Penguin
TAX PLANNING

PROTECTING *YOUR* MONEY
FOR *YOUR* FAMILY

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FAMILY WEALTH PROTECTION SPECIALISTS

Protecting your family assets

Many people, often without realising it, will come into contact with a trust of some sort during their lifetime. Yet trusts are widely misunderstood and often seen as the preserve of the wealthy.

This brochure aims to give a quick overview of how trusts work, what they are most commonly used for and to correct some of the misconceptions held about trusts.

Trusts are becoming a more widespread tool in the search to protect and preserve family assets.

The exact technical details of trusts, how they are set up and taxed vary from client to client, so this guide focuses only on some of the broader principles.

This brochure will help to outline the use and types of trusts available within the Penguin Tax Planning trust portfolio as well as their significant Asset Protection Qualities. Our bespoke planning service therefore gives you the peace of mind that the design and implementation of your new Family Trust Structure is in the best possible hands.

Who is involved in setting up a trust?

There are normally three parties involved in setting up a trust:

- The Settlor – The person making the gift or leaving an asset to their family – probably you, the person who is reading this
- The Trustee – The people who look after the gift/assets once they are passed to the trust – probably you and your family, or a professional
- The Beneficiary/Beneficiaries – The people who are to enjoy and receive the assets – probably your children, grandchildren or loved ones

The main reason to use trusts is to preserve, protect and provide longevity to the estates of individuals. Trusts help to achieve this through two main features:
1- The effectiveness of trusts to assist reducing second generation, third generation and beyond tax liabilities;
2- The ability to reduce exposure of assets to social impacts such as divorce, separation and bankrupcy.

Trusts are extremely effective when planning how money and assets should pass from one generation to another, especially when family structures can be complicated by divorces and second marriages. This coupled with the growing frequency of marriage breakdowns, the increase in personal assets used in long term care costs and the number of individuals now liable to Inheritance Tax on their estates helps illustrate the need for effective trust planning and their rise in popularity.

Stats

£2,700,000,000 (£2.7 billion)

The amount of Inheritance tax collected in 2011 by HMRC.

Some examples of family situations where we have used trusts are:-

- To protect death benefits on life cover policies from Inheritance tax, probate delays or remarriage of a partner
- To provide for a husband or wife after death while protecting the interests of any children
- To reduce the liability on the matrimonial home from care fees after the death of a partner/ spouse
- To provide a protected Inheritance to children
- To protect gifts to children when assisting them buying a house
- To help succession planning in family businesses

Trusts have been used by families for centuries and are steeped in British history, dating back to Richard Whittington (the real-life inspiration for the pantomime character Dick Whittington), who bequeathed his fortune to trust which, nearly 600 years later, continues today.

Trusts are also common place in everyday life in the UK, for example, most company pension schemes are structured as trusts as well as many charitable organisations.

The type of trust though most relevant to you will be a trust established to arrange your family's financial affairs. This will allow you the significant confidence in knowing how assets will be used in the future as well as maintaining control in the interim. Essentially trusts provide a means of ring-fencing and looking after money, or property, for people who may not be ready or able to manage it for themselves. Trusts can even be created to assist people who are not even born yet i.e. future children, grandchildren or great-grandchildren.

Until recently, professional Trust Planning was the preserve of the very wealthy. This was due mainly to the lack of experts able to construct the intricate legal documentation required. There was a lack of expertise and knowledge required in advising the appropriate structures and the associated high costs that go hand in hand with rarity. But why do these wealthy people spend so much to create Trust Structures? Quite simply it is for efficient preservation of family wealth, from all manner of deteriorating factors such as taxation, divorce, or simply bad relationships.

Stats

70,000 – the number of homes estimated in 2011 taken by local authorities to recover Long Term Care Costs.

We at Penguin Tax Planning are now able to bring this level of planning to a much wider population, through consolidation of in-depth expertise and knowledge in trust planning, aggregating the legal paperwork to specialists in a centralised location thus allowing us economies of scale to bring the costs right down to affordable levels. We can therefore offer access to the establishment of personalised Family Trust Structures without the premium price.

