Inheritor Trust
COLLECTION

FROM WAY TRUSTEES

Contents

Protecting Family Wealth Across the Generations

Most people in later life have two overriding objectives; to leave the best possible and most tax-efficient legacy for their family (by mitigating IHT) but at the same time ensure they have enough money to meet their own life needs.

The two are not mutually exclusive as their accumulated wealth may need to be used for either or both purposes depending on how life pans out.

The use of one or more personal Trusts by WAY Trustees is the most robust yet flexible family asset protection facility on the market, having been designed specifically with family wealth preservation in mind. Many of us are aware of friends and relations who have failed to make even the most basic of preparations for illness, loss of mental capacity or death and who themselves and/or their nearest and dearest have consequently suffered all sorts of deprivation.

This is where inter-generational wealth planning meets estate planning, ensuring that your family's collective wealth works harder for the benefit of all, while still fulfilling the intentions of you, the settlor.

Multiple-strategy Estate Tax Planning

We understand that people with substantial accumulated financial assets are often fearful about the impact of Inheritance Tax (IHT) upon their estate and thereby on the legacy they will leave for their nearest and dearest. The team at WAY stand ready to assist in arranging the affairs of such clients by making several linked strategies available via the WAY Trustees various uniquely flexible personal trust arrangements.

Of course, there are a number of well-known methods of reducing such a tax, which include life assurance, how you manage your pensions, investment in various forms of exempt assets, simple gifting to children as Potentially Exempt Gifts and, in our view most usefully, gifting assets into one or more personal Trusts. These options have varying advantages and disadvantages depending on factors such as age, state of health, appetite for investment risk and whether protection of the future security of yourself and family are important.

Buying 7-year term assurance to cover the potential IHT run-off period before gifts fall out of account, is considered useful, especially if written in trust. However, buying whole life assurance is simply a convenient means of paying the eventual IHT bill oneself, but in instalments over the long term. There is only any real saving if you actually die prematurely before premiums have covered the payout!

Investing in exempt assets, such as Business Relief qualifying assets, may be highly effective, but does entail investing in assets which many advisers suggest are innately higher risk than most elderly folk would normally choose.

Further, such assets can lose their exemption – either because shares move from the Alternative Investment Market (AIM) to the main Stock Exchange List or the underlying activities lose exemption. There is no consensus that you should necessarily avoid such assets but many commentators believe you should simply acquire them in moderation and ensure they are a minor part of your chosen risk profile.

Absolute gifting of funds to children is said to be highly efficient but there can be no recall of such funds if they are to qualify as Potentially Exempt Transfers (PETs) – which of course then fall out of account after 7 years. Caution should be exercised with the order of gifting, however, between PETs and chargeable lifetime transfers, in case you do not survive the 7 year anniversary for exemption and an early PET becomes retrospectively chargeable ahead of other later gifts.

The only principal strategy which avoids all of these various issues is gifting assets into one or more flexible personal Trusts, so long as any such capital gift (which is chargeable to IHT at the time) is within one's unused Nil Rate Band (NRB – currently at £325,000) or the gift utilises other means of achieving tax savings – discussed later.

However, before introducing you to the WAY Trusts we must remind you about the future – the somewhat uncertain future facing us all. Tomorrow, the next day or at some future time you, as many of our/your friends have probably already experienced, may find that life will throw us a 'curve ball' – something unexpected which turns our lives upside down.

The unique WAY Trust wordings focus on the flexibility necessary to help you face an uncertain future whilst keeping the tax benefits of flexible trust planning very much in play.

Introducing the Inheritor Trust Collection from WAY Trustees

WAY Trustees have overseen the gifting of over £200m of client assets into more than 1,500 personal Trusts over the last 20 years. The savings in IHT because of these gifts have been extraordinary, since very many of those Trusts were 'settled' more than 7 years ago (and have therefore fallen out of account for IHT).

