

# LOAN TRUST

YOUR GUIDE  
TO THE  
LOAN TRUST



A WEALTH *of* DIFFERENCE

utmost™  
WEALTH SOLUTIONS

Utmost Wealth Solutions is the brand name used by a number of Utmost companies.

This item is issued by Utmost International Isle of Man Limited and Utmost PanEurope dac.

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You should pay particular attention to the sections marked with this icon, as it is important you understand the risk associated with loan trusts before deciding to invest. Your financial adviser will be able to explain to you what any of these risks mean in relation to your personal circumstances.



Sections marked with this icon will notify you of other relevant literature that can provide you with more information.

# BEFORE YOU BEGIN

We offer a range of solutions that may be appropriate for your financial planning needs and you should discuss your requirements with your financial adviser before investing.

This document is not designed to be a comprehensive guide to Loan Trusts, but it focuses on some of the common benefits and issues associated with the use of the Loan Trust together with an investment bond.

There is no charge associated specifically with using our Loan Trust drafts, however, bond charges will still apply.



For more information on the charges applicable to the bond, please read the relevant **Guide to Charges** for your chosen product.

## TO HELP YOUR UNDERSTANDING

Throughout this guide we refer to 'you', 'we', 'us', 'our', 'Trustees', 'Lender' and 'Settlor'.

'You' refers to you personally as the 'Lender' and as the person creating the trust, the 'Settlor'.

'We', 'us' and 'our' means Utmost International Isle of Man Limited or Utmost PanEurope dac as the provider of a product or trust.

'Trustees' refers to the individuals, or company, who you appoint as the Trustees of your trust. This will include you if you also appoint yourself as a Trustee.

'Lender' and the 'Settlor' are the same person, but they are named differently throughout this document depending on the context in which they appear.



## IMPORTANT NOTES

- › The Loan Trust is designed to help mitigate UK Inheritance Tax (IHT). It is unlikely that it will be effective in mitigating similar taxes in other countries
- › The information in this guide assumes that you, the Trustees and your beneficiaries are UK resident and domiciled. If you are UK domiciled, your worldwide estate will be subject to UK IHT on your death. If you are unsure of your status you should discuss this with your financial adviser
- › A Loan Trust should be considered a long-term investment (at least ten years) and, taking into account market fluctuations and charges, the trustees may not get back as much as you invested
- › Inflation will reduce the value of what can be bought in the future with the proceeds of the bond
- › The information contained in this guide is based on our interpretation of current law and taxation practice in the UK, Ireland and the Isle of Man as at **1 March 2022**, which could change in the future and is dependent on individual circumstances
- › The information in this guide is limited to trusts and bonds we provide. It does not cover the administrative or tax implications that may arise should the Trustees decide to invest the trust fund in other assets, whether this is in addition to, or instead of, one of our bonds.

## TRUST REGISTRATION

Most UK express trusts, and trusts with a UK tax charge payable by the Trustees, will need to be registered under the UK trust registration service and may need to be registered in an EU Member State.

This information is based on our understanding of current legislation and HM Revenue and Customs practice. It does not constitute legal or taxation advice. Speak to your financial adviser for further information on trust registration requirements.

# INTRODUCTION

The Loan Trust is designed for individuals who wish to reduce their potential UK Inheritance Tax (IHT) liability, but still require full access to their original capital, which can help to ease the worry of unforeseen circumstances arising in the future.

## INHERITANCE TAX PLANNING

Inheritance tax (IHT) may reduce the amount you can leave to your loved ones on your death. In the UK you will be liable to IHT if your estate is valued over the current allowance of £325,000<sup>1</sup>. IHT is currently payable at a rate of 40%<sup>2</sup> on the amount over this threshold. After your death, any unused IHT allowance can be passed on to your husband, wife or registered civil partner.

Just owning a home and having sufficient capital to provide a reasonable income during retirement may leave your estate with a sizeable IHT liability. It may therefore be important to consider, with the help of your financial adviser, some form of planning to reduce the impact of IHT on your estate.

## HOW A LOAN TRUST CAN HELP

The Loan Trust arrangement we provide is a combination of a Discretionary Trust<sup>3</sup>, a loan agreement and an investment bond. The purpose of this arrangement is to cause any growth on the investment to be held in trust for your beneficiaries. Any growth is therefore not part of your estate and will be free from IHT.

