

A GUIDE TO TRUSTS



A WEALTH *of* DIFFERENCE

utmost[™]
WEALTH SOLUTIONS

Utmost Wealth Solutions is the brand name used by a number of Utmost companies.

This item has been issued by Utmost International Isle of Man Limited and Utmost PanEurope dac.

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BEFORE YOU BEGIN

This guide is not a comprehensive guide to trusts, but focuses on some of the issues you may come across when using one of our trusts together with an investment bond, from setting it up to bringing it to an end.

We hope you will find this information helpful, but we strongly recommend that you discuss the options available to you in detail with your financial adviser before acting on any of the information provided in this guide.

TO HELP YOUR UNDERSTANDING

Throughout this guide we refer to 'you', 'we', 'us', 'our' and 'Trustees'.

'You' refers to you personally as the person creating the trust.

'We', 'us' and 'our' mean Utmost International Isle of Man Limited or Utmost PanEurope dac as the provider of a product or trust.

'Trustees' refers to the individuals (or a company) who you appoint as the Trustees of your trust. This will include you if you also appoint yourself as a trustee.

TRUST REGISTRATION

It is important to note that most UK express trusts, including any trusts issued by Utmost International Isle of Man Limited and Utmost PanEurope dac and trusts with a UK tax charge payable by the Trustees, will need to be registered under the UK trust registration service and may need to be registered in an EU Member State. When choosing your Trustees it is important that they understand their duties and responsibilities as Trustees including any reporting requirements they may have, such as any requirements to register the trust where applicable.

This information is based on our understanding of current legislation and HM Revenue and Customs practice. It does not constitute legal or taxation advice. Speak to your financial adviser for further information on trust registration requirements.



IMPORTANT NOTE

The information in this guide:

- › is limited to Utmost's trusts and certain Utmost products only
- › assumes that you are a UK tax resident
- › does not cover the administrative or tax implications should the Trustees decide to invest the trust fund in other assets, whether this is in addition to, or instead of, the offshore bond
- › is based on our interpretation of current law and taxation practice in the UK, Ireland and the Isle of Man as at **1 February 2022**, which could change in the future and is dependent on individual circumstances.



WHAT IS A TRUST?

In simple terms, a trust is a way of separating the legal and beneficial ownership of an asset, for example an investment bond, so that somebody has the legal title to it (the Trustees) in order to own and manage it for the benefit of somebody else (the beneficiaries).

We refer to such an arrangement as a 'trust' and the asset as being held 'in trust'.

TRUSTS, A BRIEF HISTORY


It is thought that the use of trusts in England developed during the time of the Crusades. When landowners went overseas they would often transfer their estates to a friend to manage their affairs whilst they were gone. However, on their return home, Crusaders would sometimes find that the friend they had entrusted their property to was not prepared to give it back. At this time the law only recognised legal ownership so the courts would often rule that the estate belonged to the friend, not the Crusader.

Petitions to the King to rectify the situation were referred to the Lord Chancellor who had the power to override the legal claim of the friend if appropriate. As a result, the law of equity developed to allow the ownership of property to be divided into legal and beneficial ownerships. This ability to separate the legal and beneficial ownership of property meant that the returning Crusaders could enforce their rights under a trust even though the legal title to their property was held by someone else.

Today, the benefits of creating a trust are widely recognised. Modern trust law now provides Trustees with the legal powers to manage trusts more effectively, whilst imposing legal duties and obligations on Trustees which they must comply with.

WHY USE A TRUST?

A trust can be a flexible and effective way of making a gift to family members or friends during or after your lifetime. There are many types of trusts to choose from to help fulfil your investment needs and changing family circumstances. In order to help you decide whether a trust may be suitable for your financial objectives, we have outlined below some of the key features of using a trust with an investment bond:

UK INHERITANCE TAX (IHT) BENEFITS	<p>Trusts can be used to help mitigate the current 40%* UK Inheritance Tax (IHT) charge on death on assets that exceed the current nil rate band of £325,000 (2021/22 and set to remain at this level until the tax year 2025/26).</p> <p>For example, if you transfer a bond into trust and exclude yourself as a beneficiary of that trust, the bond no longer belongs to you which means that, on death, it will potentially fall outside of your estate for UK IHT purposes.**</p> <p>Whereas, if you own a bond and it is not written into trust, it will remain within your estate and may be subject to UK IHT on death.</p> <p> *Since 6 April 2012, it is possible for a reduced IHT rate of 36% to apply if you give away at least 10% of your net estate to charity.</p> <p>**For a trust to be effective in mitigating UK IHT, you must survive for a minimum period of seven years after establishing the trust. If you die within seven years of making your gift into trust, only the original value of your transfer, excluding any investment growth, will be taken into account for UK IHT purposes.</p> <p>In certain circumstances taper relief may be claimed to reduce the IHT paid on transfers that were made less than seven years before death.</p>
CAN REMOVE THE REQUIREMENT FOR PROBATE IN THE UK	<p>Bonds which are held in trust avoid the requirement to obtain a grant of probate before the provider will release any proceeds from the bond. This is because the Trustees are the legal owners of the bond and can give instructions for surrender or withdrawals without a requirement for probate.</p>
A CHOICE OF TRUSTS TO SUIT FAMILY CIRCUMSTANCES	<p>A Discretionary Trust gives your Trustees the flexibility to adapt to changing family circumstances because the beneficiaries are not fixed at outset.</p> <p>Whereas, an Absolute Trust provides you with certainty that your chosen beneficiaries, or their personal representatives, will receive their fixed share of any value in the trust when it is distributed.</p>



Tax treatment of the bond can change in the future and depends on individual circumstances.