There are three strategies available within the Inheritor Trust Collection. The extremely flexible copyrighted trust precedent was professionally drafted almost two decades ago by an eminent and published UK trust expert. In every case it permits the trustees to protect the interests of settlors and their families into a future which may well entail unexpected events which happen within families everywhere.

Of course, all three of the options included in the Inheritor Trust Collection by WAY Trustees are highly flexible and have a focus on mitigating IHT. Importantly, however, they provide the settlor (the person gifting these assets into trust) with the assurance that their interests and the interests of their families can be catered for by sympathetic trustees, in accordance with the settlor's wishes and within the carefully worded terms of each trust.

The three strategies are:

1. WAY Inheritor Gift Trust

The principal trust in use for the majority of our settlors is the WAY Inheritor Gift Trust. This Trust permits assets to be gifted into a flexible trust allowing (but does not oblige) the trustees to revert a portion (specified by the settlor at the outset) of the trust value on anniversaries of the initial gift. Any full or partial reversions not returned to the settlor can then be deferred by the trustees for distribution at one or more future anniversaries.

Of course, potential reversions are normally deferred but should the settlor have any unanticipated need for financial support, be it some kind of personal crisis or a health or long-term care need then the trustees will seek to support those needs as appropriate. At the same time funds can be made available to your family – at the discretion of the trustees following prior reference to you and/or your Letter of Wishes.

2. WAY Inheritor Loan Trust

In situations where you do not wish to restrict your own access to such funds or where you have no available NRB to absorb a gift, WAY offers the WAY Inheritor Loan Trust, which puts loaned assets into an independently managed trust on a repayable on demand basis (thereby covering the ability to recall money as necessary). In this situation any growth immediately occurs outside of the lender's estate and, where large loans are made over long periods, this can represent sizeable savings.

Of course, the flexible trust also allows the trustees, in conjunction with the settlor and in the light of any returning availability of the NRB (or the lender waiving partial or full repayment) to gift assets on to an Inheritor Gift Trust and/or to support members of the family in need.

3. WAY Inheritor Gifts from Income Trust

Some clients are in the fortunate position of enjoying a sometimes, restricted period of surplus earnings (including successful entrepreneurs, City traders, sports people, entertainers and so forth) where they have surplus after-tax earnings for several years, or more modest surpluses for longer periods. Gifting such regular surplus income into the WAY Inheritor Gifts from Income Trust **immediately** puts those assets into a fully IHT exempt environment.

The same flexible trust precedent lies at the heart of this arrangement so that assets can be returned to the settlor or appointed out to beneficiaries as needed over future years – again at the discretion of the trustees having referred to you and/or your Letter of Wishes.

There are of course many reasons to utilise one or more of our Trusts, and in recent times, the attraction to mitigate Inheritance Tax has been a major draw. In reality, the creation of such Trusts can offer many more benefits to you and your family both during your lifetime and beyond including:

- Allowing trustees to make urgently needed funds immediately available to family, including after your demise, without the need to wait for probate (which can take several months and in more extreme cases years).
- Permanently protecting family assets so that they are not inadvertently dispersed following a marriage breakdown for example.
- Differentiating between beneficiaries in post death support for your spouse (or civil partner) and children (whether natural, adopted or step) in line with your ongoing wishes.
- Offering financial security and support to you in the event of failing health and/or the need for care later in life.
- Mitigating Inheritance Tax on an inter-generational basis.
- Plus, many other benefits as you will discover later

Gifting a portion of one's wealth and/or surplus taxable income into a WAY Trust is a straightforward way of laying down a guide for how and in what circumstances those financial assets can be used for your needs and the benefit of your family members, before and after your demise.

WAY Trustees become impartial guardians of your funds as independent professional trustees and we will use your guidance (both initially and as circumstances change) on how you would like assets to be used for you and your family on an ongoing basis.

You have the WILL. You have the POWER. We provide the TRUST.