The Loan Trust is invested in a bond because it can be a tax-efficient structure for trust investments. It potentially allows the Trustees to defer tax on any investment gains until an appropriate time. For more information on how the bond works please read the relevant **Product Guide** and speak to your adviser.

## ACCESS TO YOUR CAPITAL

The loan can be repaid to you as a series of regular withdrawals from the bond, or you can claim back part or all of the balance of the outstanding loan at any time.

Because you have full access to your original capital, the Loan Trust does not involve a 'lifetime gift' (also known as a lifetime transfer). This means that, unlike Discretionary Trusts involving a gift, no IHT charge will apply when the Loan Trust is established.

<sup>1</sup> The IHT allowance or "nil rate band" is frozen at £325,000 until at least 2025/26.

As of **6 April 2017** there is also an IHT residence nil rate band that applies if certain qualifying residential property is left to direct descendants. This is in addition to the standard IHT nil rate band of £325,000. The maximum amount of this band is £175,000 in 2021/22. It is tapered away for estates valued over £2,000,000. And, like the 'standard' nil rate band, any unused amount is transferable to a spouse or civil partner.

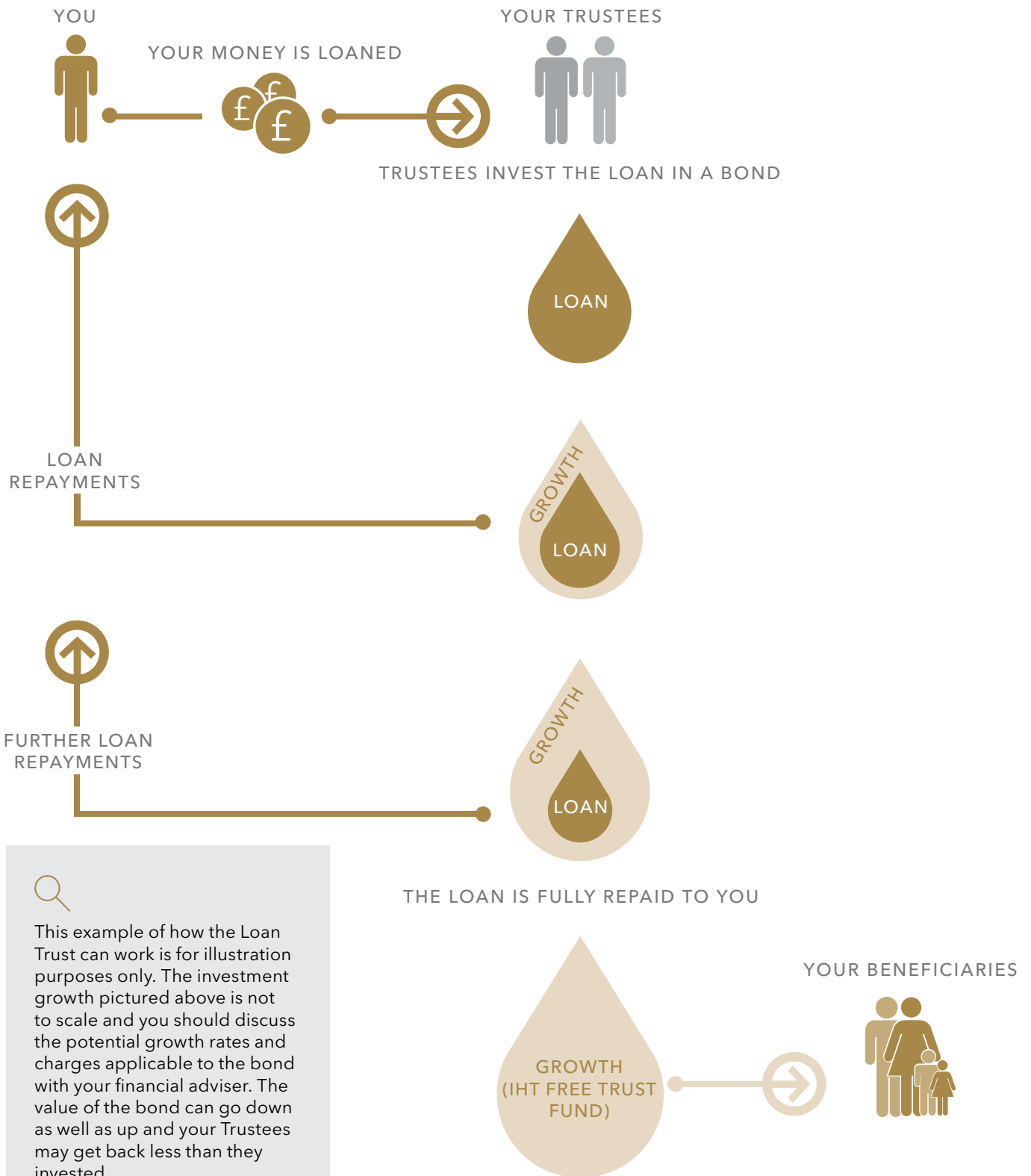
<sup>2</sup> A reduced rate of 36% applies if a person gives away at least 10% of their net estate to charity (i.e. after deductions such as the available nil rate band reliefs and exemptions). The 40% IHT rate will apply for any other estate.

