



## Professional Trustee Services - Why it pays to use an expert



### The importance of understanding the trust deed

*The trust deed sets out how to manage the trust, therefore it's imperative that the trustee understands what's acceptable within the bounds of the trust deed.*

Trust-based IHT plans, like the **WAY Flexible Inheritor Plan**, are designed to reduce the amount of tax paid on death whilst allowing the settlor access to capital, without infringing the 'gift with reservation' regulations.

To do this, the trust is set up with specific rules that may confuse an inexperienced trustee. Or even an experienced trustee who is not familiar with this type of product.

The £40,000 IHT bill cited to the right is a prime example of what can go wrong when the trustee doesn't understand the consequences of inaction. In this instance, reversions for the first five years of the plan were rolled up into two anniversary shares. Following the death of the settlor it was found that the trustees had not completed the Deeds of Deferral for the past two years. Consequently, the units in these two anniversary shares were deemed to have reverted back to the settlor and therefore to her estate for tax purposes.

*Imagine telling a grieving family that the estate of their loved one will be taxed an unnecessary £40,000 due to mistakes made by the trustees of a plan designed to reduce inheritance tax.*



It can be a nightmare scenario for advisers specialising in inheritance tax planning. But rectifying the mistakes of inexperienced trustees is all too common for our professional trustee's.

There is a huge potential for families to lose significant amounts of money because the trustees don't fully understand their duties. Or the trustees were friends of the settlor, but they fell out and refused to complete the paperwork. Clients think it won't happen to them, but it does.



*Kevin Barker, Manager,  
WAY Tax & Trustee Advisory Services*



*Kevin joined WAY in September 2013, following 12 Years working for HSBC Trust Company (UK) Ltd in various Trust related roles, the last 8 of which were spent as a Trust Manager. He obtained the prestigious Society of Trust and Estate Practitioners (STEP) diploma in December 2003.*

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### Why use an expert?

- Disputes often arise where trustees are also names as beneficiaries
- A Professional Trustee is completely unbiased and will uphold the Settlor's wishes
- A Professional Trustee will ensure the beneficiaries inheritance is protected





# NEWSLETTER - MAY 2017



## Is your client's trustee up to the job?

Since the Trustee Act 2000 became law, the role of a trustee has become more complex. It's no longer enough just to be a trustworthy individual. As legal owners of the trust, **it's the trustee's job to administer the trust fund in the best interest of the beneficiaries.**

This means understanding and knowing how to interpret the terms of the trust. So the trustee must familiarise themselves with how the trust works and the implications of any action or inaction.

**Trustees should act impartially and take their duties seriously.** They must all agree on any decision taken. This isn't easy if the trustee is a family member swayed by family loyalties or if family trustees disagree about the best course of action.

Whilst the settlor can make their wishes known to the trustee, it's the trustee's role to decide what's best for the beneficiaries. So the trustee treads a diplomatic line between settlor and beneficiaries.

In addition, any investments held in the trust must be reviewed regularly to make sure they remain suitable. The trustee also has a duty to consider the tax implications of their decisions for the trust, the settlor and the beneficiaries.

**So in summary, the trustee should be an expert in the law, an investment adviser and a tax specialist** - quite a list of requirements. In reality, the trustee will take advice about many aspects of running a trust, which may incur a cost. And they still need to devote their time to making sure they're acting properly on that advice.

## Why it pays to use an expert

- We do not die
- We pay income to beneficiaries
- We conduct investment reviews
- We meet tax reporting requirements
- We deal with Reversion payments
- We complete annual tax returns
- We deal with income distributions
- We deal with Loans and Appointments
- We pay any tax applicable
- Confidential from family / friends
- We deal with trust expenses
- We prepare annual accounts

## Using a professional trustee

When you're dealing with a sophisticated inheritance tax planning scheme, that involve substantial sums of money, like the WAY Flexible Inheritor Plan, there are several very good reasons to use WAY's professional trustee service.

### 1. We do all the paperwork

We deal with reversion payments, income distributions if needed and the payment of trust expenses. We prepare annual accounts, meet all tax reporting requirements and pay any tax due.

### 2. We're impartial

We have no family connections that can complicate decision-making. We won't fall out with the settlor and fail to complete important paperwork. This happens more often than you'd think.

### 3. We won't leave the country

One of our settlors used two trustees, one of whom was already resident overseas when the second trustee decided to become a non-UK resident as well. This meant the trust became offshore, so affecting the settlor's tax position.

### 4. Professional trustees don't die

It's no joke. Trustees who die or become too ill to manage the paperwork leave the settlor exposed to unnecessary tax. Using a professional trustee service provides continuity of service for the full life of the Plan.

## Transferring trustees is free and simple.

A client simply needs to sign a Deed of Appointment to appoint WAY Tax and Trustee Advisory Services Limited as their trustee and a Deed of Retirement to remove the existing trustees.



 **Contact our Professional Trustee Services team on 01202 890895 to find out more.**