

Wealth Preservation Trust

Who should be appointed as trustees?

Background

The Wealth Preservation Trust is available through either the Wealth Preservation Account from Canada Life International Limited (CLI) or the Wealth Preservation Europe Account from Canada Life International Assurance Ireland DAC (CLIAI).

The Wealth Preservation Trust enables an individual (the 'investor', or the 'settlor') to make a gift, on trust, for the benefit of his or her family, whilst allowing capital to be returned to them from time to time, if required.

The Wealth Preservation Trust comprises two trusts. The first trust is a bare trust, and is called the Initial Trust. The second trust is a discretionary trust, and is called the Settlement.

The Wealth Preservation Trust is used in conjunction with a series of single premium life assurance policies issued by CLI or CLIAI. The policies have flexible maturity dates.

At the outset, the investor will purchase the policies, having chosen the life or lives assured and the policy maturity dates.

The investor will then assign the legal title to the policies to the trustees of the Initial Trust. Then, immediately following that, the investor will assign his beneficial interest in the policies to the trustees of the Settlement.

When appointing the settlement trustees, therefore, the settlor needs to select persons who are credible individuals, who can work together for the benefit of the beneficiaries of the settlement.

Every trustee who is an individual must be over the age of 18 and be of sound mind.

It is possible to appoint a corporate trustee, too. This will usually be a professional trust company.

We need to verify the identity and address of all owners, including newly appointed trustees. To assist us, we will require documents sufficient to verify the identity and address of all owners and appointed trustees. In the absence of such documents, we may use credit reference agency searches to verify the identity and address. Please note this will not affect anyone's credit rating.

The Initial Trust and the Settlement

Once the Settlement has been created, the trustees of the Initial Trust hold the legal title to the policies for the trustees of the Settlement, and must act on the instructions of the trustees of the Settlement. It is the trustees of the Settlement, therefore, who make the decisions as to whether or not a policy should be allowed to mature (and thus whether or not the extension option should be exercised) or be surrendered. The trustees of the Settlement give instructions to the trustees of the Initial Trust, who then pass on those instructions to CLI or CLIAI.

Trustees of the Initial Trust

The settlor is the first trustee of the Initial Trust and at least one other person must be also appointed as a trustee of the Initial Trust. CLI or CLIAI take instructions from the trustees of the Initial Trust as they hold the legal title to the policies.

Where the settlor wishes to be a trustee of the Settlement

The settlor can also be a trustee of the Settlement, without any adverse tax consequences for the settlor (including under the gift with reservation legislation and the General Anti-Abuse Rule) or trust law difficulties.

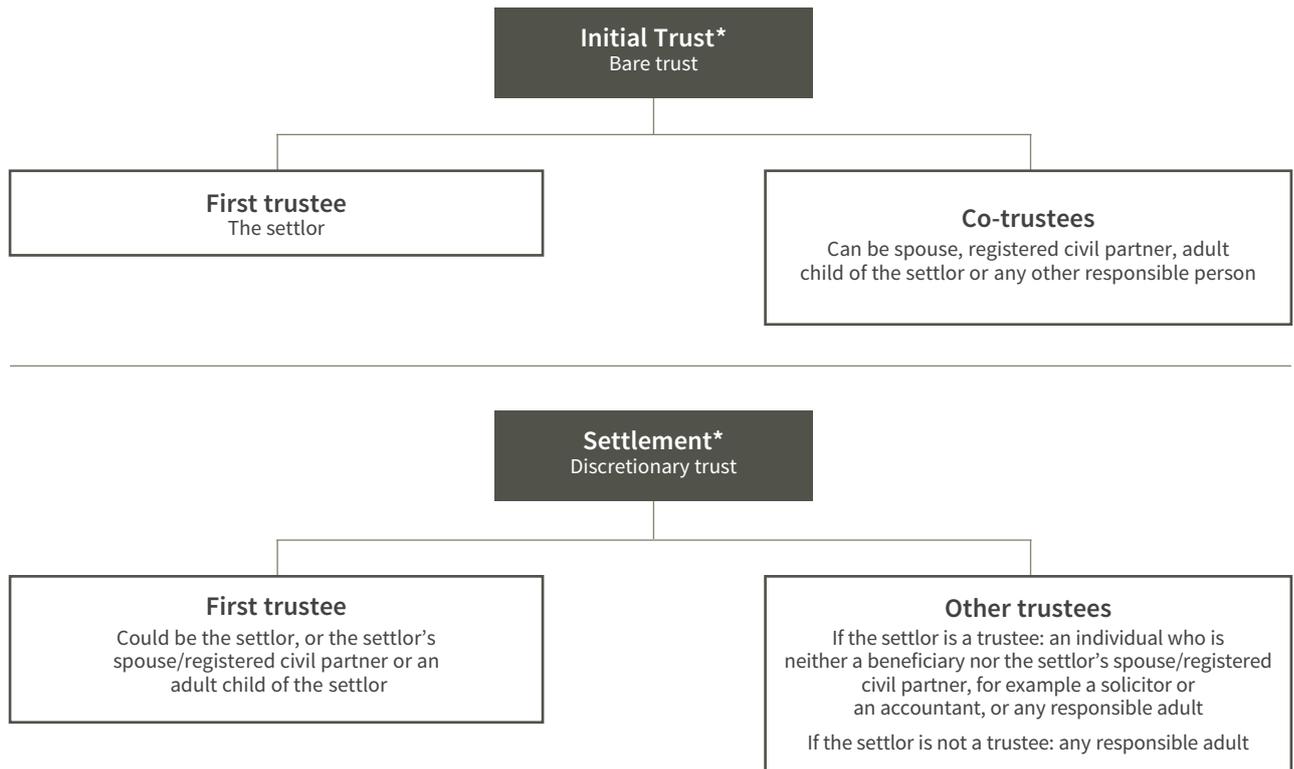
Where the settlor wishes to be a trustee of the Settlement, there should also be at least one independent trustee, who is not a potential beneficiary of the Settlement, whether named or one of a class of beneficiaries, or the spouse or registered civil partner of the settlor. This other trustee might be a solicitor or an accountant, for example, or any other responsible person.

In making decisions, the trustees of the Settlement must act unanimously. Accordingly, any one trustee can prevent the trustees exercising a power in favour of the beneficiaries, by voting against the exercise of the relevant power. Therefore if the settlor is a trustee of the Settlement, this means he or she can prevent the trustees doing anything which could impact on his or her right to receive the proceeds of maturity of each policy during his lifetime. The settlor is not, and cannot become, a beneficiary of the Settlement.

Where the settlor is not a trustee of the Settlement

If the settlor decides not to be a trustee of the Settlement, then there should be at least two individual trustees or a corporate trustee. In these circumstances, the settlor's spouse, or registered civil partner, might be a trustee of the Settlement. In addition, one of the adult beneficiaries of the Settlement could be a trustee, too. So, for example, it might be that the trustees are the settlor's spouse, or registered civil partner,

and an adult child of the Settlor. Alternatively, they might include a solicitor or an accountant, for example, or any other responsible person, perhaps a sibling of the settlor.



* Both the Initial Trust and the Settlement must have at least two trustees each.

This document is based on our understanding of applicable legislation, law and current HM Revenue & Customs practice as at October 2020. It is provided solely for general consideration.