WAY Trustees offer a niche professional service on a national basis, exclusively focused on creating Trusts and managing family wealth for people wishing to protect their assets from the potential for family dynamic changes. These changes may be anything that could have a negative effect on your family's legacy wealth such as ill health, divorce, family discord, bankruptcy and anything in between. In short, we're here to protect your wishes and help ensure inter-generational wealth is preserved.

WAY Trustees will act on behalf of and in the interests of you and your wishes before and after your demise. We are a professional firm solely working to manage Trusts for people who have appointed us and we employ a team of skilled and conscientious trust staff who, between them, work tirelessly on behalf of their Settlors and the Trust Beneficiaries.

Why take our word for it?

WAY Trustees has recently been audited by Mills & Reeve LLP, a respected national legal firm, which is also very much focused on trust work. They have more than "two centuries of experience" and WAY Trustees is happy to be associated with them. Both firms support membership of appropriate professional associations, such as STEP (which specialises in family inheritance and succession planning) and Resolution (for lawyers committed to non-confrontational divorce). WAY Trustees is proud to share their findings with you here:

"In our opinion the files audited show that WAY Trustees provide a service of very high quality, with attention to detail and a commitment to adhering to the principles and standards required of a professional trustee. The audit showed that WAY Trustees are committed to providing an efficient and effective service to their clients, including ensuring compliance requirements are met and that individual client circumstances are taken into account when making trustee decisions."

So why is that important?

At the heart of it, we know what we're doing and want you to have absolute belief and take comfort in knowing that we do. Our Professional Trustee's will take time to understand your unique family dynamic and will then ensure your interests remain paramount, all the while ensuring the complex and regulated legislative duties of a trustee are followed.

Furthermore, just two examples of the opposing benefits of our work are included in the following pages, demonstrating that the twin benefits of reducing IHT whilst keeping the financial interests of the settlor's family very much in mind, can be catered for in one single but highly flexible strategy.

The Role of Flexible Reversionary Trusts

Many taxpayers over the last 20 - 25 years have settled some of their assets into flexible discretionary Trusts for the sole purpose of mitigating Inheritance Tax on death. However, a more sensible approach is to focus on helping individuals to achieve the majority of their, often opposing, life and financial goals of securing their future and that of their families in the face of the many unknown future challenges they might encounter - life's twists and turns – whilst also mitigating taxes.

These challenges may be personal, relationship, commercial, educational, health-orientated or any one or more of all sorts of unexpected future events. If such strategies can be arranged in a tax efficient manner, that then represents a real 'win-win' situation for the client. Gifting into such a trust, creates a segregated legal entity for tax purposes which has a potential lifespan of 125 years once established (regardless of the lifetimes of the settlor and/or any of the Individual trust beneficiaries) once established.

How we can help:

Each trust is managed on behalf of the settlor for the benefit of all classes of defined beneficiaries, for so long as it is appropriate within that whole timeframe. The independent professional trustee will always work within an effective legal mandate specified within the trust precedent and is generally guided by the ongoing wishes of the settlor.

Furthermore, the various Trustee Acts govern the way in which trustees are obliged to discharge their responsibilities.

The Tax Position:

The 2006 Finance Act introduced new rules whereby gifts / settlements into a discretionary trust, are considered to be taxable transfers for Inheritance Tax (IHT) purposes. This means that most settlors into the WAY Inheritor Gift Trust restrict such gifts to £325,000 each seven years. This is to reflect the extent of the Nil Rate Band for IHT and the inter vivos period during which such gifts continue to be aggregated with any other chargeable transfers.

Historically, the average age of most settlors tends to be around 70 years of age. To be comfortable gifting a portion of their assets, they need to know they could still potentially benefit from the assets they have gifted, if their circumstances change. Gifts fall out of account after 7 years, enabling clients to recycle their full Nil-Rate Band (currently £325,000), every 7 years. A male aged 70 has an average life expectancy of 16 years, whilst a female has an average life expectancy of 18 years* (thus enabling each to potentially recycle their respective NRB's twice and still have their respective full Nil Rate Band be-reinstated before their death. Quite distinct from all the other benefits of such Trusts, explained in some detail in the following pages, this means that there can also be a substantial tax benefit (a potential reduction of some £130,000 in Inheritance Tax per person, every 7 years or almost £400,000 in the above examples where 3 NRB's are utilised).**

WAY recommends earlier action – from age 65 or preferably younger – when the savings can be even more worthwhile.

