

Table of contents

Main titles from Claritax Books.....	iv
About the authors	v
Abbreviations	viii

FIRST PRINCIPLES

1. Introduction	1
2. Reasons for using trusts	
2.1 General reasons	3
2.2 Taxation of trusts – an overview.....	3
3. The different types of trust	
3.1 Trust categorisation.....	6
3.2 Inter-vivos and will trusts.....	9
4. Trust fundamentals	
4.1 The three parties to a trust.....	11
4.2 Powers of trustees.....	14
4.3 Other important trust issues.....	23

TAXATION OF TRUSTS – GENERAL PRINCIPLES

5. General overview	
5.1 Scope of trust taxation.....	31
5.2 Occasions of charge to tax.....	31
6. Tax on trust income	
6.1 Introduction	33
6.2 Interest in possession trusts	33
6.3 Discretionary trusts.....	35
6.4 Capital taxed as income.....	47
6.5 Life policy provisions	48
7. Tax on trust capital gains	
7.1 Introduction	49
7.2 Capital gains tax on transfers to trusts.....	49
7.3 Capital gains tax position of trustees and beneficiaries....	50

8. Inheritance tax and trusts	
8.1 Introduction.....	57
8.2 Absolute (bare) trusts	57
8.3 All other trusts.....	58
8.4 Inheritance tax after the trust has been created.....	60
8.5 Trusts of life assurance policies.....	65
9. The relevant property regime	
9.1 Overview	68
9.2 The general rules.....	69
9.3 Finance (No. 2) Act 2015 and same-day additions	86
10. Summary of the taxation of trusts	
10.1 Summary of taxation of trusts 2021-22.....	98

INHERITANCE TAX PLANNING

11. Anti-avoidance	
11.1 Introduction.....	103
11.2 Gift with reservation of benefit (GROB) rules.....	103
11.3 Pre-owned assets tax (POAT) rules.....	106
12. Lifetime planning with cash and investments	
12.1 Introduction.....	114
12.2 Important issues in deciding the choice of trust.....	115
12.3 Bare trust.....	118
12.4 Discretionary trusts	121
12.5 Discretionary gift trusts – income tax implications.....	123
12.6 Discretionary gift trusts – CGT implications.....	124
12.7 Discretionary gift trusts – IHT implications	125
12.8 Summary of the uses and tax implications of a discretionary trust.....	130
12.9 The discretionary trust in action	132
12.10 Power of appointment interest in possession ("flexible") trusts	135
12.11 Choosing the right trust when making a lifetime gift	139
13. Lump sum inheritance tax plans	
13.1 The benefits of inheritance tax (IHT) plans	141
13.2 The discounted gift trust (DGT)	142
13.3 The loan trust.....	151
13.4 The reversionary interest trust.....	157
13.5 Other arrangements.....	164

13.6	Business (property) relief schemes	171
13.7	DOTAS, IHT and lump sum IHT plans	173
13.8	Lump sum IHT plans and the GAAR.....	180
13.9	Summary.....	180
13.10	IHT plan comparison.....	181

14. Trusts and the GAAR

14.1	Introduction	186
14.2	The target of the GAAR.....	188
14.3	What the GAAR is not targeted at	189
14.4	The GAAR and the rest of the tax rules.....	190
14.5	The GAAR and other statutory anti-avoidance provisions	190
14.6	In what circumstances will the GAAR apply?	190
14.7	Tax arrangements.....	191
14.8	A tax to which the GAAR applies	191
14.9	Obtaining a tax advantage was the main purpose or one of the main purposes of the arrangements	192
14.10	Are the arrangements abusive?	192
14.11	Examples of the GAAR in operation – pilot trusts.....	195
14.12	Examples of the GAAR in operation – discounted gift schemes.....	197

15. Family investment companies as an alternative to trusts

15.1	Background	201
15.2	Key features of FICs	201
15.3	Taxation of dividends and capital gains.....	203
15.4	Trusts v FICs – why can FICs be beneficial?	205
15.5	When might FICs be appropriate?	206
15.6	FICs – are there any drawbacks?.....	207
15.7	Conclusions.....	207

