Bare Gift Trust

Tax notes

These tax notes relate to policies issued by:
• Canada Life Limited
• Canada Life International Limited
• CLI Institutional Limited
• Canada Life International Assurance (Ireland) DAC

Background

The Bare Gift Trust allows you to make gifts of investments and life assurance policies into trust.

The terms of the trust state that:

- the donor (the person making the gift) is excluded from benefiting from the trust, and
- the individuals (named in Part 5 of the trust deed) are absolutely entitled to the trust fund.

Inheritance tax (IHT) considerations

1. The bare trust is not a settlement for IHT purposes (s43 IHTA 1984).

2. The initial gift can be exempt from IHT under the annual exemption [s19, IHTA 1984], but otherwise it will be a potentially exempt transfer (PET).

   Any transfers made by a donor in any one tax year are exempt if they do not exceed £3,000 [s10(1), IHTA 1984]. In addition, any transfer is exempt to the extent that:

   - it was part of the normal expenditure of the donor, and
   - it was made out of his/her net income, and
   - the donor was left with sufficient income to maintain their usual standard of living [s21(1), IHTA 1984].

3. The donor has no interest under the trust and all benefits are only ever payable to the beneficiaries. Accordingly, the transfer does not constitute a gift with reservation [p7(1), sch.20, FA1986].

4. If a donor dies within seven years of making a PET, the transfer becomes a fully chargeable transfer and may be liable to IHT at the full rate (assuming that part or all of the PET exceeds the donor's available IHT nil rate threshold) [S7(2) & (4) IHTA 1984].

   However, any tax payable will be reduced by tapering relief if death occurs more than three years after the date of the transfer.

   The tax due is reduced by 80% if death occurs during the seventh year, 60% if during the sixth year, 40% if during the fifth year and 20% if during the fourth year [S7(4) IHTA 1984].

5. The value of the PET will be the premiums paid and any life assurance death benefit is exempt.

6. Should any of the beneficiaries die, then their share of the market value of the policy will form part of their estate when calculating the liability to IHT on their death.

Income tax considerations

1. The initial assignment of the policies into the trust is not 'for money or money's worth' and is thus not a chargeable event for tax purposes [s484(1), IT(TOI)A 2005].

2. If benefits are payable under the policy, a chargeable event may occur.

   If so, as the policy is held under trust any tax charge is a liability of the beneficiary [s465(2), IT(TOI)A 2005]. If the beneficiary is a child of the donor, any tax charge is a liability of the donor whilst that child is a minor.

Pre-owned assets tax

The assignment of the policy into the trust will not give rise to an income tax charge on the benefits received by the donor under Schedule 15, FA 2004.

This is because the donor is expressly excluded from benefiting from the trust.

This document is based on our understanding of applicable legislation, law and current HMRC practice as at July 2021. It is provided solely for general consideration. We suggest that you seek your own independent tax advice.

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