Penguin Tax Planning Trust portfolio includes:

- The Beneficiary Protection Plan
- The Penguin Education Trust
- The Protective Gifting Trust
- The Legacy Plan
- The Penguin Pension Trust
- The Guardianship Trust Fund
- The Protective Property Trust
- The Business Preservation Trust
- The Inheritance Tax Trust (IHT)

All of which provide bespoke estate planning and legacy protection for your families future and generations to come.

Why Penguin Tax Planning?


- We have a substantial in-depth knowledge and expertise in Trust Planning
- Significant experience dealing with complex and diverse family situations and estates
- Society of Trust & Estate Practitioners affiliate members (STEP)
- A single point of contact for all your estate planning needs from Personal Wills, Trusts and Lasting Powers Of Attorney to Business Trusts and Cross Option Agreements
- An award winning firm
- Peace of mind through the use of professionally drafted documentation
- Ongoing trustee/estate advice & guidance packages
- Availability of professional trustees
- Safe & secure storage of all documents available
- A confidential, professional and simple trust planning process
- Complex Family Trust Structures at competitive prices

Finding the right Trust Structures

One of the rewarding things about accumulating your wealth for the future is knowing that one day it can be passed onto others. Your wealth might be built up from 40 years of work to clear the mortgage on your home, family businesses, property portfolio's, savings & investments, or even assets abroad, all of which will require individual considerations for it to pass intact to your loved ones.

At Penguin Tax Planning we work closely with our clients spending time to understand your personal situation, motives and goals for your family in the future. This time and attention to detail ensures that each Family Trust has **YOUR** Family at its heart! It is set up by **YOU** for **YOUR** Family, it is run by **YOUR** Family, for the sole benefit of **YOUR** Family.

We offer a wide variety of different trust structures at Penguin Tax Planning from helping to reduce your family's potential Inheritance Tax liability, the likelihood of the family home being used to pay for Care Home Costs, to removing delays to life cover proceeds being released.

But by far the most popular reason for many of our Family Structures being implemented at present is more for the protection of assets and legacies from social and domestic risks. With divorce rates projected to reach 50% and following the death of a partner the rates of remarriage and new partners is more than 60%. So this presents a clear threat to any unprotected legacies that you leave.

What if one of your children goes through divorce?

Consider the following situations:-
A legacy left to a child totalling £400,000, the child subsequently marries and later on divorces. The legacy could be successfully challenged as part of a 50% divorce settlement resulting in a loss to your legacy of £200,000.

£400,000 Legacy left to a Son on Death

As you can see social risks can pose even more of a threat than the traditional tax issues and hence the increase in interest in such planning. Through the use of a Penguin Tax Planning Family Trust structure, the legacy would come back into the family trust intact, with the £400,000 available for payment to the son after the divorce was finalised.

£400,000 Legacy left to a Legacy Protection Trust on Death

Case Study - Mr & Mrs Penguin

Consider the following situation where a legacy left to Mrs P with 2 children following the death of Mr P, with a total value of £800,000.

Mrs P subsequently remarries but then dies leaving everything to the new husband. Potentially the new husband could walk away with the whole £800,000 and the 2 children could be left with NOTHING!

Social impact risks to Legacies and potential for disinheritance of children

Joint Assets

No Trust Structure
£800,000 Assets

Assets pass unprotected to Mrs P

Mrs P remarries

Mrs P dies leaving estate to new Husband

or later gets divorced with the Legacy at risk of becoing part of the divorce settlement

Mr P's Estate

Children face the risk of receiving none of their parents Legacy

Mr & Mrs Penguin's Solution

With the benefit of a Penguin Tax Planning Family Trust Structure the legacy becomes protected against the social risks and potential disinheritance of the children.

Whether it be through death or subsequent divorce of Mrs P, under this example the Family Trust would look to recall the legacy. This would help to ensure its bloodline protection, passing it on to support the children which no doubt would have been Mr P's dying wish.

