit whilst ensuring the Funds are preserved from the divorce, creditor, care fees risks already highlighted.

Firstly

Consider no Trust planning in place and the potential Inheritance Tax through the family generations.

Assume an estate value of £800,000 for a married couple and no Inheritance Tax planning has taken place for them or their bloodline. After Inheritance Tax paid of £60,000 the children will receive £740,000 from their parents.

If we assume the children already own assets in their own name at, or above the current Inheritance Tax Nil Rate Band then when they pass away the Inheritance Tax payable on the estate left to their children will be 40% of £740,00 i.e. a further £296,000 Inheritance Tax would become due.

The value of the original grandparent's estate reaching the grandchildren will be £444,000.

In two generations the estate from grand parents has decreased from £800,000 to £444,000. £356,000 has been lost to the Inland Revenue in Inheritance Tax payments.

If our Family Trusts and Interest In Possession Trusts had been in place to receive the assets from grandparents then none of the estate would have formed part of the children's estate. Subsequently £299,000 Inheritance Tax payable on the children's death would have been avoided and the grandchildren would have received £740,000 rather than £444,000. All for the cost of using appropriate Trusts.

It could also have been possible to plan with regards to grandparent's £60,000 liability.

Secondly

The management of the Trust Funds should not be underestimated. The Trustees are to manage these funds for all the beneficiaries. The Trustees can consider strategies whereby Trust Funds can be utilised by the beneficiaries but the funds continue to be preserved/protected fully from the risks of divorce, creditors and care costs.

The beneficiaries still receive the cheque that relates to their portion of the trust fund to spend as they wish but appropriate documentation agreed by the beneficiaries can ensure the monies does not enter their estate for Inheritance Tax purposes, cannot be claimed against if they suffer divorce, separate or go bankrupt. The money cannot be attacked by third parties as legally it is still a trust asset and not an asset of the beneficiary. This ensures the money remains in the bloodline and is not dissipated for future generations.

Thirdly

With the appropriate management strategies of the Trust Funds in place the Funds are also protected against being assessed to pay for long term care should the beneficiaries require it.

In placing them in trust the assets are protected against being assessed for care and when passed onto future generations can be protected against divorce separation and bankruptcy of the children.

The information detailed in this document was correct at the time of writing (December 2008). Future changes in legislation could affect the effectiveness of the planning options detailed. The client is advised to take individual advice based on their own personal circumstances.

Any queries on the information given can be obtained from Trust Alliance on telephone number **0800 093 2697**.

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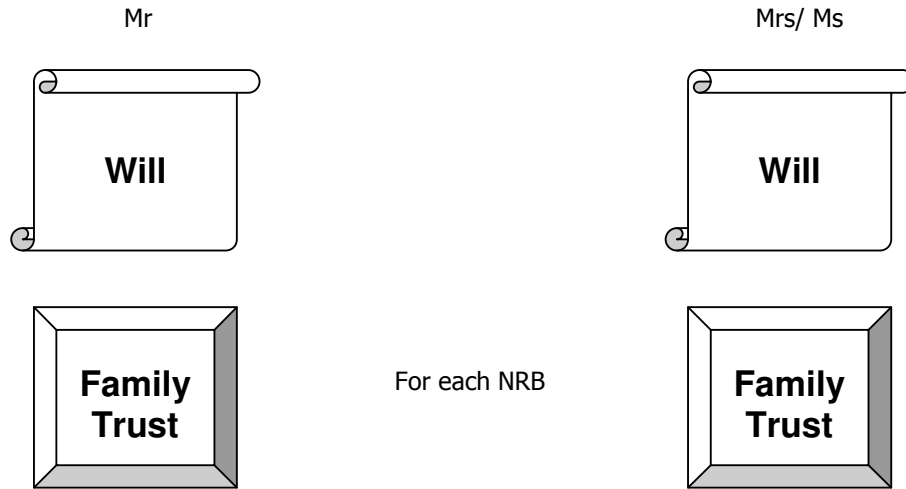
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Trust Alliance is a trading name of Oakfields (Marcus) Ltd which is a representative of Countrywide Legal Services Ltd. Countrywide Legal Services Limited is an established Legal Company whose Directors are members of S.T.E.P (The Society of Trust and Estate Practitioners) and offers advice in all aspects of Estate Planning.

