



Discretionary Trusts



Alexandra Gordon
Partner

01622 680750
alexandragordon@brachers.co.uk

What is a discretionary trust?

Discretionary trusts provide a protective framework for passing on wealth and warehousing assets. They can either be set up under the terms of your will or during your lifetime.

The appointed trustees hold the trust assets, usually in accordance with an accompanying letter of wishes and have discretion to apply the income and capital of the trust for the benefit of a named class of discretionary beneficiaries, as they see fit.

Beneficiaries have no automatic entitlement to any of the assets in the trust, which may prove useful for a number of estate planning reasons.

Discretionary will trusts

Discretionary will trusts are useful as they allow relevant circumstances on death to be taken into account.

In particular they are often used in the following situations:-

- For providing for your children; by allowing the trustees to decide when they believe the children are mature enough to inherit in order to ensure that their inheritance is neither squandered or the cause of more harm than good.
- In order to prevent the redirection of an inheritance to an unintended third party.
- For providing for future generations of your family in an inheritance tax (IHT) efficient way; by allowing assets intended for a particular beneficiary to

remain outside of their own estate for IHT purposes and therefore enabling the beneficiary to benefit during their lifetime whilst also ensuring that the assets can pass on their future death (to the next generation) with minimal further IHT.

- For enabling business assets to pass in an IHT efficient way; by enabling assets eligible for Business Relief from IHT to be held outside of a surviving spouses estate and prevent any loss of BR from inflating the taxable value of a surviving spouse's estate on the second death.
- For providing for disabled beneficiaries; and ensuring that the trust fund is outside of their own estate so as to not affect entitlement to state benefits and ensure that funds can be managed and controlled by trustees.
- In order to set aside money for grandchildren's education.

Lifetime discretionary trusts

These are useful as a means of IHT planning, with a view to removing wealth from your estate for IHT purposes, or for warehousing assets which are likely to increase substantially in value in the future.

You will need to survive the date of any gift into trust by seven years in order for it to be removed from your estate for IHT purposes.

Lifetime trusts are often used for the same

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reasons as discretionary will trusts are used (as highlighted above).

Please bear in mind that the tax rules applicable to trusts change from time to time and this factsheet is not intended to be an exhaustive summary of the rules applicable to trusts but general guidance.

For more specific advice about discretionary trusts and the tax consequences of setting them up and administering them, please contact a member of our Private Client team.

The information contained in this document provides background information only. The document may be misleading if relied upon as an exhaustive list of the legal issues involved. If any matter referred to in this document is sought to be relied upon, further information should be sought.