

Trust of Land (Historical)

PROPERTY PURCHASE

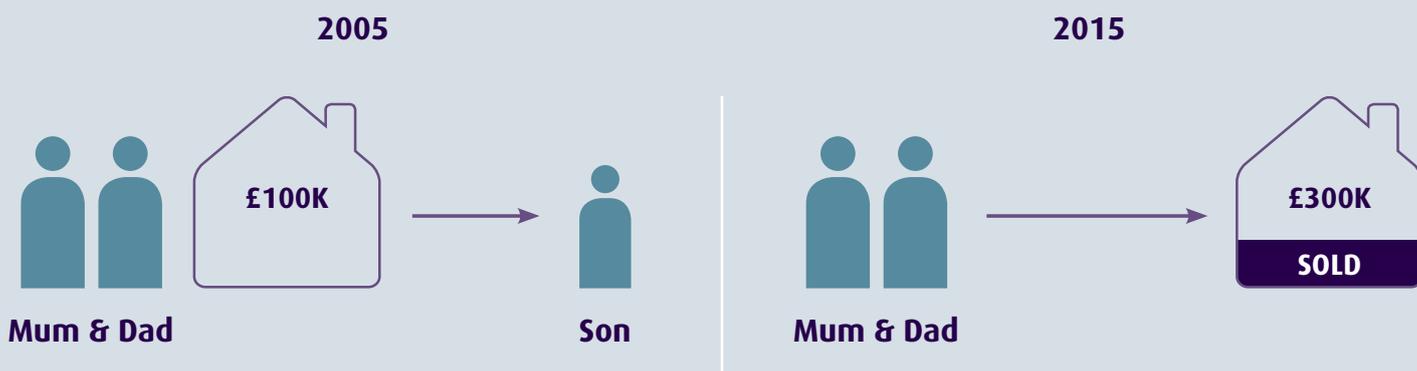
The Law allows a person to establish a trust relating to land verbally. However the verbal Trust must be formalised in writing before the next event (sale or transfer). In the two examples below verbal Trusts have been made although the word "Trust" may never have been used.

Who would benefit from this type of work? Clients who have:

- Property(ies) they have purchased for their children or other Beneficiaries that in the past treat and reside in the property(ies) as their main residence.
- Property(ies) where relations (unnamed children) are on the Legal Title (Deeds) and have been for a number of years, where their parents or other relatives reside in the property(ies).

THE SCENARIO

Mum and dad purchase a £100K house for son to live in while at university in 2005. Mum and dad are on Land Registry Title, son lives there for 10 years. Parents decide to sell the house in 2015 for £300K.



! Problem

Accrued Gains of approximately £200,000 as parents own another property that they live in - **Capital Gains Tax (CGT) at 28% = £56,000!**

WHAT IS REQUIRED

- ✓ A Trust of Land (Historical) evidence of the facts and confirms the verbal Trust of 2005.
- ✓ In 2005 - Trustees (those who hold the legal title) = Mum and dad.
- ✓ In 2005 - Settlers (those who put funds in for the purchase) = Mum and dad.
- ✓ From 2005 - Beneficiaries (those who hold Beneficial title) = The son and others perhaps two children or his siblings.

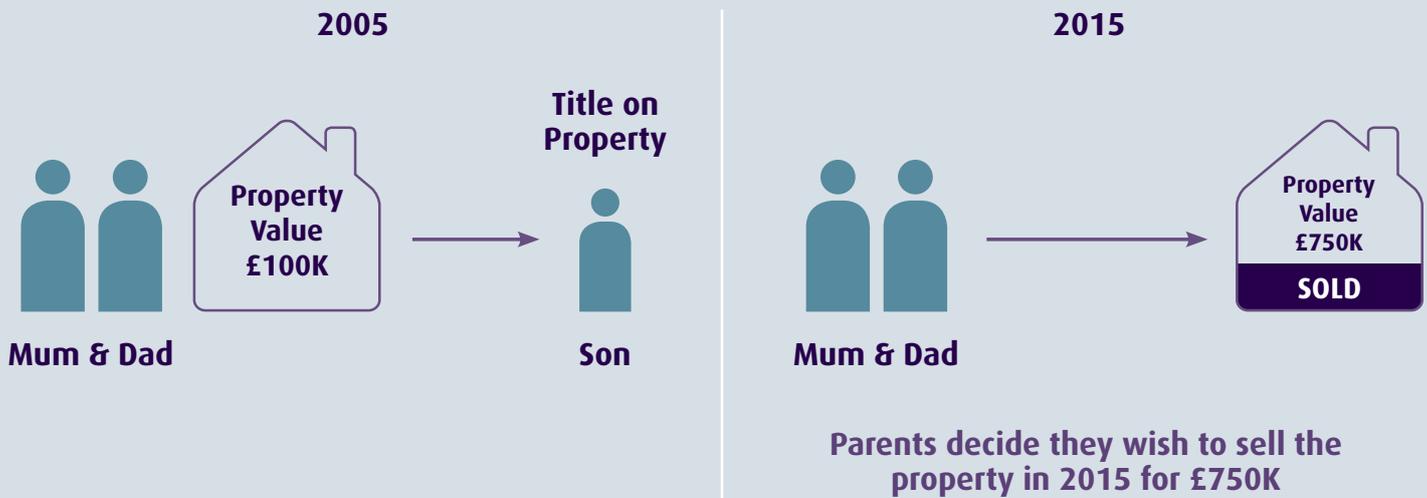
If the above is drafted as a Trust of Land (Historical) then the CGT would be £0! Saving £56,000 of CGT as main residence relief now applies. However this must be done prior to the exchange of contracts for sale in 2015.

If mum and dad do not wish to benefit from the sale proceeds, have not benefitted from the property, and their estates are above their Nil Rate Band then value can be removed from their estates **immediately saving £120,000 in IHT!**

- Gift date 2005, start of the '7 year clock'
- Out of the Trust for the calculation of IHT in 2012

THE SCENARIO

Parents' property where child is on the Title for mortgage/right to buy purposes.



Parent's property where child is on the Title for mortgage/right to buy purposes. Son goes on Title of parents property in 2005 to assist with Mortgage Provider requirements, son no longer lives at the property.

! Problem

Capital Gains Tax (CGT) on son's third share of the growth is the property value of £650,000 - The chargeable gains = $\frac{£650,000}{3} = £216,666 @ 28\% = £60,666$ of CGT due.

WHAT IS REQUIRED

- ✓ A Trust of Land (Historical) evidence of the facts that were in place in 2005 verbal Trust.
- ✓ In 2005 - The Settlers were mum and dad.
- ✓ In 2005 - The Settlers settled the asset upon Trust into the names of the Trustees:
The Trustees - Mum, dad and son
The Beneficiaries - Mum and dad.

If the above is drafted as a Trust of Land (Historical) then the CGT liability would be £0! The Trust of Land (Historical) is dated on the day it is signed but confirms the situation from a date in the past.

These are the main scenarios, there are many others.

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.