

Group Life Assurance

Discretionary trusts

How it Works

Product Information

Discretionary trusts

What is a discretionary trust?

A discretionary trust is an arrangement, defined by law, where an organisation or group of individuals are made responsible for assets for the benefit of another group of people. The organisation or individuals appointed to administer the trust are known as 'trustees', and those benefiting as beneficiaries.

The trust includes 'rules' which the trustees have to use in carrying out their duties and include details of who can be beneficiaries.

Why use a discretionary trust?

The main benefits are:

- benefits held under the trust are protected and can only be used for the benefit of beneficiaries
- payments to a beneficiary do not form part of the deceased's estate so can be paid without waiting for probate
- payment in most circumstances will be exempt from UK Inheritance Tax
- tax relief may be available on premiums paid to the insurer

Notes

Payments of pensions are still subject to Income Tax.

Who sets up a trust?

Unless our Master Trust or Excepted Solution Trust & Rules is to be used, the employer that needs the trust is responsible for setting up their own.

We have a number of [specimen trusts](#) available on our website which can be used, if appropriate to the employer's requirements

Who owns the trust?

The trustee(s) owns the trust.

The trustees may be required to produce a copy of the trust when setting up a trustee bank account to receive claim payments or if required by HM Revenue & Customs. It will also need to be referred to if the trustees are required to pay a death benefit.

This is still the case even where our, or any other insurer's specimen documents have been used.

Who updates a trust once it has been set up?

It is very important the trust is kept up to date. In all circumstances the trustee(s) is solely responsible for keeping the trust documentation up to date.

We have a number of specimen [deeds of amendment](#) available on our [website](#) which can be used, if appropriate to the trustee requirements.

Legal advice

We recommend that you should always seek legal advice as we are unable to provide this.

What if a discretionary trust is not executed?

If a trust is not executed there will be no scheme setting out the benefits that would be payable, and no trustees

If there are no trustees in place and there are no benefits in existence to be insured, there is no insurable interest and the contract would be invalid.

If a claim was paid in these circumstances, any tax benefits would not apply. It is also not clear how HMRC would treat any claim benefits or premiums for tax purposes.

Our Group Life policies

All our policies are designed to work in conjunction with a discretionary trust.

We are currently able to issue policies where the following types of discretionary trust have been executed:

- Registered Pension Scheme providing stand-alone Group Life benefits
- Excepted Trust
- Excepted Solution Trust & Rules

In addition, we are able to insure organisations who sign up to use our Master Trust.

Notes

We are not willing to insure cover under a policy where a discretionary trust has not been executed.

Registered stand-alone Group Life Schemes

This is a trust written under the same legislation used to establish a Registered Occupational Pension Scheme ([Section 150 of the Finance Act 2004](#)).

If this type of trust is to be used the established scheme must be registered with HMRC. Further information can be found on [HMRC's website](#).

This type of trust can be used for both registered lump sum and dependent's pension benefits.

How do you register a scheme with the HMRC?

This has to be completed online by a Scheme Administrator appointed by the trustees.

The below links provide information on the considerations involved and different process which have to be followed:

- [Registering both a 'Scheme Administrator' and 'the Scheme'](#)
- [HMRC's website](#)
- [The Role of the Scheme Administrator](#)
- [Scheme Administrator 'Fit and Proper Person' legislation'](#)

What happens if 'the Scheme' is not registered correctly?

Trust not executed but registration completed

A scheme administrator will not have been appointed so the registration would be invalid and whoever applied for this has made false declaration and could receive a fine.

Notes:

If a claim was paid in these circumstances, any tax benefits would not apply. It is also not clear how HMRC would treat any claim benefits or premiums for tax purposes.

Trust not executed after registration completed

Registration would have been completed incorrectly and will be invalid and whoever applied for this has made false declaration and could receive a fine.

Notes:

If a claim was paid in these circumstances, any tax benefits would not apply. It is also not clear how HMRC would treat any claim benefits or premiums for tax purposes.

What happens if the registration process is not completed?

Trust has been executed but registration not completed

The scheme would be treated as an unregistered scheme therefore the tax benefits applicable to registered schemes would not apply.

Notes

It might be possible to treat the scheme as an excepted policy, if not it would be treated as an Employer Funded Retirement Benefits Scheme (EFRBS), with the associated tax implications.

Canada Life Master Trust

This is a pre-arranged Registered Pension Scheme providing stand-alone Group Life benefits which employers can choose to join.

Each employer still has their own Group Life Assurance policy. However, the administration of the trust, including the payment of claims and keeping up to date with changes in legislation, will be handled by the trustees of the Master Trust instead of the employer.

Only registered lump sum benefits can be insured where the Master Trust is used.

More detailed information and a copy of our Master Trust can be found on the [Trusts section of our website](#).

Notes

A copy of our Master Trust and a template Deed of Participation can be found on the [Trusts section of our website](#).

We may not be able to insure a policy where benefits are provided under another Master Trust. Appropriate advice should be taken regarding this.

Excepted Trust

The legislation relevant to the trust is dependent on the type of insurance policy being used to insure a lump sum benefit:

- for a relevant life policy, the conditions as defined in [Section 393B\(4\)\(b\), Income Tax \(Earnings and Pensions\) Act 2003 \("ITEPA"\) \(as substituted by section 249, Finance Act 2004\)](#)
- for an excepted group life policy, [Income Tax \(Trading and Other Income\) Act 2005 \("ITTOIA"\)](#)

A specimen Excepted Trust can be found in the [Trusts section of our website](#).

Excepted Solution Trust & Rules

Employers may opt to execute an Excepted Solution Trust and Rules.

Each employer still has their own excepted trust, but trustees have been pre-appointed and will deal with the administration of the trust, including payments of claims and the assessment of any potential tax charges.

We will keep the trust and rules up to date with any changes in legislation.

A specimen Excepted Solution Trust and a copy of the Excepted Solution Rules can be found in the [Trusts section of our website](#).

Comparison between registered group life schemes, excepted group life policies and relevant individual life policies

We have produced a [comparison guide](#) which compares the pros and cons of each type of arrangement.

Useful Information

More detailed information and specimen trusts and amending deeds can be found in the [Trusts section of our website](#).

How to contact us

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