<sup>3</sup> A Discretionary Trust is a legal arrangement where the (potential) beneficiaries and their entitlements to the trust fund are not fixed at outset. Instead the people who can potentially benefit are determined by the person setting up the trust (the Settlor). The Trustees ultimately have discretion over which of these potential beneficiaries will benefit from the trust fund, though the Settlor may provide a letter of wishes for the Trustees, to guide them in the exercise of their discretion. However, a letter of wishes is not a legally binding document.



The tax benefits of the Loan Trust may change in the future and are dependent on individual circumstances.

# HOW THE LOAN TRUST WORKS



This example of how the Loan Trust can work is for illustration purposes only. The investment growth pictured above is not to scale and you should discuss the potential growth rates and charges applicable to the bond with your financial adviser. The value of the bond can go down as well as up and your Trustees may get back less than they invested.

# SETTING UP AND RUNNING YOUR LOAN TRUST

## 1

### CHOOSING YOUR TRUSTEES AND BENEFICIARIES

You will need to complete the Utmost Wealth Solutions **Discretionary Trust Deed and Loan Agreement** and appoint your Trustees.

Your chosen Trustees will be responsible for administering the trust and will have the power to determine who is to benefit from the classes of potential beneficiary detailed in the trust provisions.

You can amend the classes of potential beneficiary to suit your circumstances. However, for this arrangement to be effective in reducing your potential liability to IHT, you (the Lender) cannot be one of the potential beneficiaries.

You can also provide your Trustees with a letter of wishes, guiding them as to who you would like to benefit under certain circumstances, including details of the proportion of the trust fund you would like each of your beneficiaries to receive and when. A letter of wishes is not legally binding.

## 2

### MAKING YOUR LOAN TO THE TRUSTEES AND INVESTING

After the creation of the trust, you will need to complete the loan agreement which formalises the agreement to lend the chosen amount to the Trustees. The loan is expressed as being interest free and repayable on your demand.

The Trustees then apply for an Utmost International Isle of Man Limited or Utmost PanEurope dac bond by completing the relevant **Application Form for Trustee and Corporate Trustee Applicants**.

## 3

### HOW THE TRUSTEES REPAY YOUR LOAN

As the Lender, you can ask for the loan to be repaid in any amount, at any time, but only to the total of the original loan. The Trustees can make withdrawals of capital, in accordance with your instructions, in order to repay the loaned amount to you.

Any withdrawal within the annual 5% tax-deferred entitlement (outlined in the 'Income Tax' section, later in this guide) is a repayment of your capital and not immediately subject to income tax in the UK. Any withdrawals exceeding the 5% tax-deferred entitlement may be liable to income tax. Therefore, if the loan is repaid in full in the early years (i.e. at a rate greater than 5% per year) there may be tax implications. For further details on how an investment bond is treated for tax purposes, see our **Tax Information Client Guide** and speak to your financial adviser.

Any amount of the loan that has not been repaid, and any repayments you have received but not spent, will remain in your estate for the purposes of calculating your IHT liability.



See **A Guide to Trusts** for an explanation of trusts and the role of Trustees.

## YOUR TRUSTEES

### POINTS TO CONSIDER WHEN APPOINTING YOUR TRUSTEES

Under English Law, it is not possible to make a loan to yourself. It is therefore a requirement of the Loan Trust that, if you are to be a Trustee, at least one other Trustee is appointed from outset.