* Source: Office of National Statistics Average Life Expectancy Tables for England & Wales published December 2019

* * Current Nil Rate Band, £325,000 X 40% IHT tax rate = £130,000

Trusting the Trustee

Left to right: Kevin Barker (Trust Operations Manager), Rabea Wullner (Trust Officer), Paula Convery (Trust Officer), Thomas Digan (Trainee Trust Manager)

In the past it was enough for a trustee to simply be a trustworthy individual. However, the role and responsibilities of a trustee have become much more complex, and the advent of increased regulation and litigation means the duties of a trustee have taken on a whole new dimension.

WAY Trustees:

- are fully conversant with and understand the terms of the trust;
- regularly review the needs of the beneficiaries;
- are sympathetic to the needs of the settlor (you) whilst not compromising their responsibilities to the beneficial class (your beneficiaries);
- ensure beneficiaries are treated fairly at all times;
- act impartially and do not allow personal opinions and prejudices to influence actions;
- ensure investments held by the trust are suitable and expose the trust to an appropriate level of risk and reward;
- periodically review the investments, taking advice from qualified professional advisers to ensure they continue to be suitable;
- consider tax implications for the trust, the settlor and beneficiaries;
- register the trust with HMRC and provide ongoing administrative support in relation to The Trustee Act 2000, the legislation to which all trustees must adhere.

It is not ideal to have an unskilled lay person dealing with the administration of your trust. WAY Trustees has the experience to administer your trust bearing in mind your wishes, treating your beneficiaries fairly and complying with the legislation within the Act.

WAY Trustees are very keen to reassure both existing and future Settlors that they are operating in accordance with all of the above requirements but, more importantly, that they have a sensitive and conscientious approach to delivering their efforts on behalf of the Trusts they manage. Nobody knows what the future holds for them or their families and so it is necessary for trustees to react to events as they happen and to do their best to look after the interests of all beneficiaries.

Testimonials: What do other's say?

A snapshot of two satisfactory but very different 'live case' outcomes – family interests and tax efficiency.

Informal thoughts from Mills & Reeve after their audit:

We have recently completed a technical trust audit on the operations of the trustee subsidiary of WAY Group and were pleased to be able offer a positive opinion on its' work on behalf of settlors and beneficiaries of the many Trusts they tend on behalf of all stakeholders.

Just one example of both the flexibility of the trust and the care and attention extended by the personal trustee department at WAY on behalf of trust families is demonstrated in the following example from the files seen by Mills & Reeve.

A February 2011 trust, where the settlor died in 2018 and, following discussions with the family, WAY added the surviving spouse as an additional member of the appointed class of beneficiaries (not possible during the settlor's life without compromising the Inheritance Tax benefits of the trust). The trustees subsequently lent the spouse what was effectively a temporary bridging loan to assist in a house move. Care was taken to ensure the other beneficiaries were not compromised by this, since the surviving spouse had by then found a new partner. They were comfortable with the loan. After the loan was repaid the trustees were then asked to lend a smaller amount to a young granddaughter of the settlor who needed assistance in buying a property. An agreed legal charge was placed on the property by the trustees, given her young age and because she was purchasing a property with her partner, to further protect the trust assets from a dilution by any unanticipated actions by non-family members.

