



## **Pilot Trusts**

### **What is a Pilot Trust?**

A Trust set up during your lifetime with a small amount of money (usually £10) which can be added to, either in your lifetime or on your death, by a legacy in your Will. The Trust must be set up before your Will leaving the monies to the Trust is signed. Such Trusts are usually drafted as Discretionary Trusts and are therefore very flexible and protective.

### **Why use a Pilot Trust?**

By using a Pilot Trust you can set up a number of discretionary trusts through your Will without them becoming “related trusts”

### **What are related trusts?**

These are trusts all set up on the same day, ie the date of your death. If more than one trust is set up on the same day, for Inheritance Tax purposes they **share** one nil rate band. If Pilot Trusts are set up on different days and the main bulk of money/investments added by your Will, they will not be related trusts but will achieve the same effect as if you had put them all in your Will. This means that each Pilot Trust can utilise one nil rate band on occasions such as the 10-year anniversary charge and exit charges (see separate information sheet explaining the taxation of Discretionary Trusts).

### **What are the advantages of Pilot Trusts?**

Your assets can still be available for your use during your lifetime. This is because you can provide for the gift of the assets to the trust by the terms of your Will. This gift will only take effect on your death.

You can place assets in these Trusts at any point during your lifetime or by your Will. The assets can be used for your surviving spouse’s benefit but also preserved for your children and grandchildren

You can include a Nil-Rate Band discretionary trust in your Will and leave further monies to the Pilot Trust by your Will. Although there would be IHT to pay on your death, those further monies (if under the NRB) would not be subject to IHT on the 10-year anniversary charge. Thus you would have the advantage of 2 Nil-Rate Bands. All the monies in the trusts would not be part of the surviving spouse’s estate but would be available for their use during their lifetime.

Because all the assets placed into the Trust by your Will do not belong to the surviving spouse, they are protected from inclusion in Local Authority calculations for Nursing Home Fees.

## **Cohabitees**

There is no transferable nil rate band available for surviving cohabitees. However monies up to the nil rate band can be added to the pilot trust via the Will and then the residue also left to the cohabitee for life. There will be two trusts of monies created but they will not be related trusts. This means that all the assets are available for the surviving cohabitee during their lifetime but are also preserved for your children or other beneficiaries. All monies in the trust remain under the nil rate band for at least the first ten years and therefore there will be no IHT to pay. Funds in the discretionary trust can also be made available for children before the cohabitee has died.

## **Protection of Assets**

All assets placed into one or more discretionary trusts are protected from the changing circumstances or whims of your beneficiaries, for example

*Divorce/Re-marriage* – if a beneficiary divorces, the assets in the trust cannot be included in any divorced settlement. Conversely if your spouse re-marries, whilst the assets in the trust are still available for their use during their lifetime, they are protected for your own children and wider family

*Bankruptcy* – if one of the Beneficiaries becomes bankrupt, the assets in the trust cannot be taken by their Trustee in Bankruptcy to pay their debts

*Nursing Home Fees* – if your surviving spouse/cohabitee has to go into a nursing home, the assets held in the trusts cannot be included as part of the Local Authority calculations towards your fees. This means that you could protect more assets than those in a Nil-Rate Band Trust providing the other trust was set up using a Pilot Trust.

*Trusts for Grandchildren* – you can set up individual trusts for each grandchild, using pilot trusts. Providing each pilot trust was set up on a separate date and each trust has below the nil-rate band placed in it on your death there will be no IHT to pay at the first 10-year anniversary or any exit charges prior to the 10-year anniversary. If you put all the monies into one trust for all your grandchildren, the total value could be over the nil-rate band and there will be IHT to pay at the 10-year anniversary.

## **Death-in Service Benefits**

Often a person can nominate their death in service benefit to pass directly to their surviving spouse/cohabitee on their death. If this is set up correctly by the pension trustees, that amount will fall outside their estate, for Inheritance Tax purposes.

However, that money will increase the surviving spouse/cohabitee's estate on their death. A pilot trust could be set up and the nomination made to pay the death in service benefit to the Trustees of the Pilot Trust. The monies will then fall out of your estate on your death but not be part of the survivor's estate on their death either. The monies will be available for the survivor's use during their lifetime but protected from both Inheritance Tax, Nursing Home fees and affords the fullest flexibility available.

If you would like to discuss any aspect of this information sheet then please contact:

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**Or by telephone on 01904 624185 (York) 01757 708957 (Selby) 01653 600070 (Malton) or 01262 609585 (Bridlington)**

**Alternatively, please call in to any of our offices to arrange an appointment.**

This document does not constitute legal advice in its own right. Always seek personal advice direct from a Solicitor before you take any action.