KEEP A DEGREE OF CONTROL	<p>If an absolute trust option is chosen, you are able to decide exactly who will benefit from the trust and in what proportion.</p> <p>Under a discretionary trust the Trustees will have the discretion to distribute to any person within the categories of potential beneficiaries listed in the trust deed. You can give the Trustees guidance as to how and to whom you would like them to distribute the trust fund, but you cannot remove their discretion to decide the matter differently if they so choose.</p>
INCREASED FINANCIAL PLANNING OPTIONS	<p>Trusts can be combined with bonds in a number of different ways, offering a variety of financial planning options to suit your needs. For more information about the variety of options available to you, speak to your financial adviser.</p>
ADMINISTRATIVE BENEFITS	<p>A bond can be a particularly suitable investment for Trustees to hold because it is a non-income-producing asset. This means that there is no requirement for the Trustees to complete a Trust and Estate Tax Return for income tax purposes unless, or until, the Trustees trigger a chargeable event on the bond. Such chargeable events could include surrender, withdrawal and, in the case of life bonds issued by Utmost International Isle of Man Limited or Utmost PanEurope dac, death of the last life assured. For further information, speak to your financial adviser.</p>
FLEXIBLE OPTIONS FOR THE DISTRIBUTION OF PROCEEDS	<p>A bond is set up as a series of individual policy segments. This enables the Trustees to distribute proceeds by assigning ownership of the bond, or individual segments, to beneficiaries rather than surrendering the bond and distributing the proceeds themselves. Having flexible options for the distribution of proceeds means the Trustees can choose the most tax efficient option at a particular time to suit the circumstances of the trust and the beneficiaries.</p>



You must speak to your financial adviser when considering a trust and where appropriate, take tax or legal advice to ensure its suitability for your personal circumstances.

SETTING UP A TRUST

Setting up a trust may be a new experience for you so it is important that you understand the basic concepts and talk through your options with your financial adviser. To help with your understanding, we have provided answers to some frequently asked questions when a bond is being put into trust.

WHO IS INVOLVED IN SETTING UP A TRUST?

The table below has been designed to explain who the three main parties involved in setting up a trust are, and what their role in the trust is:

SETTLOR/DONOR	<p>The Settlor/Donor is the person, or in the case of joint applications the persons, who sets up a trust.</p> <ul style="list-style-type: none">› A Settlor is the broad term given to the creator of a Discretionary Trust› Donor is often the term given to the creator of an Absolute Trust. <p>Anyone with assets they wish to give away, and who is over the age of majority (18 in England and Wales) and of sound mind, can set up a trust.</p>
TRUSTEES	<p>The Trustees are the persons appointed by the Settlor or Donor in the trust deed to be the legal owners of the trust fund (the bond). The Trustees must comply with the terms of the trust and manage the trust fund in the interests of the beneficiaries.</p> <p>A Trustee can be anyone of sound mind that is over 18. Alternatively, you may prefer to appoint a corporate trustee.</p> <p>It is important that everyone who is appointed as a Trustee understands their role and their responsibilities, and is capable of fulfilling their duties as a Trustee. Refer to the 'Choosing your Trustees' section, later in this guide, for information about the role and responsibilities of Trustees.</p> <h3>CAN I BE A TRUSTEE?</h3> <p>Yes, you can appoint yourself as a Trustee to most trusts you set up but it is not generally advisable for you to act alone. You should also give careful consideration as any transfer of trusteeship could create difficulties, for example after your death, if you lost capacity or if you were unable to continue acting as Trustee. Please be aware that under the Lifestyle Trust, the settlor or their spouse is not able to act as Trustees.</p>
BENEFICIARIES	<p>The beneficiaries are the persons who will, or may, benefit from the trust fund. Beneficiaries can include any individual, whether adult or child, or a charity.</p> <p>The term 'potential beneficiaries' is used with a discretionary trust. This is due to the fact they only have a hope, not a right, to benefit from the trust fund because it is at the discretion of the Trustees.</p> <p>The beneficiaries of an absolute trust are entitled to their specified share of any value in the trust. Their rights are fixed from outset and cannot be changed.</p> <p>Please see the following 'Absolute or Discretionary?' section for more information on absolute and discretionary trust options.</p> <h3>CAN I BE A BENEFICIARY?</h3> <p>You can be a beneficiary of a trust, however, for a trust to be effective in mitigating UK IHT, it is usually necessary to exclude yourself as a beneficiary. Many trust drafts therefore specifically state that the settlor(s) cannot be named as a beneficiary or potential beneficiary.</p>



HOW DO I SET UP A TRUST?