Estate Planning Solutions

Married couples/ Civil partners. Estate valued under 2 Nil Rate Bands.

Non married couples/ civil partners. Estate valued under 2 Nil Rate Bands.



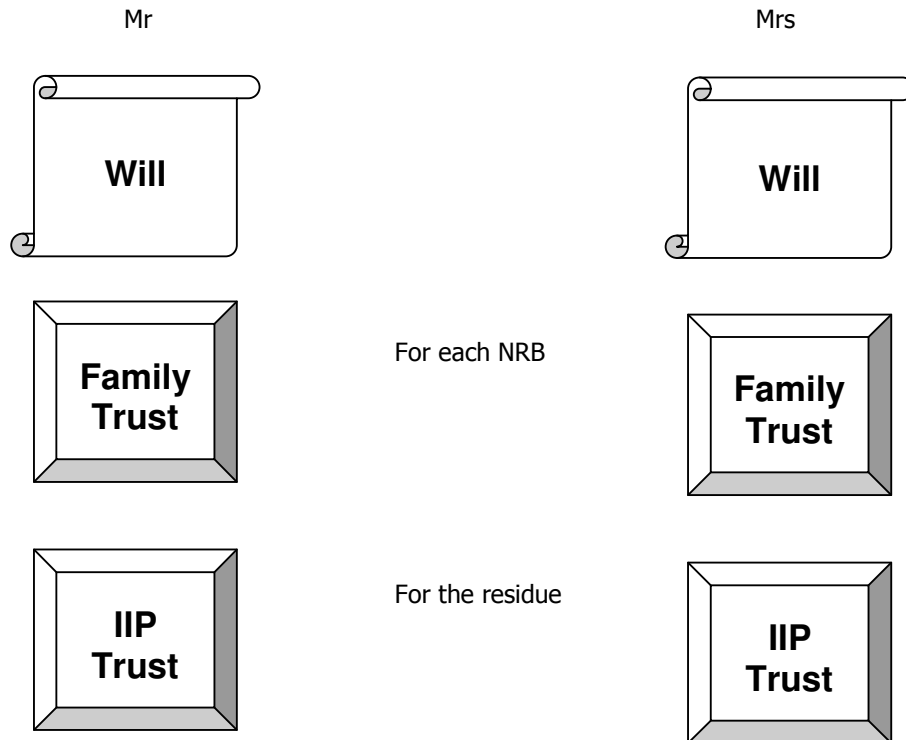
Ensure all properties ownership is considered to be Tenants in Common.

Total estate value should be equalised as best possible.

Also consider additional Trusts to cater for:

- **Life Assurance Policies.**
Any Life Policy should be single owned and limited to under the Nil Rate Band. If sum assured required is over the Nil Rate Band then establish multiple policies each to be assigned to the appropriate number of Life Assurance Trusts. (Re: Rysaffe).
- **Pension Death in Service Benefits.**
Nominate them to be directed from the Pension Trustees into a Pension Death in Service Trust, not directly to those intended to benefit, otherwise they are at risk from IHT, remarriage, divorce, creditors, and care costs. Again if Death Benefits exceed the Nil Rate Band consider multiple Pension Death in Service Trusts. (Re: Rysaffe).
- **Any Gifts to be made.**
Gift Trusts ensure that gifts made do not enter the recipients estates and so will be protected from effects of IHT, divorce, creditor claims. Gifts made 7 years+ before death are free from IHT.
- **Assets required by the clients but require protecting for the future generations.**
Ensuring assets can avoid Probate and so be readily available to the beneficiaries following death.
- **Business assets.**
Appropriate additional business clause required within the Will along with additional specific Family Trusts to cater for the Business Share each individual owns. Again if Business Assets are valued in excess of the Nil Rate Band then multiple Family Trusts required. (Re Rysaffe).

