

Declaration of Trust Rental Properties

A Declaration of Trust can be used for a variety of scenarios when The Land Registry Legal Title doesn't reflect the true picture of property ownership, A Declaration of Trust is a legal document that would confirm the facts of the matter. Some common examples of when a Trust of Land can have real benefits for the Client.

- ❗ To reflect a contribution to a property purchase. E.g. when a parent gives money to a child to assist with a property purchase. (See Key Features and Benefits Sheet 14-1 & 14-2). Order Declaration of Trust (Land).
- ❗ If joint property owners have contributed unequal amounts towards the property purchase. Order Declaration of Trust (Land).
- ❗ If someone improves a property and wants their contribution noted and secured on the property. Order Declaration of Trust (Land).
- ❗ One lesser known use of a Declaration of Trust when dealing with rental properties is that of structuring the rental income splits for income tax efficiency.

To elaborate, a Declaration of Trust can be used to maximise income tax efficiency, by utilising the income tax rate of the lower income Legal Title Holder of the property. Order severance of tenancy (unequal shares).

PROBLEM

RENTAL PROPERTY OWNED 'JOINTLY' OR 'TENANTS IN COMMON' (50:50) BY MR & MRS

Because ownership is 50% and 50% then
Rental split is 50:50

Mr High Rate Tax Payer
= £240 NET Per Month



Generating Rental Income
of £800 per month
(£9,600 per Annum)

Mrs Non Tax Payer
= £400 NET Per Month

Annual Gross Rental Income.	£9,600
Annual Tax Paid:	£1,920
Annual Net Rental Income:	£7,680

SOLUTION

SEVERANCE OF TENANCY (UNEQUAL SHARES)

FROM THE OUTSET MR AND MRS (THE TRUSTEES) CAN DECLARE THAT THEY ARE HOLDING THE EQUITY, AND THEREFORE ANY BENEFIT, FOR MRS 'ABSOLUTELY' (OR IN ANY SPLIT THEY CHOOSE).

**0% and 100% as Tenants in Common
so Rental split is 0:100**



**Generating Rental Income
of £800 per month
(£9,600 per Annum)**

**Change Rental
split 0:100**



**100% £800
per Month**

**Mr High Rate Tax Payer
= £0 NET Per Month**



**Mrs Non Tax Payer
= £800 NET Per Month
£0 Tax Paid**

Annual Gross Rental Income:	£9,600
Annual Tax Paid:	£0
Annual Net Rental Income:	£9,600

Tax saved £1,920

Points to Note:

- ! Appropriate reporting regarding the income would need to be submitted to HMRC by the clients.
- ! In declaring the equitable interest in the property, the capital value of the property will also apply to their estates in the same proportion.
- ! This needs to be born in mind when considering both their Will and Estate Planning needs.
- ! If you have clients who have already been receiving unequal splits of income and continue to do so, but have not confirmed the facts in writing, then a Trust of Land should be ordered. See Key Features and Benefits Sheet 21. A Trust of Land confirms the historical facts as well as the current.
- ! If property is mortgaged in the original Title holders name (i.e. the Trustee) then it is viable for the beneficiary to receive the net income with the mortgage payment deducted.
- ! If the relationship of the parties in question are not married/ civil partners then the declaration could create CGT as it would be deemed a 'disposal'.
- ! If all parties agree, the proportionate splits can be changed. Again appropriate income tax reporting then required to HMRC.

This sheet contains only general planning and is not to be construed as advice for any personal planning. Each strategy recommended is based on individual circumstances.