Social impact risks to Legacies and potential for disinheritance of children

Joint Assets

All assets pass through a Family Trust Plan with Legacy loaned to Mrs P by way of written loan agreement held by the Trust

Legacy loaned to Mrs P

Legacy recalled to Trust

Mrs P dies with Legacy returning to the Trust Plan and not to the new husband

or gets divorced with the Legacy not becoming part of the divorce settlement

Mr P's Estate

Legacy protected to help ensure Children benefit from Mr P's estate and wishes

Consider.... The double inheritance tax trap

A parent leaves a legacy to their daughter of £700,000 (assuming all allowances used).
Following the deduction of Inheritance Tax the daughter benefits from £550,000 legacy.

LEGACY

- Daughter Inherits £700,000
- Inheritance Tax due at 40%

TAX DUE

- £700,000 - £325,000 = £375,000
- £375,000 x 40% = £150,000 IHT Bill

NET

- Daughter receives
- £700,000 - £150,000 = £550,000

In the unfortunate event that the daughter subsequently dies and is single with assets in her own right totalling £325,000. Then the above legacy is subject to Inheritance Tax for a second time depleting the estate by a further £220,000.

LEGACY

- Daughter dies with own Assets
- Assets £325,000 + £550,000 Legacy

TAX DUE

- £875,000 - £325,000 = £550,000
- £550,000 x 40% = £220,000 IHT Bill

NET

- Beneficiaries receive £655,000
- Total Tax £150k + £220k = £370,000

Without the benefit of effective Legacy Planning the original £700,000 Inheritance has seen a reduction of £370,000 in tax. That's over 50% after only having passed down an additional generation.

Solution

As you will see below, the potential benefits in effective will writing combined with a Family Trust Structure can provide significant future generational tax planning. Considering the same example opposite. Following the deduction of Inheritance Tax, the daughter benefits from a £550,000 Legacy.

LEGACY
- Daughter Inherits £700,000
- Inheritance Tax due at 40%

TAX DUE
- £700,000 - £325,000 = £375,000
- £375,000 x 40% = £150,000 IHT Bill

NET
- Daughter receives
- £700,000 - £150,000 = £550,000

Through the use of a Family Trust structure, the trust has the potential to recall the £550,000 legacy back into the trust on the death of the daughter. This helps to avoid the second incidence of Inheritance Tax, thus saving up to £220,000. Significantly increasing the residual estate to the beneficiaries.

A Penguin Tax Planning Family Trust Plan is Implemented protecting the £550,000 Residual Estate

TRUST
Legacy passes through Family Trust Structure to Daughter

LEGACY
- Daughter dies with own Assets
- Assets £325,000, Legacy recalled

TAX DUE
- £325,000 - £325,000 = £0
- No IHT Bill

NET
- Beneficiaries receive £325k + £550k
- = £875,000 Total Tax saving £220,000

Family Trust recalls £550k Estate

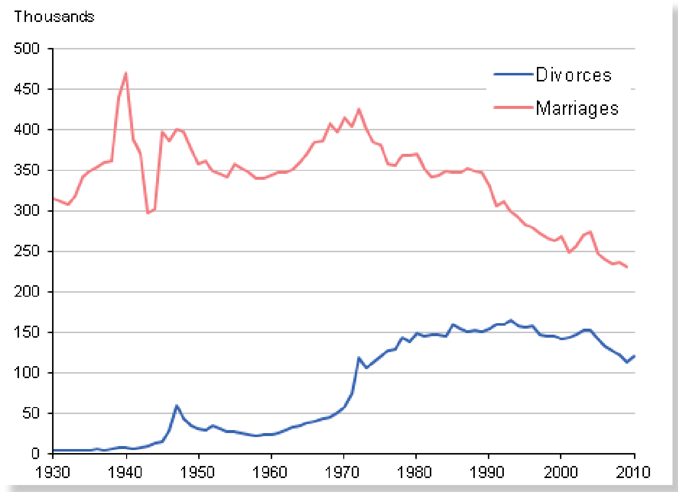
Trust makes £550k available to Daughters Beneficiaries

Don't leave your loved ones with additional costs and complications

People who die without a valid will, or intestate, leave costs and complications to their loved ones and often lose thousands of pounds to the State in what may be avoidable Inheritance Tax (IHT). The Law Society says that anyone with assets and family or friends should make a will, regardless of their age. It is especially important if you are not married to your partner, because the law does not accord partners the same automatic rights of inheritance as spouses. Under the current intestacy rules, an unmarried partner has no rights to any assets that were not jointly owned. Making a will is also vital if you have children, as you can nominate guardians to care for them.