Married couples/ Civil partners. Estate valued over 2 Nil rate Bands



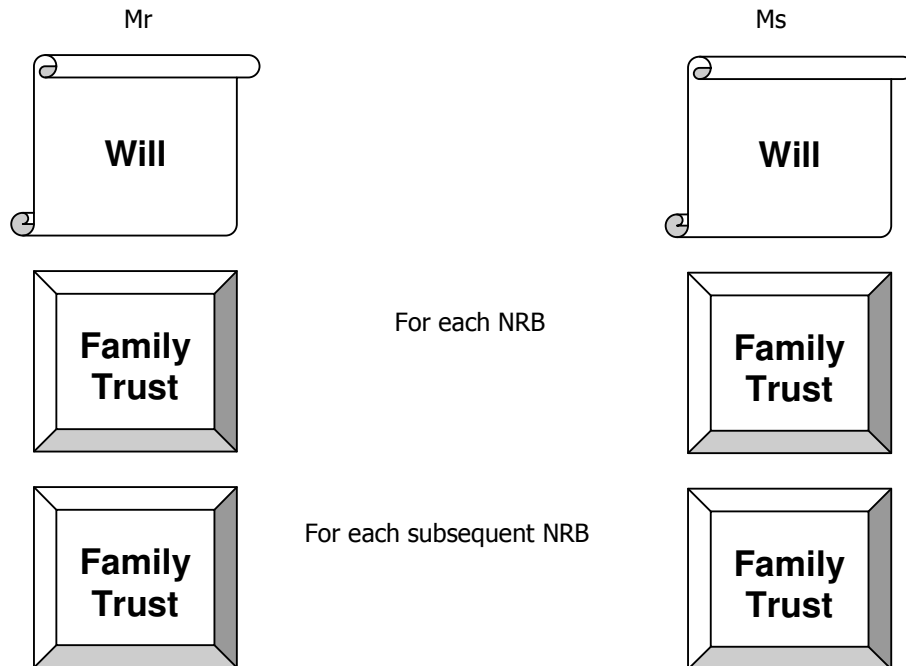
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Partners/ Non married couples. Estate valued over one NRB.



Ensure all properties ownership is considered to be Tenants in Common.

Total estate value should be equalised as best possible.

Each person is treated as single for IHT purposes. No Spousal Exemption available. IHT planning required if individual's estate valued over the Nil Rate Band.

The number of Family Trusts required will be ascertained by each individual's estate. (Re Rysaffe). Ensure the Family Trust(s) is not populated with excess of the Nil Rate Band.

Also consider additional Trusts to cater for:

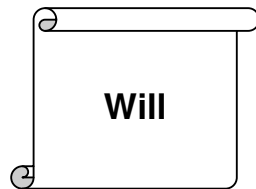
- **Life Assurance Policies.**
Any Life Policy should be single owned and limited to under the Nil Rate Band. If sum assured required is over the Nil Rate Band then establish multiple policies each to be assigned to the appropriate number of Life Assurance Trusts. (Re: Rysaffe).
- **Pension Death in Service Benefits.**
Nominate them to be directed from the Pension Trustees into a Pension Death in Service Trust, not directly to those intended to benefit, otherwise they are at risk from IHT, remarriage, divorce, creditors, and care costs. Again if Death Benefits exceed the Nil Rate Band consider multiple Pension Death in Service Trusts. (Re Rysaffe).
- **Any Gifts to be made.**
Gift Trusts ensure that gifts made do not enter the recipients estates and so will be protected from effects of IHT, divorce, creditor claims. Gifts made 7 years+ before death are free from IHT
- **Assets required by the clients but require protecting for the future generations.**
Ensuring assets can avoid Probate and so be readily available to the beneficiaries following death.
- **Business assets.**
Appropriate additional business clause required within the Will along with additional specific Family Trusts to cater for the Business Share each individual owns. Again if Business Assets are valued in excess of the Nil Rate Band then multiple Family Trusts required. (Re Rysaffe).

Single Person.

If the client has been made a widow(er) within the last 2 years then a Deed of Variation should be considered. This can vary what the surviving spouse received providing significant protection for the estate. Please contact Countrywide Legal Services for more details.

Estate planning should still be considered for the survivor whether a Deed of Variation is appropriate or not.

Assume Deed of Variation not possible but wanting to ensure that some of the estate can avoid going via Probate to ensure some assets are readily available for the beneficiaries after death.



For up to the NRB. Convey assets, e.g. half of the Property, cash etc into the Trust during the clients lifetime. Remaining estate will be directed into the same Trust following death.

If total estate exceeds the value of the Nil Rate Band then utilise further Family Trusts as necessary to cater for the additional value. Do not exceed more than the Nil Rate Band going into each Trust. (Re: Rysaffe). Inheritance Tax planning required to mitigate IHT on death.

Also consider additional Trusts to cater for:

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