

Table of contents

Other titles from Claritax Books.....	iv
About the author.....	v
About the publisher.....	v
Abbreviations.....	viii
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.....	10
4. Trust fundamentals	
4.1 The three parties to a trust.....	11
4.2 Powers of trustees.....	14
4.3 Other important trust issues.....	18
5. The taxation of trusts – general principles	
5.1 General overview of tax position.....	22
5.2 Tax issues on establishing a trust.....	23
5.3 Tax on the income and capital gains of a trust.....	29
5.4 Tax on payments out of trusts.....	47
5.5 Inheritance tax on bare trusts.....	51
5.6 Inheritance tax on pre-22 March 2006 interest in possession trusts.....	51
5.7 Inheritance tax on immediate post-death interest (IPDI) trusts.....	52
5.8 Inheritance tax on discretionary trusts: overview.....	54
5.9 Inheritance tax on discretionary trusts – the general rules.....	55
5.10 Inheritance tax on discretionary trusts: Finance (No 2) Act 2015 and same-day additions.....	72
5.11 Inheritance tax anti-avoidance rules.....	82
5.12 Summary of taxation of trusts 2017-18.....	90
6. The taxation of single premium bonds held in trust	
6.1 Introduction.....	93
6.2 Bare trusts.....	93
6.3 Settlements.....	96
6.4 Planning.....	100
7. Trustee investment strategies	
7.1 Introduction.....	101
7.2 Trustee investments – the basics.....	101
7.3 Trust investments – the legal requirements.....	102
7.4 Trust taxation on investments.....	107
7.5 Planning.....	110

7.6	Summary	116
7.7	Collective investments or single premium bonds?	118
8.	Lifetime inheritance tax planning with cash and investments	
8.1	Introduction.....	120
8.2	Important issues in deciding the choice of trust.....	121
8.3	Bare trust	124
8.4	Using discretionary trusts.....	128
8.5	Discretionary gift trusts – income tax implications ...	130
8.6	Discretionary gift trusts – capital gains tax implications.....	132
8.7	Discretionary gift trusts – inheritance tax implications.....	133
8.8	Summary of the uses and tax implications of a discretionary trust	138
8.9	The discretionary trust in action.....	140
8.10	Power of appointment interest in possession (“flexible”) trusts	143
8.11	Choosing the right trust when making a lifetime gift.....	147
9.	Lump sum IHT plans	
9.1	The benefits of inheritance tax (IHT) plans.....	149
9.2	The discounted gift trust (DGT).....	150
9.3	The loan trust	156
9.4	The reversionary interest trust	163
9.5	Other arrangements	170
9.6	Business property relief schemes.....	177
9.7	DOTAS, inheritance tax and lump sum IHT plans	180
9.8	Lump sum IHT plans and the GAAR.....	183
9.9	Summary	183
9.10	IHT plan comparison.....	184
10.	Trusts of life assurance protection plans	
10.1	Reasons for using a trust	189
10.2	Carve-out trusts (for policies that include critical/serious illness or terminal illness benefit).....	191
10.3	Revert to settlor trusts	193
10.4	Types of trust.....	195
11.	Trusts for business protection and succession	
11.1	Introduction.....	200
11.2	Implications of the death of an owner	200
11.3	The specific issues to address in planning	202
12.	Trusts of death benefits under registered pension schemes	
12.1	Introduction.....	218
12.2	Death benefit payment options under different pension schemes.....	223
12.3	IHT and pension schemes: the general rules	224
12.4	IHT and pension schemes: special rules	227
12.5	Death benefits payable under flexi-access pensions: an overview.....	241
12.6	Death benefits: income tax.....	247

12.7	Inheritance tax on death benefits	250
12.8	By-pass trusts: introduction and use.....	257
12.9	By-pass trusts in the new flexi-pensions era	258
12.10	By-pass trusts in more detail.....	271
12.11	By-pass trusts: IHT implications before death of settlor	278
12.12	By-pass trusts: Tax implications on payment of death benefits to trust	278
12.13	By-pass trusts: IHT implications after death of settlor	279
12.14	By-pass trusts: other situations that affect the IHT charge.....	286
12.15	By-pass trusts: IHT and the consultative documents on IHT on discretionary trusts.....	294
12.16	By-pass trusts: reporting requirements.....	295
12.17	By-pass trusts: accumulation and perpetuity periods.....	295
12.18	By-pass trusts: income tax and capital gains tax.....	299
12.19	Death benefits from pension schemes: flexi- access drawdown or by-pass trust?.....	299
12.20	Taxation of death benefits – the meaning of certain expressions.....	302
13.	Using trusts in wills	
13.1	Introduction.....	304
13.2	Trusts for minors.....	305
13.3	The transferable nil rate band and discretionary trusts.....	307
13.4	Advanced planning via will trusts.....	321
14.	Trusts and deeds of variation	
14.1	Introduction.....	326
14.2	Legal formalities of a deed of variation	327
14.3	Tax implications of a deed of variation into a trust....	331
14.4	Planning using trusts via a deed of variation on the first death of husband and wife	333
14.5	Other planning opportunities with deeds of variation into a trust.....	339
15.	Using trusts with gifts of houses, investment property and chattels	
15.1	Introduction.....	343
15.2	Principal private residence.....	343
15.3	Gifts of second properties (i.e. holiday homes).....	369
15.4	Investment properties	371
15.5	Non-UK domiciliaries owning or purchasing residential properties in the UK.....	377
15.6	Trusts for chattels.....	377
16.	Trusts for shares in the family private trading company	
16.1	Introduction.....	380
16.2	Planning during lifetime	381
16.3	Planning on death (will trusts)	385
16.4	Company registers	388

