

Death benefits: Your most valuable asset?

The importance and value of lump sum benefits payable on death can be easily forgotten. Our message is simple: protect your death benefits; protect your family.

Everyone wants to protect their family and minimise their potential inheritance tax (“IHT”) liability. This can be achieved by the preparation of tax efficient Wills, effective use of reliefs and exemptions and by family and business succession planning.

Another area worthy of consideration is whether a death will trigger the payment of a lump sum from any of the following:

- a pension (including SIPP).
- death in service provisions.
- a business protection plan.
- life policies.

If so, the amount can often be substantial. It is important that these payments are dealt with tax efficiently and in a way which addresses the needs of surviving family members.

Nomination – make it your choice

A long forgotten nomination form may have been signed stating to whom you would prefer any lump sum payments be made. It is important to ensure nominations are up-to-date

and enable the family’s needs to be provided for in a flexible, tax efficient manner.

Protect family and save tax

It might be the case that a nomination was made in favour of a spouse, civil partner or partner. In that situation the death benefit is likely to be paid directly to that nominated person, increasing the value of their estate and the possibility of a charge to IHT in the future. The result might be that less of the benefit passes to the family and more to the Treasury.

A nomination in favour of children can also be problematic as they may receive large sums without sensible protective measures to ensure the funds are used appropriately.

Family flexibility

Rather than make a nomination directly in favour of a spouse, civil partner, partner or children, in some instances it is the best approach to nominate the death benefit in favour of a flexible family trust. Such trusts are sometimes known as a “pension

and death benefits trusts” or “spousal by-pass trusts” (that latter term is often not accurate as to what the trust will do – the objective is not to “by-pass” anyone but to create flexibility.)

Advantages

The advantage of this is that the sums paid on death do not form part of the estate of the spouse, civil partner or partner for IHT purposes, but can still be accessed by him or her.

The trust also enables provision to be made for children while safeguarding the assets which will be controlled by your selected trustees.

Family control over the years

The trust remains dormant during your life and only comes into effect after death.

Decisions can be made at that point which reflect the needs of the family and the tax regime applicable at the relevant time.

Personal – what are your wishes?

To guide the trustees, you can sign a letter setting out your wishes for your family.

Divorce and separation

If you are in the process of separating or considering such a course of action (whether married, in civil partnership or cohabiting), it is essential that you also decide whether or not you wish to amend any previous nominations.

You may otherwise create an unintended windfall for someone.

Financial Advice

This note is focused on legal solutions on the issue of death benefits. We recognise the essential value of obtaining quality financial advice about death benefits (e.g. as part of a pension plan). In this continually evolving area, we regularly work in tandem with financial advisers

KEY CONTACTS

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