A trust is usually created by a document called the trust deed. In this document you name the people involved in the trust and the terms of the trust are set out. In the trust deed you also appoint the Trustees and specify what money or investments are held by the trust, and who may, or will, benefit from it. Whilst informal trusts may be created in some circumstances without a trust deed, it is generally advisable to document any trust arrangement clearly, and take appropriate professional advice to ensure it is fit for the purpose you intended. To help, we have developed a range of trust deeds which may be used together with your bond. Your financial adviser will be able to provide you with the relevant documents for your chosen trust and check its suitability for your needs.

CAN I END THE TRUST AND GET MY MONEY BACK?

How you end a trust and get your money back will depend on the trust type chosen.

If one of your objectives is to mitigate your exposure to UK IHT, you must be prepared to give away the money or asset in trust entirely in addition to excluding yourself from any benefit. After setting up the trust, the Trustees would not be able to give you the money back, and you as the creator of the trust, will have no power to end the trust or to get your money back.

In some cases it is possible to be a beneficiary of a trust you have set up. This type of trust is commonly used to remove the need for probate and does not have the potential to mitigate UK IHT. In these circumstances it is possible for the Trustees to appoint the entire trust fund back to you and end the trust.



The laws applicable to trusts can be complicated and the type of trust that you choose will affect how the benefits are distributed and how the trust is taxed. For more information regarding the taxation of trusts, see the 'What are the UK tax implications of holding a bond in trust?' section, later in this guide. It is important that you discuss your financial and personal circumstances with your financial adviser and legal adviser before deciding on the type of trust best suited to your needs. It is important to ensure that any trust you create does not conflict with any other legal arrangements you have made, for example your will.

ABSOLUTE OR DISCRETIONARY?

With a few exceptions, in the UK trusts established during a person's lifetime are usually described as either absolute or discretionary. Absolute trusts set out the individuals who can benefit from the trust at the start, these can't be changed by the Trustees. Discretionary trusts allow the Trustees discretion as to who can benefit from the trust from a range of 'potential' beneficiaries set out at the start.

We have listed below some of the advantages and disadvantages of absolute and discretionary trusts to help you decide if either of these may be suitable for your needs.

