

# TRUST READY RECKONER

## MAKING SENSE OF TRUSTS AFTER FINANCE ACT 2006



	TRUST SETTLED PRE - 22ND MARCH 2006	TRUST SETTLED POST - 22ND MARCH 2006
	<b>INHERITANCE TAX</b>	
<b>INTEREST IN POSSESSION TRUSTS</b>	<ul style="list-style-type: none"> <li>› Potentially Exempt Transfer when settled</li> <li>› Life tenant(s) has value of trust in their estate</li> <li>› Life tenant could be changed once before 6 October 2008. After this point trust falls into "relevant property" regime if life tenant changes - chargeable lifetime transfer of trust value at the time and possible future periodic and exit charges</li> <li>› Where a trust allows a replacement IIP in the event of the life tenants death, the successive interest will not be relevant property if the trust contains a policy of life assurance</li> <li>› If life tenant dies after 6 October 2008 and IIP passes under their will to surviving spouse/civil partner, trust will still retain previous treatment and interest will still form part of their estate</li> <li>› Post 22 March 2006 additions to the trust will bring part of the trust into the "relevant property regime" except, broadly, where trust holds pre-budget 2006 policy of life assurance with an option to increase the premiums.</li> </ul>	<ul style="list-style-type: none"> <li>› Chargeable lifetime transfer</li> <li>› Trust property does not form part of anybody's estate</li> <li>› Periodic and exit charges could apply for trusts valued in excess of the nil rate band</li> <li>› Can still create IIP trust via will with life tenant having immediate post death interest (IPDI) i.e. trust value still forms part of their estate.</li> </ul>
<b>ACCUMULATION &amp; MAINTENANCE TRUSTS</b>	<ul style="list-style-type: none"> <li>› Potentially Exempt Transfer when settled</li> <li>› Trust property does not form part of anybody's estate</li> <li>› Trust wording needed (if possible) to be amended before 6 April 2008 so that beneficiary receives benefit absolutely at age 18</li> <li>› If trust not amended, falls into "relevant property" regime from 6 April 2008 with periodic and exit charges potentially applying from the first 10 year anniversary from the start of the trust.</li> </ul>	<ul style="list-style-type: none"> <li>› Chargeable lifetime transfer</li> <li>› Trust property does not form part of anybody's estate</li> <li>› Periodic and exit charges could apply for trusts valued in excess of the nil rate band</li> <li>› 18-25 trusts can be created by parent via will trust. Maximum tax charge will be 4.2% of value of trust in excess of nil rate band.</li> </ul>
<b>DISCRETIONARY TRUSTS</b>	<ul style="list-style-type: none"> <li>› Chargeable Lifetime Transfer - excess above available nil rate band taxable at 20% if trustees settle tax (effective rate is 25% if settlor pays)</li> <li>› Gift out of account after seven years</li> <li>› Taper relief applies on death after three years to gifts in excess of available nil rate band</li> <li>› Must take account of CLTs in previous seven years prior to settlement (or any additions) as they will count towards cumulative total</li> <li>› Trust property does not form part of anybody's estate</li> <li>› Periodic and exit charges will apply to trusts with value in excess of nil rate band at the time (N.B. any CLTs made by settlor in previous seven years will be set against nil rate band).</li> </ul>	

## INCOME TAX

	TRUSTEE POSITION	BENEFICIARY POSITION FOLLOWING DISTRIBUTION OF INCOME
INTEREST IN POSSESSION TRUSTS	<ul style="list-style-type: none"> <li>› Trustees treated as basic rate taxpayers so;</li> <li>› Savings income taxed at 20% (bank/building society interest received gross)</li> <li>› Rental Income taxed at 20%</li> <li>› UK dividend income taxed at 7.5% - no allowance</li> <li>› Chargeable gains under non-qualifying life assurance policies taxed on settlor during his lifetime. In subsequent tax years, gains assessed on trustees at 45% (with 20% tax deemed to be paid within the life fund for UK policies).</li> </ul>	<ul style="list-style-type: none"> <li>› Life tenant(s) personally assessed for income whether it is drawn or left in the trust fund</li> <li>› Higher/additional rate tax payers will have further liability</li> <li>› Recipients of UK dividends above £2,000 dividend allowance would have to pay extra 25% tax to settle higher rate tax liability or pay 30.6% to settle additional rate liability, with extra 20%/25% on other income</li> <li>› Non tax paying beneficiaries and those within the dividend allowance can reclaim the 7.5% tax on UK dividend income paid by the trustees</li> <li>› Non starting rate tax paying beneficiaries and those with the personal savings allowance can reclaim 20% tax already paid by trustees on other income.</li> </ul>
ACCUMULATION & MAINTENANCE (A&M) AND DISCRETIONARY TRUSTS	<ul style="list-style-type: none"> <li>› First £1,000 income is taxed at the appropriate basic rate e.g. rental income 20%, savings income at 20% and UK dividend income at 7.5%</li> <li>› Income in excess of this band is taxed at the Rate Applicable to Trusts (RAT) of 45% (39.35% for UK dividends), therefore;</li> <li>› Rental income is taxed at 45%</li> <li>› Savings income is taxed at 45%</li> <li>› UK dividends subject to 39.35% with no allowance available</li> <li>› Chargeable gains under non-qualifying life assurance policies taxed on settlor during his lifetime. In subsequent tax years, gains assessed on trustees at 45% (with 20% tax deemed to be paid within the life fund for UK policies) on gains above the first £1,000 which is taxed at the Basic rate.</li> </ul>	<ul style="list-style-type: none"> <li>› Trustees liable to account for 45% tax on distributed income (including dividends)</li> <li>› Dividend paid to beneficiary does not retain its nature - distributed as trust income with a 45% credit</li> <li>› As distributions of trust income are classed as non savings income, a beneficiary cannot make use of their dividend or savings allowances</li> <li>› Beneficiaries in receipt of trust income can potentially recover the difference between the tax paid and their own marginal rate.</li> </ul>
	CAPITAL GAINS TAX	
INTEREST IN POSSESSION, A & M AND DISCRETIONARY TRUSTS	<ul style="list-style-type: none"> <li>› Gains taxable at 20% (28% for residential property)</li> <li>› Annual exemption of £6,150 for 2022/23 with de-minimus exemption for same settlor trusts of £1,230 for 2022/23 for trusts created since 6 June 1978.</li> </ul>	

Assumptions: The trust(s) are not “settlor interested” trusts for tax purposes. The trust(s) are not “parental settlements” for the benefit of the settlor’s minor unmarried children.

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