INTERNATIONAL ASPECTS

16. Offshore trusts

16.1	Introduction	211
16.2	What is an offshore trust?	212
16.3	The taxation of offshore trusts – overview.....	212
16.4	Income tax.....	213
16.5	Capital gains tax.....	223
16.6	Advantages of offshore trusts.....	232
16.7	Inheritance tax	232

17. Excluded property trusts

17.1	The impact of domicile on inheritance tax	233
17.2	The meaning of UK domicile.....	234
17.3	The meaning of excluded property.....	237
17.4	Suitability of the excluded property trust.....	238
17.5	Choice of trust.....	239
17.6	Key points with an excluded property trust.....	239
17.7	The UK tax implications of establishing an excluded property trust	240
17.8	Excluded property trusts and private residences	256
17.9	Married couples with domicile mismatches.....	264

WILLS, PROBATE AND POWERS OF ATTORNEY

18. Using trusts in wills

18.1	Introduction.....	269
18.2	Trusts for minors.....	270
18.3	The transferable nil rate band and discretionary trusts.....	272
18.4	Advanced planning via will trusts	285

19. Trusts and deeds of variation

19.1	Introduction.....	289
19.2	Legal formalities of a deed of variation	290
19.3	Tax implications of a deed of variation into a trust.....	293
19.4	Planning using trusts via a deed of variation on first death	295
19.5	Other planning opportunities with deeds of variation into a trust.....	301

20. Trusts to avoid probate

20.1	The problems of probate.....	305
20.2	Avoiding the need for probate.....	306
20.3	The discretionary probate trust – need for additional trustees	309
20.4	The inheritance tax implications of a discretionary probate trust	310
20.5	Income tax and capital gains tax implications of a discretionary probate trust.....	316
20.6	Final important point	317

21. Lasting powers of attorney and trusts

21.1	Background.....	319
------	-----------------	-----

21.2	Existing trustee loses mental capacity.....	319
21.3	Gifts to trusts	321

TRUSTS TO PROVIDE FINANCIAL PROTECTION ON DEATH

22. Trusts of life assurance protection plans

22.1	Reasons for using a trust	339
22.2	Carve-out trusts.....	341
22.3	Revert-to-settlor trusts.....	343
22.4	Types of trust.....	344

23. Relevant life policies/trusts

23.1	Background	349
23.2	Excepted group life policy.....	351
23.3	Tax implications of an EGLP.....	351
23.4	Relevant life policy	355
23.5	The tax implications of a relevant life policy	356
23.6	Other important issues with relevant life policies	357
23.7	A summary of the benefits of a relevant life policy.....	360

INVESTMENTS

24. Trustee investment strategies

24.1	Introduction	365
24.2	Trustee investments – the basics.....	365
24.3	Trust investments – the legal requirements.....	366
24.4	Trust taxation on investments.....	370
24.5	Planning.....	374
24.6	Summary.....	379
24.7	Collective investments or single premium bonds?.....	381

25. Single premium bonds held in trust

25.1	Introduction	383
25.2	Bare trusts.....	383
25.3	Settlements.....	386
25.4	Planning	390

PENSIONS

26. Death benefits under registered pension schemes

26.1	Overview of recent changes	393
26.2	Death benefit payment options under different pension schemes.....	397
26.3	Inheritance tax and pension schemes – the general rules.....	399

26.4	Inheritance tax and pension schemes – special rules.....	401
26.5	Pension transfers.....	405
26.6	Death benefits payable under flexi-access pensions – an overview	421
26.7	Income tax.....	427
26.8	Inheritance tax on death benefits.....	430

27. By-pass trusts

27.1	Introduction and use – lump sum death benefits and IHT	437
27.2	By-pass trusts or flexi-access drawdown – which is better?.....	437
27.3	By-pass trusts in more detail	450
27.4	By-pass trusts – IHT implications before death of settlor	457
27.5	Tax on payment of death benefits to trust.....	457
27.6	IHT implications after death of settlor	458
27.7	Other situations affecting the IHT charge.....	464
27.8	IHT and the 2014 consultation document.....	471
27.9	By-pass trusts – reporting requirements.....	472
27.10	Accumulation and perpetuity periods.....	473
27.11	Income tax and capital gains tax.....	476
27.12	Death benefits from pension schemes – flexi-access drawdown or by-pass trust?	477
27.13	Taxation of death benefits – the meaning of certain expressions	480