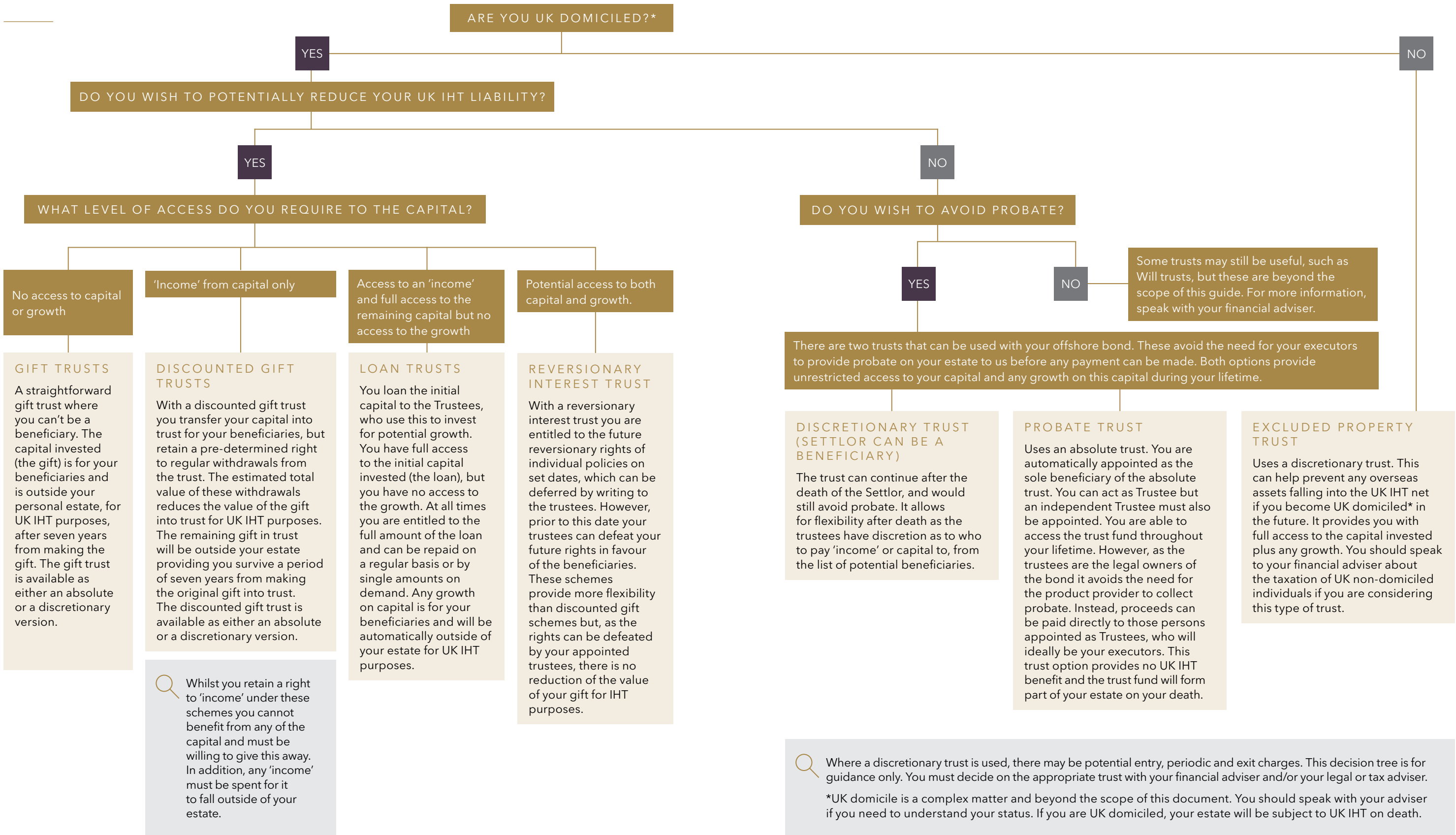
ABSOLUTE TRUST

ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> › You will be certain who will benefit from the trust and in what proportion › If you are not included as a beneficiary, the transfer will be a Potentially Exempt Transfer (PET) for UK IHT purposes. This means it could be completely free of IHT if you survive seven years after setting up the trust › Where you are not the parent of the minor beneficiary, income tax on chargeable gains will ordinarily be assessed on the beneficiaries instead of you or your Trustees (who may be liable to a higher rate of tax than the beneficiaries). Please see the 'What are the UK tax implications of holding a bond in trust?' section, later in this guide, and speak to your financial adviser for more information › An Absolute Trust does not fall into the complicated 'relevant property' tax regime which affects discretionary trusts, and its creation does not have to be reported to HM Revenue & Customs (HMRC). 	<ul style="list-style-type: none"> › The beneficiaries cannot be changed by you or your trustees if family circumstances change › The beneficiary's respective share of the trust fund is immediately in their estate. This means IHT implications may arise on the death of any beneficiary › Income tax on chargeable gains will be assessed on you if you are the parent of any minor beneficiaries if the gain exceeds £100.

DISCRETIONARY TRUST

ADVANTAGES	DISADVANTAGES
<ul style="list-style-type: none"> › Your Trustees have the flexibility and discretion to adapt to changing family circumstances, and the needs of future generations. If you would like your Trustees to consider the interests of particular beneficiaries you can give them a letter of wishes for guidance › No part of the trust fund belongs to any beneficiary in particular, so there are no IHT implications if a potential beneficiary should die before the trust is distributed. 	<ul style="list-style-type: none"> › You can influence, but cannot fully control, the decisions of the Trustees › If you aren't included as a beneficiary, your gift is a Chargeable Lifetime Transfer (CLT) and the taxation of such transfers is more complex than a PET (absolute trust) › The trust may need to be reported to HMRC at the time it is created and the trustees may need to file tax returns every 10 years or when property leaves the trust. Depending on the value, the trust may also be subject to a charge at these points (known as entry charges, periodic charges and exit charges respectively). For more information on these charges, please see the 'What are the UK tax implications of holding a bond in trust?' section, later in this guide, and speak to your adviser › If the Trustees become liable for chargeable gains arising on the bond, the rate applicable to Trustees is currently 45% ignoring the £1,000 standard rate band (2021/2022).

TRUST DECISION TREE



CHOOSING YOUR TRUSTEES

CHOOSING YOUR TRUSTEES

Before thinking about who you might appoint, it is important to understand what is involved in being a Trustee. The basic role of a Trustee is to manage the trust fund in the interest of the beneficiaries and, when the time comes, to make distributions from the trust fund in accordance with the terms of the trust.

However, being a Trustee also comes with a number of legal duties and responsibilities which can be time consuming and complex, so it is not a position to be given or accepted lightly. The people you may consider as Trustees could include:

- › Individuals such as family members or close friends
- › Yourself or your spouse
- › Professional Trustees (whether individuals such as your solicitor, or a corporate trust services provider).

In broad terms the Trustees must be able to:

- › Manage the trust impartially in the best interests of all the beneficiaries
- › Understand the terms of the trust, its overall objectives and the wishes of the Settlor
- › Know their duties as Trustees, including any tax and regulatory reporting obligations they may have with respect to the assets the trust contains
- › Monitor and account for the trust investment/funds they hold.

Who you decide to appoint will depend on your particular circumstances and preferences and indeed any restrictions in the trust deed itself.

HOW MANY TRUSTEES SHOULD I APPOINT?

An individual can act alone as a trustee but it is usual to appoint more than one Trustee. Appointing more than one Trustee will allow the trust to be administered should one of the Trustees lose capacity or die. You should remember that all Trustees must agree to decisions, so appointing too many Trustees could cause administration difficulties.



