



Hold-Over Trust

Transferring assets to the next generation during your lifetime is a chargeable event for capital gains tax purposes. Consequently the assets transferred would be deemed to have been sold at their market value and any gains would be taxable.

A tax charge may be avoided where a charge to inheritance tax applies. This would not cover an outright gift because this is classed as a potentially exempt transfer (a PET) but it can apply where the assets are transferred into a lifetime trust. In such circumstances current tax legislation allows capital gains to be "held-over" provided that the settlor, trustees and beneficiaries are all UK resident for tax purposes and remain resident for 6 tax years after the transfer.

Therefore, even though the funds placed into the lifetime trust might be below the nil rate band for inheritance tax (an inheritance tax liability may not actually arise) the capital gains can still be avoided.

The same rules apply to gifts out of lifetime trusts and consequently this creates an opportunity to transfer assets to the next generation without incurring a capital gains tax bill as follows:

Strategy

The settlor creates a lifetime trust.

The settlor transfers the chargeable assets to the trustees and makes a "hold-over" election to postpone capital gains tax. The trustees acquire the assets at the settlor's original base cost, which becomes their base cost.

After a period of time the trustees transfer the assets to a beneficiary of the trust and also make an election to "hold-over" the gain.

The beneficiary receives the assets at the trustees' original base cost (also the settlor's base cost).

A sensible amount of time should elapse between stages. Special rules also apply to UK property.

Advantages

- Assets can be efficiently passed to the next generation free from capital gains tax
- Valuable family assets can continually be passed on free of tax in this way
- Several capital gains tax allowances can be utilised if a number of beneficiaries benefit (increasing the base cost of the assets and reducing future gains further)

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