THE RALSTAN GROUP

# UTILISING HOLDOVER RELIEF TO PASS INVESTMENT ASSETS DOWN A GENERATION

James and Marie own a small buy to let portfolio and are looking at ways to pass the assets down to their children and grandchildren.

If they were to directly gift these properties to the children from their estate, it will be a disposal of assets at full market value for capital gains tax (CGT) purposes.

James and Marie could consider transferring some of their assets out of their estate using a UK Trust and utilise a relief called Holdover Relief.

Holdover Relief - Section 260 TCGA 1992 provides that CGT need not be paid on non-business assets transferred into a UK resident trust if the following conditions are met:-

1. The UK trustees agree to accept the assets at their tax base cost such that they will pay any future gain realised on sale.
2. The transfer into trust is a chargeable transfer for IHT purposes, attracting a 20% lifetime charge.
3. Holdover Relief will be denied if the beneficiaries of the trust include the minor children (under 18) of the Settlor.
4. On transfers of property to the trust – claiming Holdover Relief will deny the trustees/beneficiaries claiming CGT exemption on the property as their PPR in the future.

**A transfer below the nil rate band (£325,000) does not create an immediate tax liability, providing the Settlor lives 7 years.**

It can work along the following broad lines.

1. Create a Family Trust in the UK with UK resident Trustees. The Trustees could include James and Marie and another. Alternatively, they can consider using professional trustees.

2. The terms of the trust are that it is a discretionary trust giving the Trustees the power to appoint the income and capital of the trust to whatever member of the family they please. Alternatively, they could set an interest in possession trust, which means that Trustees distribute income to beneficiaries identified by the Settlor.

3. The Trustees' actions are subject to the Settlors prior written approval.

4. The Settlor would retain a power to direct the Trustee to do as he/she says with the assets of the trust, or retain control by being appointed a Trustee.

5. The assets are transferred to the Trustees. The transfer is a chargeable transfer for IHT purposes but the value is below the nil rate band (currently £325,000 per spouse).

This planning can be suitable for assets such as property, quoted shares, or shares in an investment company.

**Case Study:**

1. James and Marie own 2 investment properties. They would like to pass these down to their children, Josh and Adrian.

2. James and Marie no longer require the income from these properties. They would like to do some estate planning to protect assets gifted to their children from potential marital disputes and ensure the assets are retained in the bloodline.

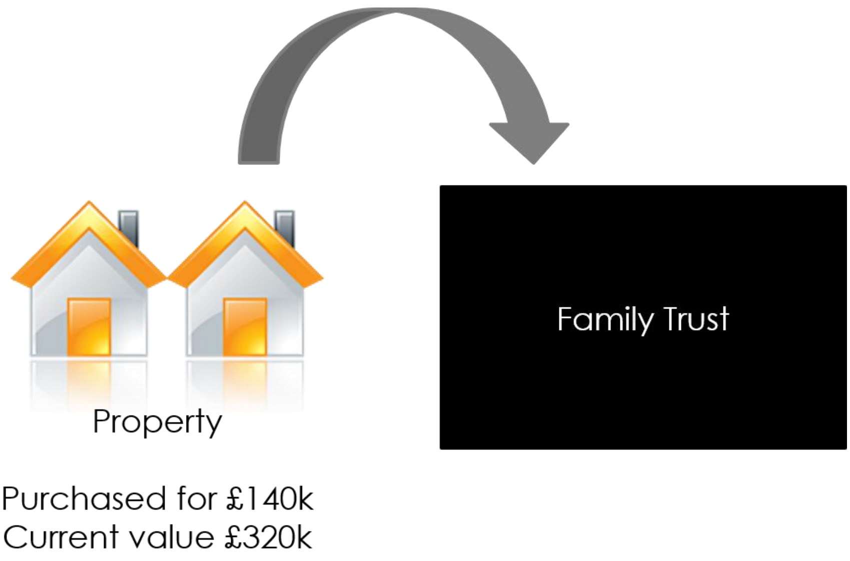
3. James and Marie own the properties jointly.

4. They create a family trust in the UK with themselves as Trustees and a UK professional trustee.

5. The discretionary trust gives the trustees the power to appoint the income and capital of the trust to categories of beneficiaries including their children and grandchildren, but excluding spouses, ensuring the property stays in the bloodline.

6. The properties are transferred to the trust. The transfer is a chargeable transfer for IHT purposes but their value is below the nil rate band (currently £325,000 per spouse).

**What would it look like?**




**IMPORTANT NOTES**

Nothing in this article should be construed as advice. The contents of this article are intended to stimulate your and your client's interest in trusts with a view to taking further professional advice upon your or your client's specific circumstances. No action should be taken without further professional advice from an appropriately qualified professional.