In situations where a trust is administered by a single individual Trustee, and that individual dies unexpectedly, it can be very difficult to appoint a new Trustee. Therefore, it is essential to appoint at least two Trustees, unless you are appointing a corporate trustee.

In all cases, appointment of your Trustees is a very important decision as you are giving them responsibility for part of your financial affairs. We recommend that you discuss this decision with your financial or legal adviser.

### UTMOST TRUSTEE SOLUTIONS LIMITED

Utmost Trustee Solutions Limited is a corporate trustee, offering professional trustee services and can be appointed on your Loan Trust. For more information, read **Utmost Trustee Solutions - A Guide to our Services**.

If you are appointing Utmost Trustee Solutions Limited, they will need to sign the appropriate sections of the Trust Deed and application.

The company details for Utmost Trustee Solutions Limited can be found in the footer at the end of this document.

### THE TRUSTEES' CAPPED LIABILITY

The liability of the Trustees to repay the loan to you, as the Lender, is capped to the value of the bond. This means that, if the bond value falls below the value of any outstanding loan, the Trustees will not be personally liable for repaying the difference.



Any payments made to beneficiaries will be included as part of the outstanding liability. Therefore, the Trustees should be careful if making distributions to beneficiaries before the loan is fully repaid. Any shortfall resulting from early distributions to beneficiaries would make the Trustees personally liable for the difference.

# INHERITANCE TAX

## MARRIED COUPLES AND REGISTERED CIVIL PARTNERS

Our Loan Trusts are only available on a single lender basis. Married couples and registered civil partners should take care if they each wish to set up a separate Loan Trust arrangement each because our Loan Trust arrangements include the Lender's spouse or civil partner as a potential beneficiary. Therefore, if a couple do set up one each, the trusts will be treated as 'gifts with reservation of benefit' (due to the reciprocal nature of the trusts) and will not achieve any IHT saving.

To prevent this from happening, amendments can be made to the trusts by removing the spouse or civil partner as a potential beneficiary from one, or both, trusts. This should not be done without first consulting your financial or legal adviser.

## INHERITANCE TAX ON THE OUTSTANDING LOAN

On your death, your personal representatives would normally call for any outstanding loan to be repaid. That amount will form part of your estate for IHT purposes. It is important to note that if you do not spend the loan repayments then these will also remain part of your estate for the purposes of IHT.

In certain circumstances it may be advantageous for the loan to be kept outstanding. For example where:

- › It is desirable for the right to the outstanding loan to be passed to your surviving spouse or civil partner, so that loan repayments can continue to be made to them after your death
- › The Trustees wish to keep the investment intact, to increase the potential investment growth.

You should speak to your financial or legal adviser for more information.

## THE DISCRETIONARY TRUST AND INHERITANCE TAX

The Loan Trust is a Discretionary Trust that is currently subject to the following IHT charges:

### Periodic charge

A periodic charge of up to 6% is payable every 10 years if, at that time, the value of the trust fund is over the IHT allowance (known as the IHT nil rate band) applicable at the anniversary date. The value of the trust fund is the total value of the investment held under the trust (the bond) less any outstanding loan that has not yet been repaid.

### Exit charge

An exit charge may be payable when money is withdrawn from the trust to pay to beneficiaries. This is based on a proportion of the periodic tax charge paid at the previous 10 yearly anniversary date and is applied to the amount of money withdrawn from the trust.

The charges outlined above are payable by your Trustees from the trust if they are resident in the UK.



Your loan is not a chargeable lifetime transfer and is not subject to an IHT entry charge when you set up your Loan Trust.

The above notes are based on our interpretation of current UK legislation and HM Revenue & Customs (HMRC) practice, as at **1 March 2022**, but it should be noted that these may be liable to change in the future.

The calculation of the above charges is a complex matter and you should speak to your financial adviser for further information.



# INCOME TAX

## TAX ON THE WITHDRAWALS

For each investment made, UK tax residents are currently entitled to withdraw 5% of the original investment amount each policy year for 20 years (i.e. up to 100% of their original investment amount) and defer any income tax payable. If the full 5% entitlement is not taken in any policy year, the unused amount is carried forward for use in future years. For example, if the Trustees make annual withdrawals of 4% of the original investment, they can take withdrawals with no liability to income tax (at the time of the withdrawal) for 25 years.