On our loan trust it is a legal requirement that one of the Trustees appointed must be a different person to the Settlor.

CAN I APPOINT MYSELF AS A TRUSTEE?

With the exception of the Lifestyle trust, all of our trusts enable you to appoint yourself as a Trustee. Whilst this will enable you to retain a degree of control over the trust during your lifetime, you must consider what will happen if you should lose mental capacity or die. If this should occur, your estate may face legal costs and your trust may not be able to be administered during the process of replacing your position. For these reasons, if you are appointing yourself as Trustee, you should always appoint a second Trustee to make sure the trust can still be administered should your circumstances change.

NON-UK-RESIDENT INDIVIDUALS

Appointing an overseas Trustee could create administration and taxation issues and you should speak with your financial or legal adviser to ensure you understand these implications before proceeding.



We will not be able to accept applications from Trustees in certain jurisdictions.

PROFESSIONAL TRUSTEES

Appointing experienced trust professionals may be more appropriate for you in some circumstances. This might be an individual, such as a solicitor, or a corporate trustee (trust company). The appointment of a corporate trustee may also offer administrative benefits, because a company cannot lose capacity or die. A corporate trustee will be able to provide continuity and professional trust management for the duration of your trust as required. However, professional individuals and corporate trustees will usually charge for their services. Such costs may vary significantly between different providers depending on the range of services being offered.

UTMOST TRUSTEE SOLUTIONS LIMITED

Utmost Trustee Solutions Limited offers a professional trustee service for Utmost clients investing in certain Utmost products at a reasonable cost. Please ask your adviser for our guide: **Utmost Trustee Solutions - A Guide to our Services**, together with the current **Charges Schedule** for more information about this service.

GET IN TOUCH

For more information regarding our professional trustee service, speak to your financial adviser or contact us:



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AFTER THE TRUST IS ESTABLISHED



ONCE THE TRUST IS ESTABLISHED, THE TRUSTEES WILL BE RESPONSIBLE FOR THE MANAGEMENT OF THE TRUST AND THE TRUST FUND. WE HAVE SET OUT SOME OF THE MATTERS THEY WILL NEED TO CONSIDER FOR THE DURATION OF THE TRUST.

MANAGING THE INVESTMENT

As previously mentioned, Trustees collectively have responsibility for the management of the trust fund, but may delegate their investment management functions if required.

If a Settlor or Donor wishes for the trustees to use the services of a particular Investment Adviser or Investment Manager, the Trustees will have to agree the terms of the appointment.

Trustees should ensure they have all relevant information about the trust and any investments it holds to enable them to make informed decisions as Trustees. The Trustees should keep appropriate investment records and records of all the decisions they make.

We will send bond information and correspondence to the address of the nominated Trustee only. However, all Trustees can access fund valuations online at any time if they register with us at www.utmostinternational.com

CAN TRUSTEES BE APPOINTED OR REPLACED AFTER THE TRUST HAS BEEN SET UP?

Yes, the trust deed would need to be considered to see who has power to appoint new or replacement Trustees after the trust is set up. This will usually be either the settlor, or the trustees collectively, but some deeds may have more complicated clauses which will order the persons capable of appointing or replacing trustees depending on specific circumstances.



It is important that Trustees are always formally appointed, retired or replaced by the appropriate deed. This ensures that legal ownership of the trust fund is properly transferred from the outgoing Trustees to the continuing or new Trustees. Standard deeds for the appointment of additional Trustees, or for Trustees to retire, can be found on our website www.utmostinternational.com for registered online users or from your financial adviser. Please speak to our Customer Services team if you are unsure of which deed applies to your specific trust document. In some circumstances, non-standard deeds may have to be drafted by your legal adviser.

CAN A TRUSTEE RETIRE?

Yes, a Trustee can retire at any time provided they have the consent of all other Trustees and the statutory minimum number of Trustees is maintained. For example, if a Settlor/Donor appoints more than one Trustee at outset, the number of Trustees required to operate the trust throughout its lifetime will be at least two individual Trustees or one corporate trustee. In some cases this may require the Trustees to appoint an additional or replacement Trustee before the outgoing Trustee retires.

WHAT HAPPENS IF A TRUSTEE DIES?

If a Trustee dies, the continuing Trustees may need to appoint a replacement Trustee. If the deceased Trustee was the last surviving Trustee, their personal representatives may then appoint new Trustees.

CAN A TRUSTEE DELEGATE THEIR TRUSTEE POWERS TO SOMEONE ELSE?

Yes, they can. Subject to the terms of the trust or restrictions imposed by the bond provider, Trustees have the power to delegate the investment management of the trust fund to a third party if they wish.

I'VE SET UP A POWER OF ATTORNEY - CAN MY ATTORNEY TAKE ON MY RESPONSIBILITY OF TRUSTEE?

With respect to their trusteeship as a whole, a Trustee may delegate their powers temporarily to a third party but only by using a specially worded Trustee Power of Attorney which is valid for a maximum period of 12 months.

