

**Private Client Law Bulletin****Save tax by putting your death in service benefits into trust**

Most of us have death-in-service benefits with our employers or death benefits through our pension schemes and will probably have completed a standard nomination form directing that these monies be paid in favour our chosen beneficiary such as a spouse or partner. Whilst this is understandable and attractive, it may not be the most tax efficient or practical manner for these funds to be dealt with when you consider what would happen when that spouse or partner dies.

Death benefits not held in trust

- On death, the funds are paid to a nominated beneficiary without the need for a Grant of Probate
- The beneficiary receives the lump sum benefit and these monies are now owned by him/her and treated as an asset in his/her estate
- The beneficiary can use these monies as needed, but on death there could be an IHT liability which could result in 40% of the death benefits being eroded unnecessarily.

Avoid IHT on death benefits by using trust structure

- On death, funds are paid to a "pilot" trust without the need for a Grant of Probate
- The trust is created with an initial nominal asset of say £10 and lies dormant until receipt of death benefits
- The trust would be a discretionary trust to benefit a range of beneficiaries including a spouse, partner or children
- It has its own tax allowances and so the death benefits would not be subject to IHT on the first or second (e.g. spouse's) death as they are not treated as assets in the estate
- A spouse or partner can be appointed Trustee to retain control over funds.

By using the trust route, your spouse and children can still fully benefit from your death in service benefits but you would be avoiding an IHT charge on your beneficiary's death. In essence, for IHT purposes the death benefits would bypass the estate of your spouse/partner.

Advantages of use of trusts

- Saves avoidable IHT charge (as described above)
- Offers measure of asset protection by "ring fencing" assets away from any local authority assessment of long term care should your spouse or partner require residential care in the future
- Use of pilot trusts is not limited to death in service benefits – equally effective to receive any form of life assurance benefit or other assets you are happy to give away in your lifetime but retain control as to how they are used.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Private Client issues, please contact: Duncan Bailey in Liverpool on 0151 600 3451, Richard Bate in Manchester on 0161 836 8840 or Stephen Marriott in Preston on 01772 229 816.

If you no longer wish to receive the bulletin please let us know by return e-mail to kimberley.malcolm@brabnerscs.com

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