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The information in this leaflet is a general description only and specific advice should always be obtained before taking any action.

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**Henderson Black & Co**

CHARTERED ACCOUNTANTS

**INHERITANCE TAX**

**USE OF TRUSTS**

ANSTRUTHER  
CUPAR  
PITTENWEEM  
ST ANDREWS



## **Use of Trusts in Inheritance Tax Planning**

Trusts can be confusing, but there are a number of simple situations where a considerable amount of tax can be saved by the use of trusts.

The main types of trusts are:

- Liferent (interest in possession)
- Discretionary

In each case there must be three main elements in place:

- Trustees
- Trust property
- Beneficiaries

In a liferent trust, one or more beneficiaries has a right to the income from the assets in the trust or the use of an asset, for example a house. The capital in the trust will eventually belong to someone, normally on the death of the liferenter or on his reaching a specific age, for example 21 or 25.

In a discretionary trust, no beneficiary has a right to income or capital at any time. The trustees decide who is to benefit.

## **Nil Rate Band Trusts**

Each individual can leave £325,000 free of IHT. If part or the whole of the limit is not used on the first death, the same % of a second amount of £325,000 is available on the death of the second spouse.

There may be occasions where a transfer into a discretionary trust is better on the first death, using the £325,000 nil rate band. This may be the case where an asset is expected to increase in value quicker than the nil rate band. The surviving spouse will still be entitled to the income if required.

## **Holdover Relief**

A parent may wish to give assets to a grown up son or daughter but is prevented from doing so because the transfer would involve the payment of capital gains tax.

If the gift is made to a trust, any gain can be held over. The trust takes over the donor's cost for CGT purposes. A later distribution from the trust can also involve a holdover.

## **Gift and Loan Schemes**

A number of insurance companies are marketing a scheme that involves buying an investment bond which is gifted to a trust, subject to the right to receive back a certain amount of money, usually up to 5% a year, until the original capital is repaid. This is not a reservation of benefit, as reversionary interests such as this are exempt. The original gift is discounted, as it is subject to the requirement to make these payments.

## **Life Policies**

The proceeds of life policies will come into the assured's estate on death. In most cases, it will be better if the proceeds are written in trust to go directly to beneficiaries. This provides immediate funds, without waiting for confirmation, and avoids IHT on the proceeds of the policy.