Of course, the WAY trustees are ever mindful of both the rights and the wishes of all beneficiaries of their Trusts. We have been impressed by the work done by the WAY Trust team on compiling a directory of 'Letters of Wishes' and, in particular, variable paragraphs to be used within such letters to guard against unforeseen events or actions which might undermine the original trust intentions. Trustees are given extensive powers but under Trust legislation they have to remain fully responsive, initially to the settlors, but also to all beneficiaries, of the Trusts for which they are responsible. This generally happens by settlors giving their trustees guidance in the form of a Letter of Wishes. Such guidance is of an organic nature in that variations or replacement Letters of Wishes can be issued at any time as family circumstances change. After the demise of settlors then such wishes and guidance can be shared with the trustees by members of the beneficiary class.
Partner, Mills & Reeve, June 2021

Comments from a satisfied personal trust client on his IHT savings for the family so far:

I had the good fortune to place £120,000 into a WAY Trust in June 2006, which is now worth almost £246,000. I was so delighted as it was approaching the 7-year anniversary that I placed another £102,000 into a second WAY Trust in May 2013, which is now worth £170,000. That means that I moved a total of £222,000 into trust but I now have £417,000 available for my family – completely free of Inheritance Tax! One of my best financial decisions ever.
VS living in Brighton aged 82, married to a lovely lady of 81 – comments September 2021

WAY Comment:

The good news doesn't stop there. Of course, he currently has £417,000 free of IHT which if unprotected could attract IHT of almost £170,000. Furthermore, the trustees, in this case, have generally been using their annual CGT allowances along the way and because each trust has its own nil rate band for the purposes of the 10-year periodic charge there have been no periodic charges AND there is plenty of value there with sympathetic and responsive trustees in case there are any unforeseen family needs in the future.

If and when, distributions to beneficiaries are made, the trustees can distribute underlying investments 'in specie' and request holdover relief so that those beneficiaries can realise their funds as necessary over future years to use their own annual CGT allowances. A classic example of the WAY Trust in action.

Real Life Scenarios for the Inheritor Trust Collection from WAY Trustees

There are a myriad of circumstances whereby the trustees can help protect and/or utilise family assets.

The following are just some examples of real-life events where a suitable WAY trust can be an emotional and practical comfort, not a hindrance, to creating financial security for the settlor and his/her family during their lifetime, on their death and long into the family's future (up to 125 years).

Having access to funds to cover Family Emergencies. A son's business needs financial assistance, a sister's roof blows off, a favourite aunt has a medical problem requiring expensive and urgent treatment. A suitable trust that allows gifts or loans to a class of beneficiaries aside from named or added beneficiaries is crucial in circumstances such as these.

Protecting Family Wealth. Every parent wants to help their son or daughter on their way in life, such as helping with a first house purchase. The often-unvoiced fear is that good relationships can turn sour and a subsequent divorce will see half of that gift disappear out of the family forever. Offering such support via a loan from the trust avoids this consequence.

Covering Care Fees. The potential requirement to cater for and cover one's own long-term care needs is a constant source of concern for us all as we get older. Do we retain cash in our estate to do this or is there a better solution? By moving money into a trust, it falls out of account for IHT purposes after 7 years, but throughout remains available for care home or other health/medical costs at the discretion of the trustee, who will refer to the Settlor's "Letter of Wishes".

Avoiding unintended consequences of remarriage or a new civil partnership. It is not uncommon for a surviving spouse/civil partner to remarry, in many cases a younger partner who is likely to outlive them. Upon remarriage any previous Will becomes defunct and subsequent "joint" assets will automatically pass to the survivor on the first death. This often means original family assets become diverted away to new and external family. Assets within, or lent by, a trust can protect such family assets.

IHT savings and a surviving spouse or civil partner. On the other hand, a couple who have each settled funds into trust can benefit by the deceased spouse/ civil partner's trust adding the survivor as a beneficiary. By this means the survivor can be loaned funds, instead of taking reversions from their own trust, thereby creating a debt against their own estate to reduce subsequent IHT liabilities.

