

Trusts – Immediate Post Death Interest Trusts



Background

The Finance Act 2006 introduced the concept of an 'immediate post-death interest' (IPDI).

An immediate post death interest is one where:

- The trust was made by a will or under the rules of intestacy; and
- The beneficiary became entitled to the interest in possession on the death of the settlor; and
- The trust is not one for a bereaved minor nor a disabled person's trust.

Creation

An IPDI can only be created:

- Under the laws of intestacy,
- Under the terms of the deceased's will,
- By deed of variation or
- Under a two year discretionary will trust.

Operation

The trust will be a 'qualifying Interest in Possession' (IIP).

There are no exit or principal charges as there would be for lifetime Interest in Possession trusts created on or after 22 March 2006.

Purpose

There are practical reasons why a testator might wish to create an IIP trust on death. For example, the testator may want his spouse or civil partner to benefit from the assets in their estate (for example to have an income stream) but may not want to give the assets to that person outright (for example to guard against assets leaving the family in the event of a re-marriage of the surviving spouse).

The testator can set up an IIP trust in their Will, specifying that the spouse or civil partner has an interest in possession for life, but that on his or her death, the assets in the trust are to pass to the remaindermen (most commonly the children or grandchildren).

Tax Implications

Where the IPDI is in favour of the spouse or civil partner of the deceased, the IHT spousal exemption will apply and the transfer will be exempt on death of the testator. The IIP for the surviving spouse will also be an 'immediate post-death interest' so the trust assets are treated as forming part of the surviving spouse's death estate.

Please note that this document does not constitute financial advice.

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