Lifetime Planning Options

Clients may be subject to taxation issues during their lifetime and on death. These can include Capital Gains Tax, Income Tax and Inheritance Tax (IHT).

If these issues are of concern, planning in lifetime can be considered to potentially reduce or mitigate the liability. Establishing Wills and Trust(s) to receive their estate on death only, would not usually reduce a client's IHT liability. It is strongly recommended that clients deal with their Wills and Trusts first, as it is not known when a death will occur.

The following are a range of possible options and should not be considered as advice but as general guidance at this time. Some options will be more appropriate to consider than others. In some circumstances clients may consider and implement a number of the options. Some clients may further benefit from an estate planning report which can be ordered on the software and would consider the estates in some bespoke detail.

1. Outright gifts to individuals.
• This is a straightforward gift to an individual(s): a Potentially Exempt Transfer (PET). Needless to say, the donor can't benefit from the gift to maintain its IHT efficiency once it has been 'given away'.
• There are no limits in the value gifted, other than affordability, but it would only fall out of the estate of the donor after their 7 years survival. The gift would also be in the estate of the recipient(s) estate from day 1 for their IHT. If the donor passes away within the 7 year period the gift would 'fail' and would be still accountable to the donor's estate for their IHT calculation, as well as still being in the recipient(s) estate.
• From day 1, the gift would also be at risk from claims on the recipient(s) divorce claims, creditor claims/ bankruptcy and care fees, and may continue to be subject to the same risks for the donor.
• If the gifted asset was laden with 'gain' (i.e. rental property), Capital Gains tax (CGT) could also apply on its disposal. In most cases no 'Holdover Relief' is available (some business exceptions).

2. Gift to Trust
2.a Countrywide's family of Gift Trusts are settlor excluded trusts. They allow the client to 'gift' asset(s) away and start the 7 year clock to mitigate IHT. The settlor cannot generally benefit from the income or capital of the gifted amount. They don't need to actually nominate any particular individual(s) to benefit – just a group of 'potential beneficiaries'. See Key Features Benefits Sheet 23a for more information.

2.b When Capital Gains Tax (CGT) is an issue. As this will be a disposal for CGT purposes, if a client wants to elect Holdover relief (for CGT), then neither the settlor, or their spouse, nor the settlor's minor unmarried children can benefit ie, all those persons have to be specifically excluded in our Family Holdover Gift Trust (note if electing holdover relief, a subsequent main residence relief would not also apply). An election by the settlor will be needed for holdover to be claimed, this is the responsibility of the settlor. KFB 23b

Chargeable Lifetime Transfer (CLT) for IHT – limited to the Nil Rate Band (NRB) currently £325,000 (per settlor) transferred to trust in any 7 year period. Any more than this will trigger an immediate IHT charge at 20%.

3. Take out life assurance
The simplest solution for insurable clients, take out whole of life assurance to cover the IHT liability and assign it to trust.

4. Main Residence – Finance Act exemption s102(B)(4) 1986
Normally by giving an asset away and retaining a benefit (as would be the case with the main residence as the person lives in the house) this would be a Gift with Reservation of Benefit. This would mean that from an IHT point of view, the house would still be in the estate, unless a full market rent has been paid.

However there is an exemption in cases where the person making the gift and the recipient live in, or has rights of access and occupation, of the same house. The exemption is found at s102(B)(4) of the Finance Act 1986 and states that as long as an 'undivided share' (ie a share of under tenants in common, or solely owned by the donor) is given away, this is not a Gift with Reservation of Benefit – so the 7 year IHT clock can start as a PET. An estate planning report would be required to evidence the planning. See KFB 30.

5. Buy To Let – Finance Act exemption s102(B)(3) 1986
There is also similar provision within the Finance Act (s102(B)(3)) for properties which are not occupied by the donor (ie, rental properties) where they can give away part of the property and keep the rent without it being a Gift with Reservation of Benefit. This is a PET (or a CLT if using trusts) and the 7 year IHT clock can start. They can't give away the whole property but arguably can gift anything up to 99%, albeit anything more than 50% is said to be referred to HMRC's technical team. CGT will be triggered on disposal. An estate planning report would be required to evidence the planning, plus conveyance work (and trust if using trusts). See KFB 23e.

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6. Reinvest gains into an EIS
If the client decides to sell his shares/property and triggers a gain in the process, then the full gains (together with any other gains in the last three tax years) could be invested into an EIS. If this is done, then he will benefit from:

a. No CGT being payable on the gains, instead being deferred until a future disposal
b. Income tax relief of 30% of the amount invested – claimable in this tax year of the previous tax year (subject to the client being paid at least the amount claimed in income tax).
c. IHT Business Relief (BR) relief after 2 years as long as he holds it at the date of his death.

Authorised financial services advice would be required.
The client's Will should include a BR clause to ensure any reliefs are correctly applied. KFB 9/109.

7. Invest into a regular Business Relief investment.
Authorised financial services advice would be required.
The client's Will should include a BR clause to ensure any reliefs are correctly applied. KFB 9/109

8. Invest in pension schemes.
Authorised IFA work required.

9. Discounted Gift Trusts (for bonds, and trust arranged via the provider)
Depending on the client's health, an element of 'Discount' is calculated by reference to a life expectancy and agreed level of income. The Life Expectancy is arrived at by way of an underwriting process via a Life Office. This has a benefit with the potential for an amount out of the estate immediately for IHT – the remaining % still has a 7 year clock on it. The clients must continue to receive the income as of right, but will have given up the access to the capital to the Discounted Gift Trust. A DGT would be arranged via the financial services product provider.

10. Use annual gifting allowances

11. Incorporation for BTLs to reduce income tax, SDLT and rollover CGT. Note, this does not reduce IHT, as incorporation would still not fulfil the criteria for Business Relief.

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