

# Family Holdover Gift Trust

## SCENARIO



Clients have an estate including their Principal Private Residence, secondary properties and savings/ investments.

### THE CLIENTS HAVE ASSETS WHICH HAVE INCREASED IN VALUE SINCE ACQUISITION, INCLUDING THE SECONDARY PROPERTIES.

- ! Want to make a gift to reduce their own Inheritance Tax liability on death.
- ! Want to make provisions whilst they are alive for children and/or grandchildren, some/all of which may be 'minors'.
- ! Want to start the '7 year clock', but do not want the beneficiaries to have immediate control of the gifted asset.
- ! Concerned that the gift made would be at risk from the recipients future divorce/ separation, creditor/ bankruptcy claims, care fees and IHT.
- ! Wish to gift a 'secondary' property they already own.

### GIFTING OPTIONS:

#### 1. ABSOLUTE GIFT (POTENTIALLY EXEMPT TRANSFER)



### CONSIDERATION SHOULD BE GIVEN TO THE FOLLOWING THREATS:

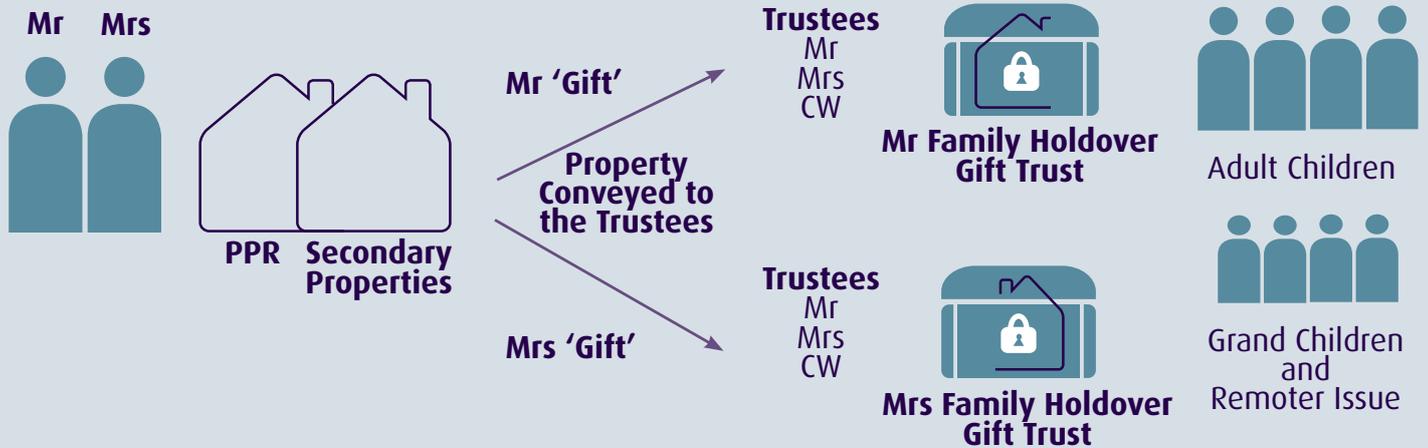
- ! The gift is at risk from the recipient's future divorce, creditor claims, care fees and their Inheritance Tax.
- ! The donor of the gift has no control over the gift once it has been made.
- ! To be IHT efficient the donor cannot then benefit from the gift made.
- ! Need to survive 7 years from making gift to be out of estate for IHT.
- ! Pending the gift value it will utilise part/all of the donors Nil Rate Band (NRB).
- ! The gift is a Potentially Exempt Transfer (PET).

### GIVEN THE GIFT IS A SECONDARY PROPERTY THEN:

- ! The gift would be a disposal for Capital Gains Tax. (CGT).
- ! If the gift generates income (rental income) then Income Tax is also a consideration. The donor couldn't still benefit from the income to be IHT efficient.

## OUR SOLUTION:

### 2. FAMILY HOLDOVER GIFT TRUST



Mr & Mrs as Settlers of their own Trusts claim the CGT relief by completing HMRC's 'HS295 Claim Form' and include it with their Self-Assessment Tax Return.

#### SETTLING THE 'GIFT' TO TRUST:

- ✓ The CGT can be deferred (held over) into the Trust until future disposal as long as the Trust is 'Non-Settlor Interested'.
- ✓ Non-Settlor Interested Trust must exclude as Beneficiaries of the Trust, the Settlor, the Settlers spouse (or Civil Partner) and Settlers minor children.
- ✓ However adult children, grandchildren and remoter issue can benefit.
- ✓ The Settlor (the donor of the gift) of the Trust can still maintain control of the gift by being a Trustee of the Trust. (it is necessary to have more than 1 Trustee)
- ✓ So the Trustees can control the beneficiaries 'access' to the gift.
- ✓ The Trust provides the maximum protection from the beneficiary's remarriage, divorce/ separation, creditor/ bankruptcy, long term care fees and their IHT.

#### WHEN MAKING A GIFT TO TRUST FOR IHT EFFICIENCY:

- ✓ The Settlor still needs to survive 7 years from making the gift for it to be IHT efficient. (Does the Settlor require a 7 year level term Life Assurance policy assigned to Trust as well? (See Key Features and Benefits Sheet 8.)
- ✓ Pending the gift value, it will utilise part/all of the donors Nil Rate Band (NRB)
- ✓ **The gift is a Chargeable Lifetime Transfer (CLT) and hence if in excess of the NRB is settled to Trust then that excess will be immediately taxed at half the death rate (20%)**

#### BE MINDFUL OF THE FOLLOWING:

- ✓ The CGT is only deferred and not mitigated. Should the Trustees decide to sell the property in the future, then they will need to consider the CGT that would be based from the original value the property was acquired at.
- ✓ If the gift generates income (rental income) then Income Tax is also a consideration. Any income generated would be Trust income and would need to be managed by the Trustees. Strongly consider appointing Professional Trustees to assist.

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.