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Disabled Person's Trust

Overview

A disabled person’s trust is a specialist trust benefiting a qualifying vulnerable beneficiary.

How It Works

The trustees hold and administer assets for the benefit of a qualifying disabled or vulnerable beneficiary. The trustees control distributions and investments in accordance with the trust deed, with the objective of protecting the beneficiary while often preserving entitlement to means-tested state benefits.

IHT Treatment

A trust established for a disabled person either during lifetime or on death may benefit from special IHT treatment. Where such a trust qualifies as a disabled person's interest (DPI) for IHT purposes, the lifetime rate of IHT does not apply on transfers into the trust and ten-year and exit charges will also not be applied.

There are conditions that need to be satisfied to obtain this special IHT treatment. For example, the beneficiary must be a disabled person as defined in the legislation which depends on, among other factors, whether they receive disability living allowance and, if so, at what rate.

Income and Capital Gains Tax Treatment

The trustees of a settlement can make a claim for special tax treatment for a tax year if:

- in the tax year they hold property on qualifying trusts for the benefit of a vulnerable beneficiary, and

- a ‘vulnerable person election’ has effect for all or part of the tax year in relation to that person

Where a claim is made for any year, it will usually apply to both income tax and CGT and once made the trustees can choose from year to year whether to make a claim for the special treatment.

The vulnerable person election enables the trustees to make a claim for special relief to ensure that they pay the same income tax as the beneficiary would have paid had the trust income been his.

For CGT purposes if the vulnerable person is either resident in the UK during any part of the tax year or ordinarily resident in the UK during the tax year the trustees' liability to CGT for the year is reduced to what would be the liability of the vulnerable person if the gain was his.

SDLT Considerations
When a Disabled Person's Trust purchases a residential property for occupation by the disabled beneficiary the SDLT rates can vary dramatically.

- The first-time buyer relief could be applicable

Or alternatively

- The standard or additional rates may be applicable

The available reliefs and rate applicable will be dependent upon the beneficiary satisfying the statutory definition of a disabled person, the detailed circumstances of the purchase and the trust deed. For these reasons specialist advice should always be obtained before a property acquisition is undertaken

Typical Uses:
- Long-term care planning
- Vulnerable beneficiaries
- Protection of means-tested benefits

Suitable For:
- Families with disabled or vulnerable beneficiaries
- Long-term support planning

Usually Unsuitable For:
- General family planning
- Situations where qualifying conditions are not met

Advantages:
- Favourable tax treatment
- Asset protection
- Controlled support structure
- Potential protection of state benefits

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Disadvantages:

- Strict qualification rules
- Administrative complexity
- Ongoing compliance monitoring
- Key Professional Advice Issues
- Vulnerable beneficiary definitions
- Benefit entitlement interactions
- Trustee selection
- Specialist drafting

Case Study – Disabled Person's Trust

Scenario

Mr and Mrs Smith have a son, David, aged 28, who has a severe learning disability and receives a range of means-tested state benefits.

They wish to provide financial support for David and ensure he has suitable long-term accommodation, whilst protecting his entitlement to benefits and ensuring the funds are managed responsibly throughout his lifetime.

After taking specialist legal and tax advice, they establish a **Disabled Person's Trust** and transfer £500,000 cash into the trust.

The trustees are David's sister, a family friend and a professional adviser.

The trustees subsequently purchase a property for David to occupy as his home.

How the Trust Works

The trustees hold the trust assets for the benefit of David.

Rather than making an outright gift, the trustees:

- Purchase and retain ownership of a suitable property.
- Allow David to occupy the property.
- Manage maintenance and repairs.
- Invest surplus funds.
- Make additional payments for David's welfare and quality of life where appropriate.

This ensures that David benefits from the assets whilst the trustees retain control and oversight.

Purchase of a Property
The trustees purchase a property for David's occupation.

Item	Amount
Initial Cash Settlement	£500,000
Property Purchase Price	£350,000
Legal and Purchase Costs	£5,000
Remaining Investment Fund	£145,000

The trust owns the property, and David occupies it as his home.

David does not own the property personally.

Benefit Protection
One of the principal reasons for establishing a Disabled Person's Trust is to help preserve entitlement to means-tested state benefits.

If David were to receive £500,000 outright:

Item	Result
Personal Ownership of Funds	Yes
Means-Tested Benefits	Potentially Lost
Financial Management Responsibility	David
Asset Protection	Limited

By contrast, where the assets are held within a properly structured Disabled Person's Trust:

Item	Result
Personal Ownership of Assets	No
Trustee Control	Yes
Benefit Protection	Potentially Preserved
Long-Term Asset Protection	Yes

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As entitlement to benefits depends on the specific circumstances of the beneficiary and the nature of the benefits received, specialist welfare advice should always be obtained.

Ongoing Management
The trustees continue to:

- Manage the property.
- Ensure maintenance and repairs are carried out.
- Monitor David's welfare.
- Invest surplus funds.
- Make appropriate distributions.
- Liaise with professional advisers where necessary.

This provides long-term financial protection and support throughout David's lifetime.

On the Death of the Beneficiary
In general, when a beneficiary of a disabled person's trust dies, the trust's assets are treated as part of the deceased's estate for Inheritance Tax purposes. This means that any Inheritance Tax charge may be applied to the trust's assets.

For example:

Beneficiary	Share
Brother	50%
Sister	50%

The trustees distribute the remaining trust assets in accordance with the trust deed.
This ensures that any unused assets remain within the family rather than passing under the beneficiary's own estate.

Long-Term Outcome
If we assume that after 20 years:

Item	Amount
Property Value	£550,000
Remaining Investments	£250,000
Total Trust Assets	£800,000

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Throughout this period:

- David has occupied a suitable home.
- Trustees have retained control of the assets.
- Family members have been able to support David without jeopardising the trust structure.
- The trust has provided financial security and protection.
- The remaining assets can ultimately pass to other family members in accordance with the trust deed.

A Disabled Person's Trust is often one of the most effective structures available where a vulnerable or disabled beneficiary requires long-term support.

It can provide:

- Secure housing.
- Professional asset management.
- Protection from financial exploitation.
- Potential preservation of means-tested benefits.
- Favourable inheritance tax treatment.
- Potentially advantageous income tax and capital gains tax treatment.

Whilst the qualifying rules are highly specialised and require careful drafting, a Disabled Person's Trust can provide significant long-term protection for both the beneficiary and their family.