Armstrong & Co — Chartered Accountants, Auditors & Business Advisors

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# Accumulation & Maintenance Trusts

**A trust *(settlement)* arises when a person (the *settlor*) transfers assets to trustees, who hold the assets for the benefit of one or more persons (the *beneficiaries*), who will receive income and/or capital from the trust.**

A *relevant property trust* exists where trustees have discretionary power as to the distribution of income and capital and nobody is entitled to it as of right.

An *accumulation and maintenance trust* is a special type of relevant property trust. The beneficiaries must all be grandchildren of a common grandparent (not necessarily all children of the same parent), and a beneficiary must receive part or all of the income on or before his or her twenty-fifth birthday. Until then, the income must either be used for his or her maintenance, education, or benefit, or be accumulated.

### The income tax position

Income received by the trustees is chargeable on the trustees at 50% (UK dividends at 42.5%). The 10% tax credit on UK dividends cannot be used to cover any part of the trustees' liability. There is a standard rate band of £1,000 for which income is treated as taxable at the personal rate of tax for the underlying investment.

Any income *paid* to beneficiaries who are under eighteen and children of the settlor is treated as the settlor's own income for income tax purposes.

Where income is paid to beneficiaries it is deemed to be after deduction of tax at 50%. Thus income of £300 net is equivalent to gross income of £600 from which £300 tax has been deducted. This applies notwithstanding the existence of the standard rate band.

A repayment of tax can be claimed (by the parent or guardian while the beneficiary is under eighteen) to recover the 30% additional tax, entitlement to have income taxed at 10% or 20%, and any otherwise unused personal allowances of the beneficiary.

Accumulated income passing to the child on reaching the appropriate age is treated as capital and hence not subject to income tax.

### Capital gains treatment

Transfers into the trust are treated as a disposal at open market value by the settlor. The settlor will be liable to capital gains tax, subject to gifts holdover relief.

Capital gains tax at 28% is payable on disposals of chargeable assets by the trustees, subject to the annual exemption of £5,300 (2011-12).

When a beneficiary becomes absolutely entitled to any chargeable assets of the trust, they will be deemed to be disposed of at market value, and capital gains tax will be payable accordingly. In certain circumstances the trustees' gain can be held over to the beneficiary.

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**Inheritance tax implications**

Transfers into the trust fund are immediately chargeable to inheritance tax.

Property remaining within the trust will be subject to the periodic and exit charges applying to 'relevant property' trusts.

**Tax planning points**

A person with children, grandchildren, or others under twenty-five whom they wish to benefit should consider gifting assets into an accumulation and maintenance trust.

If the gift is to the settlor's own children, it is not advisable for the trustees to pay income to a beneficiary for his or her maintenance etc. while the child is unmarried and under eighteen (in these circumstances it will be treated as the settlor's own income).

Different rules apply to trusts that:

- are created on death by a parent for a minor child who will be fully entitled to the assets in the trust at age 18; or
- are created either in the settlor's lifetime or on death for a disabled person

Please call us if you would like any further help or information on this subject.