28. QNUPS

28.1	Background.....	483
28.2	Conditions for IHT freedom.....	484
28.3	Inheritance tax benefits.....	486
28.4	The general tax position of QNUPS.....	487
28.5	QNUPS and payment of benefits	488
28.6	QNUPS and financial planning.....	493
28.7	Future changes in the taxation of QNUPS.....	499

TRUSTS AND THE PRIVATE BUSINESS

29. Trusts for business protection and succession

29.1	Introduction.....	503
29.2	Implications of the death of an owner.....	503
29.3	The specific issues to address in planning	505

30. Shares in the family private trading company	
30.1	Introduction 519
30.2	Planning during lifetime 519
30.3	Planning on death (will trusts) 524
30.4	Company registers..... 526

TRUSTS FOR RESIDENTIAL PROPERTY

31. Principal private residence	
31.1	Lifetime gifts 529
31.2	Gifts on death..... 541

32. Other properties	
32.1	Introduction 554
32.2	Gifts of second properties (i.e. holiday homes) 554
32.3	Investment properties 557

OTHER USES OF TRUSTS

33. Chattels.....	567
--------------------------	------------

34. Asset protection trusts	
34.1	Introduction 569
34.2	The concept of a valid trust 569
34.3	Sham trusts..... 570
34.4	Specific rules on asset protection 577

35. Trusts to reduce the costs of care	
35.1	Introduction 590
35.2	Funding the costs of care..... 592
35.3	Taking account of value of house in connection with care costs..... 598
35.4	Gifting the house to avoid the costs of care 602
35.5	Deprivation of assets..... 603
35.6	Planning 608
35.7	Other important points 613

36. Personal injury trusts	
36.1	What is a personal injury trust? 616
36.2	The reasons for creating a personal injury trust..... 616
36.3	Other advantages of PITs..... 618
36.4	Choice of trust 619
36.5	The trust 622
36.6	Taxation 623

36.7	Mentally incapable clients	624
36.8	Timing	625
36.9	Guardianship or PITs?	625

37. Trusts for the disabled and the vulnerable

37.1	Introduction.....	630
37.2	Type of trust	630
37.3	Tax efficient trusts for vulnerable people.....	631
37.4	Inheritance tax and trusts for vulnerable people	636
37.5	Trusts created before 8 April 2013	639
37.6	Personal injury trusts	642
37.7	Planning.....	643

COMPLIANCE AND ADMINISTRATION

38. Dealing with HMRC – trust income, capital gains and IHT

38.1	Notification to HMRC.....	647
38.2	Income tax.....	649
38.3	Capital gains tax.....	650
38.4	Inheritance tax.....	651

39. Beneficial ownership – registration, disclosure, the CRS and FATCA

39.1	Introduction.....	657
39.2	Money laundering – companies and trusts	657
39.3	FATCA and UK Trusts	668
39.4	Trusts and the Common Reporting Standard	673
39.5	Legal entity identifiers and trusts	680

40. Money laundering and the trust registration service

40.1	Introduction.....	684
40.2	The obligation on trustees to keep records	685
40.3	HMRC’s trust registration service	686
40.4	Trusts within the scope of the TRS	689
40.5	Specific situations	697
40.6	Deadlines for registration.....	704
40.7	Keeping the register up to date	705
40.8	Penalties for non-compliance	706
40.9	Who can access the information?.....	707

41. Facilitating adviser charging through investments in trust

41.1	Facilitating adviser charging – the general implications	710
------	--	-----

41.2	Legal documentation.....	711
41.3	Facilitating adviser charges through investments held in trust.....	712
41.4	Bare gift trust, discretionary gift trust, flexible interest in possession trust.....	712
41.5	Loan trusts and discounted gift trusts.....	715

GLOSSARY

42. Glossary of trust terms.....	719
Table of primary legislation	725
Table of statutory instruments	733
Index of cases.....	735
General index.....	739