Bare Trusts Fact Sheet

Redmayne Bentley

This fact sheet has been put together to act as a rough guide to establishing a simple trust account, commonly known as a bare trust.

A bare trust is created when a person (the settlor) makes a gift to another person (the beneficiary) and a trustee oversees the trust. The gift would be recognised as a 'Potentially exempt transfer' for inheritance tax purposes.

WHAT IS A BARE TRUST?

- A bare trust allows a trustee to hold 'trust property' i.e. assets for a specified beneficiary.
- The beneficiary of the trust can call for the legal interest from the trustee at age 18 in England and Wales and age 16 in Scotland. Legal interest will give the beneficiary ownership over the trust property i.e. the stocks held in the account, thus, ending the trust.
- The named beneficiary has 'absolute entitlement' to the trust property.
- Bare trusts are useful for someone wanting to buy shares for a minor (a person under 18 years old) because minors are unable to buy or sell shares until they reach 18.
- The trustee of the bare trust is responsible for the investment decisions.
- The trustee has no discretion whether to comply with a request from the adult beneficiary to assign to them control of the trust assets.

TAX CONSIDERATIONS

Any income that is received within the bare trust is deemed to belong to the beneficiary (i.e. the child) as long as the assets are deposited into the trust by someone other than the child's parents. This means the income is taxed at the child's marginal rate which is likely to be advantageous. Regardless of whether the parents set up the Trust or not, if a parent of the beneficiary deposits assets into the trust and the income arising from those assets is over £100, the income is deemed to be that of the parent and potentially subject to tax at the parent's marginal rate. Parents can simply act as Trustee's without affecting the Trust's tax position. The beneficiary can make use of their personal income and capital gains tax allowances which is tax efficient. For further information please contact a tax adviser or HMRC.

Any growth on the assets within the bare trust will be deemed to be outside the death estate of the settlor (the person who gifted the assets or money to create the bare trust) for inheritance tax (IHT) purposes. Because the creation of the bare trust is a potentially exempt transfer for IHT purposes, the settlor must survive for 7 years, following the gifting of the assets, for the gift to be wholly outside of the settlor's death estate. If the settlor dies within 3 years of the gift, full IHT may be due if the gift is not covered by the nil rate band and annual exemption. If the settlor dies between 3 and 7 years after the gift, taper relief on the IHT may be available if any IHT is due.

DRAWBACKS OF A BARE TRUST

- Bare trusts are not particularly flexible vehicles when compared with other types of trust.
- The beneficiary can take control of the assets at age 18 which the settlor may not desire.
- The trustee has little discretion compared to other types of trust.

ADVANTAGES OF A BARE TRUST

- Cheaper and easier to establish than other types of trust.
- A trust deed is not always required.
- A bare trust can be used to hold assets for a minor who would be otherwise unable to benefit from owning securities.
- Withdrawals are permitted (unlike a JISA or SIPP), before the beneficiary reaches the age of 18 (16 in Scotland) if they are for the benefit of the beneficiary where written instruction has been received from the trustee(s).

If you would like further information regarding opening a bare trust account, please contact **your local Redmayne Bentley office**, for details please visit **www.redmayne.co.uk.**

Tax treatment depends on the specific circumstances of each individual and may be subject to change in the future.