For example if a Trustee is travelling abroad and unable to attend meetings or sign documents, they could delegate their Trustee powers for a limited period only. This would become invalid if either the Trustee or their attorney lost capacity. You would need to seek legal advice if such an arrangement was required.

It is generally not possible for a Trustee to delegate their powers using an Enduring, or Lasting, Power of Attorney as these only authorise the attorney to act in respect of an individual's personal affairs. They do not authorise the attorney to assume any powers an individual has as a Trustee. However, a Trustee appointed under an Enduring Power of Attorney (EPA) for which an application to register was made before 1 March 2000 and in effect before 1 October 2007 can exercise the trustee powers of the donor.

Some clients may be thinking about giving a friend or family member a Lasting Power of Attorney for their financial affairs in the event that they may lose capacity in future.

If you would like the person holding your Lasting Power of Attorney also to be involved in the management of a trust of which you are a Trustee, you should make separate arrangements with your co-trustees to formally appoint your attorney as an additional trustee.

Your appointed attorney cannot automatically take over your role as trustee if you lose capacity to act. And, in some circumstances, replacing a Trustee who has lost capacity may require the involvement of the Court of Protection.

HOW DOES A TRUST COME TO AN END?

A trust ends when the trust fund has been fully distributed to the beneficiaries.

However, a trust would also have to end if it reached the end of its trust period (the perpetuity period), or if the value of the trust fund fell to zero.

If an absolute trust is not distributed to a beneficiary for any reason, it will come to an end on their death. This is because that beneficiary's share would become payable to their personal representatives and could not be held for anyone else.



For discounted gift trusts, such a distribution could not be made until after the death of the Donor.

MAKING DISTRIBUTIONS FROM A DISCRETIONARY TRUST

The Trustees of a discretionary trust have the discretion to decide who will benefit and in what proportion, when the time comes to make distributions from the trust.*

If a decision is made to allocate an amount or percentage share of the trust fund to a particular beneficiary, the Trustees should use an appropriate deed of appointment to record it.

It should be noted, particularly for larger trusts, that when assets leave a discretionary trust (e.g. when either proceeds or segments are distributed to beneficiaries) there is a possibility of UK IHT exit charges currently at a maximum rate of 6%.

MAKING DISTRIBUTIONS FROM AN ABSOLUTE TRUST

Adult beneficiaries of an absolute trust can ask for their share of the trust fund at any time, and the Trustees must oblige.*

It is not necessary to record this decision by deed because each beneficiary's share is already defined in the original trust deed.

MAKING DISTRIBUTIONS FROM A BOND HELD IN TRUST

Apart from using a bond to fund regular withdrawals for beneficiaries, if final distributions of capital are to be made, the Trustees have two methods they can use to do this. The trustees could surrender the bond or segments themselves and distribute the proceeds to the beneficiaries.

Alternatively, they could assign legal ownership of the bond or segments to adult beneficiaries and enable the beneficiaries to surrender or otherwise deal with the bond as the policyholder thereafter.

For a discretionary trust in particular, assigning the bond or individual segments before surrender will ensure that tax arising on any chargeable gains is assessed on the beneficiary who takes ownership, rather than on the settlor or the Trustees. This could generally be the most tax efficient option if the Settlor is a higher rate tax payer and/or because the rate of tax applicable to Trustees currently stands at 45% (2021/22).



Tax treatment of the bond can change in the future and depends on individual circumstances.

*Distributions from Discounted Gift Trust schemes are not permitted during the Settlor/Donor's lifetime.

WHAT ARE THE UK TAX IMPLICATIONS OF HOLDING A BOND IN TRUST?

HOW A BOND IN TRUST IS TREATED FOR INCOME TAX WILL DEPEND ON WHETHER YOU CHOOSE AN ABSOLUTE OR DISCRETIONARY TRUST. IT WILL ALSO DEPEND ON WHETHER YOU, THE TRUSTEES OR BENEFICIARIES ARE UK RESIDENT FOR TAX PURPOSES WHEN PROCEEDS ARE TAKEN FROM THE BOND.



The information contained in the following pages is based on our interpretation of current law and taxation practice in the UK, Ireland and the Isle of Man as at **1 February 2022**, which could change in the future and is dependent on individual circumstances.

The taxation of proceeds taken from the bond is complex and is subject to change. Therefore, we strongly recommend that you and your Trustees consult with your financial adviser to ensure you fully understand the tax implications for you, the Trustees and the beneficiaries before taking any proceeds from the bond.

INCOME TAX ON PARTIAL SURRENDERS (WITHDRAWALS)

The tax treatment of withdrawals taken as partial surrenders across all segments within a bond is the same for any bond held in any trust.

For each investment made, the policyholders (the Trustees) are currently entitled to withdraw up to 5% of the original investment each policy year for 20 years and defer any income tax payable.

However, if the full 5% tax-deferred entitlement is not taken in any policy year, the unused amount is carried forward. For example, if the Trustees wish to make regular distributions to a beneficiary and the withdrawals amount to 4% of the original premium paid, then they could continue for up to 25 years free of income tax at the time of the withdrawal. Neither the Trustees nor the beneficiary receiving these distributions would be required to include details of the bond on their annual tax return.