17. Excluded property trusts	
17.1	The impact of domicile on inheritance tax..... 389
17.2	The meaning of UK domicile 390
17.3	The meaning of excluded property 395
17.4	Suitability of the excluded property trust 395
17.5	Choice of trust 396
17.6	Key points with an excluded property trust..... 396
17.7	The UK tax implications of establishing an excluded property trust..... 398
17.8	Case study: Eidur 411
17.9	Excluded property trusts and private residences..... 412
17.10	Married couples with domicile mismatches..... 419
18. Offshore trusts	
18.1	Introduction..... 421
18.2	What is an offshore trust? 422
18.3	The taxation of offshore trusts..... 422
19. Trusts to avoid probate	
19.1	The problems of probate 443
19.2	Avoiding the need for probate 444
19.3	The discretionary probate trust – need for additional trustees 447
19.4	The inheritance tax implications of a discretionary probate trust..... 448
19.5	Income tax and capital gains tax 454
20. Trusts as a means of protecting assets (asset protection trusts)	
20.1	Introduction..... 457
20.2	The concept of a valid trust 457
20.3	Sham trusts..... 458
20.4	Specific rules on asset protection 460
21. Trusts to reduce the costs of care	
21.1	Introduction..... 469
21.2	Funding the costs of care..... 471
21.3	Taking account of the value of a house in assessing a person’s contribution to care costs..... 477
21.4	Gifting the house to avoid the costs of care 482
21.5	Deprivation of assets..... 483
21.6	Planning..... 487
21.7	Other important points 493
22. Personal injury trusts	
22.1	What is a personal injury trust? 495
22.2	The reasons for creating a personal injury trust..... 495
22.3	Other advantages of PITs..... 497
22.4	Choice of trust 498
22.5	The trust 501
22.6	Taxation..... 502
22.7	Mentally incapable clients..... 503
22.8	Timing 504
22.9	Guardianship or PITs? 504

23. Trusts for the disabled and the vulnerable	
23.1	Introduction..... 509
23.2	Type of trust..... 509
23.3	Tax efficient trusts for vulnerable people 510
23.4	Inheritance tax and trusts for vulnerable people..... 515
23.5	Trusts created before 8 April 2013..... 519
23.6	Personal injury trusts 522
23.7	Planning..... 523
24. Relevant life policies/trusts	
24.1	Background 524
24.2	Excepted group life policy..... 526
24.3	Tax implications of an EGLP 527
24.4	Relevant life policy..... 529
24.5	The tax implications of a relevant life policy..... 531
24.6	Other important issues with RLPs..... 531
24.7	A summary of the benefits of a relevant life policy..... 534
25. Trusts and the GAAR	
25.1	Introduction..... 538
25.2	The target of the GAAR..... 539
25.3	What the GAAR is not targeted at 539
25.4	The GAAR and the rest of the tax rules..... 540
25.5	The GAAR and other statutory anti-avoidance provisions 540
25.6	In what circumstances will the GAAR apply?..... 541
25.7	Tax arrangements..... 541
25.8	A tax to which the GAAR applies 542
25.9	Obtaining a tax advantage was the main purpose or one of the main purposes of the arrangements.... 542
25.10	Are the arrangements abusive? 542
25.11	Examples of the GAAR in operation: pilot trusts..... 546
25.12	Examples of the GAAR in operation: discounted gift schemes 548
26. Dealing with HMRC – trust income, capital gains and IHT	
26.1	Notification to HMRC 552
26.2	Income tax 553
26.3	Capital gains tax 555
26.4	Inheritance tax..... 556
27. Facilitating adviser charging through investments in trust	
27.1	Facilitating adviser charging – the general implications..... 561
27.2	Legal documentation..... 562
27.3	Facilitating adviser charges through investments held in trust..... 563
27.4	Bare gift trust, discretionary gift trust, flexible interest in possession trust 563
27.5	Loan trusts and discounted gift trusts 567
28. The disclosure of trusts and the impact of FATCA on trusts	
28.1	Introduction..... 568

28.2	Money laundering – companies and trusts.....	568
28.3	FATCA and UK Trusts.....	580
28.4	Trusts and the Common Reporting Standard	586
28.5	Legal entity identifiers and trusts.....	593
29.	Lasting powers of attorney and trusts	
29.1	Types of power of attorney	596
29.2	Existing trustee loses mental capacity.....	596
29.3	Gifts to trusts	598
30.	Glossary of trust terms	603
	Table of legislation.....	609
	Index of cases	617
	General index	619