UNDERSTANDING TRUSTS

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TRUSTS

ARE YOU RELUCTANT TO CONSIDER A TRUST?

Unusual as trusts are to most of us, in reality they hold no mystery and they can be very helpful in the achievement of tax-efficient financial planning.

Trusts are legal arrangements under which someone (a 'settlor') transfers an asset to "trustees" who will look after that asset for the benefit of others ("beneficiaries"). The way the trust arrangement works is usually laid down in a trust deed.

Trusts have long been part of our legal system. Their origins (and their continued use today) are founded on domestic purposes, although they quickly became vehicles for advantageous taxation planning and have continued to be so for many decades. Trusts remain as effective tax planning tools and all taxpayers who strive to minimise their exposure to HMRC should be aware of what they can do.

The best way to demonstrate how trusts can play a part in tax and domestic financial planning is to give some illustrations as follows:

- Mr Rooney wants to make sure that his wife can benefit from the income from his holiday home in Wales after he has died but does not want to leave that appreciating property in her estate, knowing that their kids will only suffer more inheritance tax upon her death. He sets up a "Will Trust", a trust which receives the property on his death, outside of his wife's estate, but which allows her to use the property for the rest of her life;

- Mrs Ferdinand has some valuable paintings which she wants to give to her cousin. She is advised that if she simply proceeds with an outright gift she will cause herself to suffer an unnecessary CGT bill, but she could route the gift through a trust in such a way to avoid any CGT at all at this time;

- Mr Lampard is a wealthy grandfather in his 60's and wants to help his son and daughter out, and, at the same time, start the process of his own estate planning. He is advised that he might give balances of cash to his grandchildren, enabling them to realise income which will utilise their own otherwise unused personal allowances, and thereby help their parents pay significant school fees out of low (or nil) taxed monies. However, Mr Lampard does not want his grandchildren to have access to large sums of money yet and therefore decides to utilise a trust arrangement, with him as the trustee, so that he maintains full control over the cash;

- Mrs Gerrard also wants to help her grandchildren out with their higher education fees. By gifting value into trust for them and away from her beneficial ownership she may also find that her future care home fees will ultimately be paid for by her local authority, a useful by-product of her inheritance tax management;

- Mr Hart knows that the rate of capital gains tax is about to increase, which is particularly annoying because he expects to sell his commercial property at a healthy profit within the near future, but just after the forthcoming tax rise. He is advised to make a transfer into trust now to crystallise a disposal for CGT purposes, at the property's market value today, so that when the third party sale happens he has already made his taxable gain on the first transfer, at today's (lower) rate of CGT. The third party sale yields no further taxable gain.

These are just a few ad-hoc illustrations of how trusts can serve taxpayers well for specific important purposes. We at Jackson Stephen LLP work with trusts all of the time and find that once a taxpayer has overcome his fear of the unknown, he can quickly warm to the benefits which they can bring.

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