However, if withdrawals are paid out at a rate of 5% of the original investment, and these continue beyond 20 years, from year 21 onwards the whole amount withdrawn will be liable to income tax.

Withdrawals which exceed the 5% tax-deferred entitlement available in any policy year will give rise to a chargeable gain. This means either you, the Trustees or the beneficiaries will be liable to the income tax arising on the gain. Although, who actually pays the tax depends on the type of trust you choose and, in some circumstances, the way distributions are made.

PAYING FOR PROFESSIONAL ADVICE

Before you set up a trust you are able to pay for financial advice from your bond if you wish. However, once the trust is established, ownership of the bond is transferred to your chosen Trustees. Your Trustees will then be responsible for arranging any one-off or ongoing adviser charges that are to be paid from the bond.

If, once the trust is established, you personally pay the adviser directly for advice relating to the trust, the payment would be a transfer of value. If the amount you pay for that advice exceeds any annual IHT exemption available to you, the payment could be treated as an additional gift (PET or CLT) on your death.

It is therefore likely that any advice charge in relation to the trust will have to be paid from the bond itself, so it is important that you and your chosen trustees understand the effects this will have.



Once a trust is established of which you cannot benefit, your Trustees cannot pay for any advice provided to you personally, as this would create a 'gift with reservation of benefit' and undermine any IHT benefits of the trust.

There are two types of charges that can be paid from your bond to cover advice given:

INVESTMENT ADVISER CHARGES

- › Investment Adviser Charges can be paid from the bond for advice relating only to the bond's linked investments
- › Our **Nomination of Investment Adviser Form** and our **Adviser Charges Pack** will need to be completed by your Trustees if they would like to set up payment of Investment Adviser Charges
- › These charges will not affect the 5% annual tax-deferred entitlement.

ADVISER CHARGES

- › Adviser charges can be paid from the bond for any type of personal, professional financial advice including product suitability, tax or estate planning
- › Our **Adviser Charges Pack** will need to be completed by your Trustees if they would like to set up payment of adviser charges
- › These charges are treated as a withdrawal of capital from the bond and will affect the 5% annual tax-deferred entitlement.

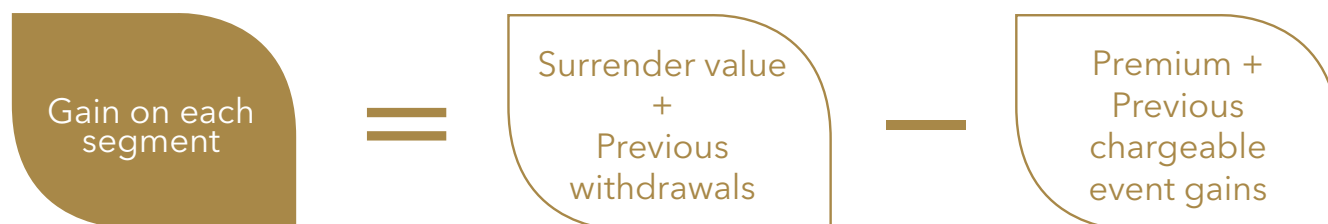


If a combination of any withdrawals from the bond and the adviser charges exceed the 5% annual tax-deferred entitlement, the excess will be a chargeable gain and may be liable to income tax.

For more information, see our **Tax Information for Customers Guide** and speak to your adviser.

INCOME TAX ON SURRENDER OF THE BOND OR ANY SEGMENT(S)

The proceeds from the bond, or individual segments, are paid out without deduction of tax at the time of final surrender. In the UK, the chargeable gain on which income tax is payable is calculated as follows:



This calculation would also be used to calculate the chargeable gain on the death of the last surviving life assured, on a bond written as a life assurance policy. Under these circumstances, the surrender value is then calculated on the day before death.



We are obliged to notify HMRC when chargeable events result in chargeable gains on the bond and the trust is UK resident. All chargeable gains must be declared by the person or persons who will be liable to pay any income tax arising, which may be different from the reportable person.

Under some contracts, such as discounted gift schemes, it is not possible to surrender the bond or individual segments during the lifetime of the Settlor/Donor.

WHO PAYS THE INCOME TAX WHEN PARTIAL SURRENDERS OR FULL SURRENDERS RESULT IN CHARGEABLE GAINS?

This depends on whether the type of trust chosen is an absolute or a discretionary trust:

(I) ABSOLUTE TRUST

When chargeable gains arise on a bond held within an absolute trust, the beneficiaries are usually liable for any income tax arising at their personal rate of tax. However, there is an exception to this rule where the trust was created by a gift into trust from parent to their child and where the child is a minor. In these circumstances, the parent will be liable for the tax on any chargeable gains which exceed £100.

In all other cases, the beneficiaries of an absolute trust are liable for the income tax arising on gains in proportion to their share of the trust fund and should declare any gains on their annual tax return.