If, at the end of any policy year, withdrawals from the bond exceed the cumulative 5% entitlement, the excess will be a chargeable gain and may be liable to income tax. Your financial adviser will be able to explain this further.

## TAX ON SURRENDERS

Our bonds are comprised of a number of identical policies (or segments). When one or more of these segments are surrendered, or the bond is surrendered in full, a tax liability may arise on any gain (or growth). This is referred to as a chargeable gain.

## TOP-SLICING RELIEF

If a chargeable gain, when added to other income, causes an individual to move from basic rate tax to higher rate, or from higher to additional rate, top-slicing relief may reduce the tax liability. This type of relief may be available to individuals in respect of chargeable gains arising from withdrawals or surrenders. However, top-slicing relief is not available if the Trustees are liable to the tax on any chargeable gains.



For an overview of how an investment bond is treated for tax purposes, please see our **Tax Information Client Guide**.

This area of taxation is complex and subject to change and therefore the exact position can only be determined by reference to the situation at the time the chargeable gain arises. We would strongly recommend that the Trustees discuss this with a financial adviser.

A chargeable event gain may affect your entitlement to any age-related allowance(s).

## Who will be liable to the tax on any chargeable event gains arising from withdrawals or surrenders?

WHEN THE CHARGEABLE EVENT ARISES	WHO IS ASSESSED	RATE OF TAX	RESPONSIBILITY TO DECLARE ANY GAIN
DURING THE UK RESIDENT LENDER'S LIFETIME	The Lender	The Lender's highest marginal rate of income tax	The Lender
DURING THE UK TAX YEAR IN WHICH THE UK RESIDENT LENDER DIES	The personal representatives on behalf of the deceased Lender	The Lender's highest marginal rate of income tax in the year of death	The personal representatives of the deceased Lender
IN ANY LATER TAX YEAR, WHEN THE TRUSTEES STILL OWN THE BOND (OR POLICY SEGMENT)	The Trustees	The Trustee rate of tax, currently 45% (for the 2021/22 tax year)	The Trustees
IN ANY TAX YEAR WHEN THE BENEFICIARY OWNS THE BOND (OR POLICY SEGMENT), AFTER ASSIGNMENT BY THE TRUSTEES	The beneficiary	The beneficiary's highest marginal rate	The beneficiary



# WHAT TO DO NEXT

You should speak to your financial adviser and review your investment needs and attitude to risk.

To set up one of our Loan Trusts, you need to complete our **Discretionary Trust Deed and Loan Agreement**. You and your Trustees must also complete the **Application Form for Trustee and Corporate Trustees** for your chosen product.

Under anti-money laundering regulations in the Isle of Man and Ireland we are required to verify the identity of all Trustees, and obtain details of your name, address and date of birth and those of all named beneficiaries (where applicable under the regulations). The application form has been designed to assist with the collection of this information. The relevant documents are available from your financial adviser.


The application must be completed by all the Trustees and must be dated after the loan agreement.

When we receive your completed forms and have accepted all necessary documentation we will set up the bond and send your policy documents to your financial adviser to copy and pass on to you.

You currently have 30 days to cancel the bond and loan trust arrangement. The 30 days begin on the day you receive the **Your Right to Change Your Mind Form**. If, for any reason, you decide that you do not want to proceed, just return the form within 30 days to the address on the form and we will return your investment. For details of how the amount returned to you is calculated, see the cancellation section of the relevant bond's **Key Features Document** and relevant disclosure documents.


# CONTACT US


If you have any questions about this guide, your adviser can help or you can contact us.

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We do not give investment, legal or tax advice. Investors are strongly recommended to obtain their own professional advice.

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Calls may be monitored and recorded for training purposes and to avoid misunderstandings.

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Utmost Wealth Solutions is registered in the Isle of Man as a business name of Utmost International Isle of Man Limited.

Utmost PanEurope dac is regulated by the Central Bank of Ireland (No 311420). Its registered office is Navan Business Park, Athlumney, Navan, Co. Meath C15 CCW8, Ireland. Utmost PanEurope dac is a Category A Insurance Permit holder with the Jersey Financial Services Commission.

Utmost Wealth Solutions is registered in Ireland as a business name of Utmost PanEurope dac.

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Utmost Trustee Solutions is registered in the Isle of Man as a business name of Utmost Trustee Solutions Limited.

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