

Discretionary trust (probate trust) settlor included - reasons why

This document has been compiled to provide you with some information and reasons for your client which you may wish to incorporate within your recommendation letters. These sample paragraphs are for your information and consideration only. You will, of course, need to relate the sections you select to your client's own circumstances as they may not all be relevant. This wording has been produced to help you, as a financial adviser, draft your own material. We accept no responsibility for ensuring that it meets with your own regulatory requirements and you should arrange for approval in accordance with your regulator's rules within your own firm.

Aim of the trust

The trust is designed to enable the trustees to have continued access to the trust fund on the death of the settlor without the need for obtaining probate. For this Probate Trust to be effective you should choose additional trustees to manage the trust after your death. You can be a trustee which will enable you to retain some control over the trust fund during your lifetime. As the trust includes you as a potential beneficiary you can also continue to access the funds. The value of the trust fund including any death benefits (sum assured) remains within your estate for inheritance tax (IHT) purposes. The gift(s) into trust is considered a chargeable lifetime transfer and could be subject to an entry charge if it exceeds your available nil rate band (NRB). The trust fund is also subject to periodic and exit charges in future years.

We regularly update our literature.

You can confirm that this August 2023 version is the latest by checking the literature library on our website at [quilter.com](https://www.quilter.com)

UK inheritance tax

As you are included as a potential beneficiary under the trust, HMRC views this as a reserved benefit. The gift into the trust is therefore known as a 'gift with reservation' and the trust fund value will be included within your estate when calculating whether IHT will be due on death.

The gift into trust will be known as a 'chargeable lifetime transfer' (CLT). The trust will be subject to periodic and exit charges.

Currently, only assets above the nil rate band (NRB) of £325,000 (frozen until 2028) are liable to IHT on death. Individuals who are married or in a civil partnership* each have an allowance.

For investments into trust over the nil rate band, an immediate charge to IHT would occur at half the death rate, ie 20%, on the excess above the NRB. A tax charge may also occur every 10 years and on any exit payments during the trust period.

For a detailed explanation of how chargeable lifetime transfers are taxed on entry and exit, and of periodic charges for single or multiple investments under trust, please refer to our Entry, Periodic and Exit Charges - Quick reference guides.

* as defined by the UK Civil Partnership Act 2004

What is a discretionary trust?

The discretionary trust (settlor included) is a trust where the settlor(s) can benefit from the trust ie they retain access. The trust assets are held for the benefit of the beneficiaries (including the settlor) by the trustees who have discretion on who will benefit from the trust. This trust can be set up with the Collective Investment Bond.

The trust is extremely flexible, no one individual has a defined right to the trust assets. The trustees can hold the assets for a wide class of beneficiary which means the assets can pass down generations easily.

Where bonds with capital protected death benefit cover are used with this trust, any extra life cover, payable on death, can be distributed from the trust to the beneficiaries. When the benefits are distributed from the trust they may suffer an exit charge. If the assets are retained they may suffer a periodic charge at the tenth anniversary and an exit charge on any future payment.

The wording of the trust allows the trustees, at their discretion, to grant loans to beneficiaries with or without interest. If the trust is constructed in the right way, these loans may be paid to a remaining partner and may be repaid by their estate on death. This could significantly reduce the remaining partner's IHT liability.

Advantages of a discretionary trust

- ▶ No beneficiary has an interest in possession or absolute entitlement.
- ▶ Trustees can apply their discretion on appointing benefits.
- ▶ The trust does not need to change when a new individual enters the beneficiary class, eg birth of an additional child.
- ▶ Ideal for individuals who would like to avoid probate delays/reduce probate costs for their family.
- ▶ Easy and simple.

What are the risk factors?

You will not reduce your IHT liability as the trust is seen as a gift with reservation. The full gift including growth remains within your estate for IHT purposes.

You should be aware that the value of unit-linked contracts is not guaranteed as the prices of units may fall as well as rise.

The Financial Services Compensation Scheme acts as a safety net for customers of financial services providers. If Quilter cannot meet its liabilities, the Financial Services Compensation Scheme may arrange to transfer your policy to another insurer, provide a new policy or, if these actions are not possible, provide compensation.

Full details of the Collective Investment Bond (CIB) are available on our website [quilter.com](https://www.quilter.com).

This information is based on Quilter's interpretation of the legislation as at August 2023. While we believe this interpretation is correct, we cannot guarantee it. Tax relief and the tax treatment of investment funds may change in the future. The value of any tax relief will depend on the investor's financial circumstances.

Quilter cannot accept responsibility for any losses or liabilities arising from actions taken as a result of the information contained in this document.

Trust registration

A trust must register with HMRC's Trust Registration Service (TRS) if it is considered UK resident or has a UK tax liability, unless an exemption applies.

- A trust must register within 90 days of the date of the trust deed.
- The trustees must submit evidence of registration (available from the TRS) or confirm exemption from registration to Quilter within 90 days of the trust date.

Further details regarding trust registration can be found here:

https://www.quilter.com/siteassets/documents/platform/guides-and-brochures/qip22347_registering_trust-guide.pdf

quilter.com

Please be aware that calls and electronic communications may be recorded for monitoring, regulatory and training purposes and records are available for at least five years.

Quilter is the trading name of Quilter Investment Platform Limited which provides an Individual Savings Account (ISA), Junior ISA (JISA) and Collective Investment Account (CIA) and Quilter Life & Pensions Limited which provides a Collective Retirement Account (CRA) and Collective Investment Bond (CIB).

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