(II) DISCRETIONARY TRUST

If chargeable gains arise on a bond held in a discretionary trust, set up by a UK-resident Settlor with UK-resident Trustees, the liability for the income tax arising on those gains will be in the following order:

- › Firstly, during the Settlor's lifetime and during the tax year of the Settlor's death, gains will be assessed on the Settlor at their highest rate of income tax.
- › Secondly, if the Settlor has become non-UK resident, or died in a previous tax year, chargeable gains will be assessed on the UK-resident Trustees at the rate applicable to Trustees which currently stands at 45% (tax year 2021/22).

- › Finally, if the Settlor died in a previous tax year and the Trustees are non-UK-resident (for example Utmost Trustee Solutions Limited is a non resident corporate trustee), gains will be assessed on UK-resident beneficiaries to the extent of the share they receive.

UK-resident Trustees are required to complete a Trust and Estate Tax Return to declare any gains on which the Trustees are liable to pay income tax.

The current income tax rate applicable to Trustees is 45% (2021/22). For this reason the Trustees may wish to consider assigning the bond, or policy segments, out of trust before surrender.

UK INHERITANCE TAX (IHT)

Creating a trust of any type generally involves a transfer of value from your personal estate into the legal ownership of the Trustees. Most trusts therefore have IHT implications for UK Settlers. In most cases, a transfer to any trust which excludes you from benefiting from the trust will be considered a gift for UK IHT purposes. However, the tax treatment of this gift is dependent on the trust used.

A transfer to a discretionary trust is a Chargeable Lifetime Transfer (CLT) for UK IHT purposes. If its value, combined with any other CLTs made by the Settlor in the previous seven years, exceeds the available nil-rate band at the time the trust is set up, it will create an immediate liability to UK IHT at the lifetime rate (20% assuming Trustees pay the tax, grossed up to 25% if the Settlor pays the tax) on the excess. If the Settlor dies within seven years of making a transfer, the transfer will be aggregated with their estate in order to determine the overall UK IHT liability. Any lifetime charge which has been paid will be taken into account.

A transfer to an absolute trust for a named beneficiary is a PET which will be free of any charge to UK IHT provided you live for at least seven years after setting up the trust.

WHAT HAPPENS IF THE SETTLOR/DONOR DIES WITHIN SEVEN YEARS OF MAKING A GIFT INTO TRUST?

If you die within seven years of making any lifetime gift, whether to an individual or to a trust, your executors will have to declare the amount you gave away when they submit the IHT account (IHT400) to HMRC in respect of your estate.

Other than for trusts under which you are a beneficiary, for example a Probate trust, your executors do not have to declare the entire value of the bond on your death because it is held in trust and any investment growth on the original amount transferred belongs to the Trustees.

HOW LIFETIME GIFTS ARE ASSESSED FOR UK IHT ON YOUR ESTATE

Lifetime gifts made in the seven years prior to your death will use up some or all of your available nil rate band (£325,000 for 2021/2022) before the remaining nil-rate band (if any) is applied to the rest of your estate.

If any of these lifetime gifts exceed the available nil-rate band, it will be liable to UK IHT.



The interaction of lifetime transfers with other chargeable transfers made within a seven year period can be complex. In addition, how the tax is calculated for lifetime transfers which become chargeable is beyond the scope of this guide. For more information regarding UK IHT speak to your financial adviser who will be able to explain the implications in detail.



PERIODIC CHARGES ON DISCRETIONARY TRUSTS

A periodic charge of up to 6% is payable every 10 years from the date the trust was set up.

EXIT CHARGES ON DISCRETIONARY TRUSTS

An exit charge may also be payable when capital is withdrawn from a discretionary trust. It will also be payable if your Trustees assign segments to your beneficiaries. The rules here are complex and beyond the scope of this guide.

WHO IS RESPONSIBLE FOR PAYING UK IHT ARISING ON LIFETIME TRANSFERS WHICH BECOME CHARGEABLE?

Transfers of value which become chargeable on your death utilise your available nil-rate band before being available for the rest of your estate. If a charge to UK IHT arises on any gift, then the persons who received the gift are liable to pay any UK IHT arising. If they are unable to pay the tax, the remainder of the estate (the residuary estate) will usually bear the cost.

TAPER RELIEF

If a failed lifetime gift becomes liable to UK IHT, and it is not covered by your available nil rate band on death, the resulting tax charge may be reduced by taper relief if your death occurs between three and seven years after the gift was made.

It is important to remember that taper relief only applies to reduce the tax payable on a gift. It cannot be used to reduce the value of the gift if the gift is not chargeable in its own right.




It is important that you discuss your financial and personal circumstances with your financial adviser and legal adviser before establishing a trust. In particular, you should ensure that any trust you create does not conflict with any other legal arrangements you have made, for example your will.

NEXT STEPS


Your financial adviser will be able to help you with any questions you may have about the trust solutions we offer. It is important to discuss your financial needs and circumstances with your financial adviser so that you can find out what's right for you, before deciding to proceed with the trust investment or making any financial decisions.


CONTACT US


To find out more about the investment options available with specific products we offer, speak to your financial adviser or contact us:


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AWI PR 0019 | 11/22