



Your Will and the Finance Act 2006

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The much criticised Government attack on trusts (including those set up in Wills) in last year's Budget, may have an impact on your Will, particularly if the terms of the Will include any of the following arrangements.

Trusts for children aged 18 or older

If your Will establishes a gift for your child that is dependent on the child reaching an age older than 18, then new inheritance tax rules will apply to that trust arrangement.

If the age contingency is 25 or less, then for the period between 18 and when the child reaches the required age the assets held on trust for the child could suffer an inheritance tax charge when he or she receives the capital. The maximum inheritance tax charge, at current rates, is 4.2% and in practice it may be possible to mitigate this when the time comes.

If the age contingency is older than 25 the same rules will apply and, in addition, there is the potential for an inheritance tax charge every 10 years from the date of your death. The maximum inheritance tax charge under these circumstances, again at current rates, is 6% every 10 years.

The size of the tax bill will depend on the value held on trust. Simply, if the value in the trust is less than the nil rate band (currently £285,000), and there were no other settlements set up on the same day or other relevant gifts that need to be brought back into account, there should be no inheritance tax to pay, at least in the first 10 years.

If your Will creates a trust for a child other than your own and defers their entitlement beyond age 18 the the periodic charges to Inheritance Tax, as set out above, will apply from the outset.

Generally we anticipate clients will accept the new tax charge rather than require that the assets pass to the child at 18.

Nil rate band discretionary trusts

These tax efficient arrangements for couples remain unaffected by the changes introduced by the Finance Act 2006.

However, the most efficient way to structure this form of trust has evolved over the years and, following changes introduced in other areas of the law, we are undertaking a review of all of these Wills and recommending the arrangements be brought up to

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date where we consider that necessary. We will contact you separately if we identify that your Will requires an update, but if you have this arrangement in your Will please contact your usual Moore Blatch adviser if you wish to check the position.

Life interest trusts

If the terms of your Will include a trust where you give the beneficiary the right to income, or the right to live in a property, the draconian inheritance tax changes to these arrangements first introduced in the Budget have, through professional pressure on the Government, been scaled back considerably.

These trusts are now largely, at least at the outset, unaffected by the new rules.

Flexible life interest trusts

The more flexible life interest trusts are affected however. If your Will includes a trust where the income is given to a beneficiary (typically the survivor of a couple) for his or her life, but where the trustees have flexible powers over the trust, which includes bringing part or all of the trust to an end, the considerable inheritance tax efficiency of these

arrangements is now at an end.

Generally these sorts of trusts were designed to enable new trusts for other family members to be created from the flexible life interest trust, from which the survivor could also benefit but which would not be subject to inheritance tax on his or her death. Under the new rules the survivor will continue to be treated for inheritance tax purposes as being the owner of the trust funds if he or she can in any way in the future still benefit from them, and therefore inheritance tax will be charged accordingly.

This note is intended as a general guide only and as such is being sent to all clients for whom, according to our records, we are storing Wills. Further copies can be made available on request.

There is no substitute for specific advice on your particular circumstances. If you wish to follow this up please contact your usual Moore & Blatch adviser or contact any member of the team below by email or on 01590 625800.

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