Many people may be tempted to take the DIY approach with many high-street shops selling "write your own will" packs for about £10. Yet a badly-made will could land relatives with huge legal fees, dwarfing those charged to draw up a will correctly by a professional. You also miss the opportunity to implement some of the significant estate protection measures that Penguin Tax Planning specialises in.

We can look to protect your residual legacy against the remarriage of your surviving spouse, the value of your legacy that could be used towards Long term Care Costs, protecting your legacy against the divorce, separation or unfortunate death of your children. We can assist in removing the likelihood of your estate being liable to Inheritance Tax twice. All through the effective use of our Trusts.



This Graph shows the steady increase in the number of divorces in England. It also shows that in 2010 an equivalent of half the number of people getting married get divorced.

According to estimates from the Office for National Statistics up to 60% of second marriages end in divorce.

At Penguin Tax Planning we recommend that you update your will every two years or so and whenever your circumstances are changed by a significant life event, such as marriage, divorce or a birth or death in the immediate family. Another example would be after a house purchase or move.

How to leave the maximum amount to your family and not the tax man or even someone else's family

Integral to any estate planning is also making a will:-

Why do I need a Will?

The vast majority of people put off making a Will for a variety of reasons, either believing that the people they would wish to inherit will automatically do so, or because they don't think it is relevant to them at this particular time. The reality is that you can put off making a Will until it is too late and this poses all sorts of problems for the people left behind and could mean that some or all of your inheritance either goes to the wrong person or to the state.

Affording you Peace of Mind

Firstly and most importantly is the peace of mind making a Will provides. Making a Will enables you to plan exactly what will happen to your property (estate) following your demise. This ensures that those you would like to benefit actually do so, in accordance with your wishes and at the same time avoiding any possible disputes between relatives.

Who needs to make a Will?

The answer is Everyone.
In particular, anyone with dependant relatives, (children under the age of 18, elderly relatives or relatives with disability who have special needs), anyone who owns property or has any type of asset which they would wish relatives, friends or charities to benefit from.

But won't everything go to my husband/wife/civil partner/parents/children etc automatically?

This is a common misconception and dependant on the size of your estate, there are set rules which will be applied to determine who inherits and how much if you do not make a Will.

So what happens if I don't make a Will?

This is called having died Intestate. There are specific rules of intestacy which set out who will inherit and by how much if you do not leave a valid will, this may not be what you would have wished and in the worst case scenarios where relatives cannot be traced, your assets will be taken by the Crown.

A typical solution for

Mr Penguin's Will

50%

Family Trust protecting 50% of family home

Legacy Trusts Protecting Residual Estate

Gifting Trusts protecting Lifetime Gifts & Children's Inheritance

Pension Policies & Death in Service Benefits

Life Cover Policies

Business Assets

our Married Clients

Mrs Penguin's Will

50%

Family Trust protecting 50% of family home

Legacy Trusts Protecting Residual Estate

Gifting Trusts protecting Lifetime Gifts & Children's Inheritance

Pension Policies & Death in Service Benefits

Life Cover Policies

Business Assets

For further information please contact:

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All statements concerning the tax treatment of trusts, their benefits and protective qualities are based on our understanding of the current law and inland Revenue practice as at the date of publication and does not form personal advice and is for general guidance only. Whilst every effort is made to ensure accuracy, no liability can be accepted for any errors or omissions. Levels and bases of, and reliefs from taxation are subject to change.

If you need financial advice on your existing assets and holdings, you may be introduced to Penguin Wealth LLP who are authorised & regulated by the FSA.

Wills, Tax and Trust Planning are not regulated by the Financial Services Authority (FSA).