



Bereaved Minor Trusts and 18-25 Trusts

A Will making a gift to children of the deceased, conditional on their attaining a particular age, is likely to create either a Bereaved Minor Trust or an 18 – 25 Trust.

What are they?

Bereaved Minor Trusts

Where a will sets up a trust for children of the deceased, who will inherit on or before the age of 18, this will normally create a "Bereaved Minor Trust".

A Bereaved Minor Trust will also be created when a child inherits from their parent on intestacy.

A Bereaved Minor Trust must be distinguished from a gift in a will made without any age restriction, where the beneficiary happens to be a child, or a gift left absolutely to a child but directed to be payable when they are older. These will create a Bare Trust, in which the gifts given belong to the child from the start.

Bereaved Minor Trusts can now only be created by parents for their own children or stepchildren. Any money left to grandchildren, nephews and nieces or other minor beneficiaries will create either a Bare Trust or a Relevant Property Trust.

18 – 25 Trusts

Where a will delays the age that a child of the deceased can inherit, to age 25, or earlier, this can create an "18 to 25" Trust. The tax treatment of these trusts for income tax and capital gains tax are the same as for Bereaved Minor Trusts.

An 18 – 25 Trust can only be created by parents for their own children or stepchildren.

Tax Treatment

Capital Gains Tax

Disposals and acquisitions of assets within the trust will be assessed for capital gains tax purposes. The

Trust would benefit from an annual allowance equal to half the current individual annual allowance. For the tax year 2022-2023 the current annual trust allowance is £6,150. The Trust must pay capital gains tax on any profits exceeding that allowance. As of July 2022 the rate of capital gains tax applicable to trusts is 20% or 28% for residential property. This may change with Government budgets.

There are opportunities to mitigate capital gains tax on the transfer of assets out of the trust. However, certain conditions apply. Capital gains tax can also be mitigated where the trust sells or transfers a property which is occupied by a beneficiary.

Income Tax

Income tax will be charged to the trust at the rate applicable to trusts which is currently 45% on gross non dividend income exceeding £1,000. The rate applicable to dividend income is currently 38.1%. If the gross income does not exceed £1,000 then the standard rate of tax will apply.

Vulnerable Persons Election

The Trustees of a Bereaved Minor Trust may make a Vulnerable Persons Election so that the trust qualifies for special tax treatment. When an election is made the trustees pay no more tax than the Vulnerable person would have paid if they had received the income or gain directly.

Inheritance Tax

Bereaved Minor Trusts and 18 – 25 Trusts differ from other trusts in the way that they are treated for inheritance tax purposes. Even if the value of the trust exceeds the nil rate band there will be no assessment for inheritance tax on a distribution at age 18 or at ten yearly intervals during the trust period.

In an 18-25 Trust, when a child over 18 receives a payment from the trust there may be a charge to inheritance tax if the trust fund exceeds the nil rate band. The charge will be a fraction of 6%, with the amount depending on how long after the age of 18 the payment is made. For example, if

the child inherits at age 21 the inheritance tax rate will be 1.8%. If the child inherits at age 25 the inheritance tax rate will be 4.2%

There will be no ten yearly anniversary charges to inheritance tax during the trust period, but when the child attains the specified age, there may be a charge to inheritance tax if the trust fund exceeds the nil rate band.

If the will sets up a trust whereby a child inherits a share of the estate at age 18, a further share at age 21 and a further share at age 25, these will be treated as one trust for tax purposes. There will be no charge to inheritance tax at age 18. Distributions to the child after that age will be subject to an inheritance tax charge, if the trust exceeds the nil rate band. The rate of tax will depend on the age of the child at the date of the distribution.

However, the rates of inheritance tax applicable are very low and should be balanced against the advantage of additional control over funds left to young adults who may not be capable of handling large sums of money sensibly. Protection over tax considerations is often important.

Please note that H.M Revenue and Customs will usually treat a will as setting up one trust, even if the will contains several gifts to different children who will receive their shares at different times. In this case, the nil rate band, capital gains tax annual allowance and the £1,000 income tax standard rate allowance are applied to the whole will trust and not just to one child's share.

If you require further information, please contact Mary Harty on 0117 9292811 or by email at: mary.harty@wards.uk.com

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