Special Occasions which "crop up". Funds within a suitable trust can be used for special occasions or specific family needs. Life has always been unpredictable and having tax-sheltered funds in a trust, available to deal with life's uncertainties has many advantages over keeping funds within your own taxable estate – they are protected from external access, including from bankruptcies and other legal threats.

These are just some normal real-life situations whereby, having passed assets into a separate legal entity, your own trust, you can protect excellent inter-generational family wealth for up to 125 years. Our booklet, a compendium of Letters of Wishes and "write your own" draft clauses for such letters, offer several more situations where your personal guidance to your trustee will help preserve and protect your family wealth intergenerationally.

About Us: Our 25-year Provenance and Key Personnel

Paul Wilcox left his senior management accounting role in British Steel Corporation in 1976 to join the personal advice industry. By 1978 he was setting up personal trusts for wealthy clients seeking to mitigate Capital Transfer Tax (described at the time as the death tax) – the forerunner of Inheritance Tax. These trusts were not a strategy to avoid tax, they were a means to stop already taxed assets from suffering a second layer of somewhat 'inappropriate' tax. However, the benefits of settling money into trust go well beyond tax mitigation. A trust is a secret and timeless box of magic tricks for managing family assets (as we are sure the Duke of Westminster knows very well). Paul's original clients then had their trust money's managed by their own independent stockbrokers.

The area representative of the company then offering these trusts was Bob Young, who was to become Paul's good friend and later his business partner. The advice firm, Wilcox Young, was thus born, just a few years later. In time they launched a range of funds suitable for trustee investment and continued to assist clients to 'settle' a portion of their investments into their own family trusts, often invested into WAY's own well-spread, portfolio-style unit trusts.

Fast forward to 1996 and the partners, along with two further members, established the WAY Group – Wilcox And Young, effectively. The Group then grew substantially over the many intervening years, remaining focussed on advice and investment management, before divesting itself of various non-core activities to re-focus on their shared passion for bringing the incredible family benefits of personal trusts to an ever-growing audience. The original WAY portfolio style funds (the WAY Funds) were taken over by Brompton Asset Management some years ago but, remain competitive (from a performance perspective) and are still managed with trustee investment in mind. Many 'WAY' trusts continue to successfully access these funds for their investment.

Meanwhile the WAY Group currently has a single focus going forwards - the establishment and management (via WAY Trustees) of family trusts for the moderately wealthy. They have been responsible for setting up some 1200 individual trusts containing assets of almost £200m. The benefits to the Settlors of those trusts, and to their families, can be life-changing as their circumstances change, often well beyond expectations, good or bad. Paul Wilcox continues as nominal Chairman of the Group, but the highly professional team which has evolved over the years now has its own impeccable reputation.

Paul Wilcox
Joint founder and Chairman of WAY Group who, in collaboration with Nick Chadwick, had the vision, many years ago, to develop personal trust services to manage family assets.

Richard Green
Joint founder and Non-Executive Director of WAY Group, he was a director of Jardine's in Hong Kong before returning to the UK in 1996 to jointly found WAY Group.

Nick Chadwick
Shareholder and adviser to WAY Group. He is a highly venerated leader in the field of Inheritance Tax mitigation strategies over many decades.

Kevin Barker
Our senior trust manager. He is a highly qualified trust and estate professional, with more than 20 years' experience of wide-ranging trustee operations.

Joanna Ciuk
A Master's graduate in Accounting, with 20 years' experience in accounting and management. Her analytical skills are central to managing the business.

Gemma Houghton
Head of Marketing at WAY Group with responsibility for marketing, brand development and PR. Previously she worked in strategic business development.

John Humphreys
Joining WAY Group in 2003, John has over 30 years' financial services experience and assists firms in the North of the UK to mitigate IHT and preserve family wealth.

Mark Wintle
With four years with WAY Group and 25 years of industry focus on wealth protection and family estate planning, Mark assists advisers across the South of the UK.

Talk to us

Contact us today to arrange a commitment free consultation to find out if the Inheritor Trust Collection by WAY Trustees is right for you and your family.

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