

# Trusts and tax planning in 2009

By Bob Wheatcroft, Partner and Head of Tax at Armstrong Watson

The Budget is now becoming a distant memory although the economic issues raised will be with us for some time yet. Nevertheless, it is perhaps time to ponder on some issues raised to see whether some popular ideas to save tax no longer make sense.

I have long been an advocate of the use of trusts. They feature in much of the advice I give to clients who are anxious to reduce potential Inheritance Tax bills and can also be used to minimise both Capital Gains Tax and Income Tax. Indeed trusts are not only tax planning vehicles but can often provide the sort of security and flexibility that families need for a variety of situations. It was for those reasons that they were first created in this country around the year 1100 at the time of the Crusades. Knights going off to the Holy Land left their assets in the hands of trusted individuals who were given instructions what to do if they should not return.

An example of the way that this can help with Inheritance Tax planning is the gift that could not otherwise be made. Most gifts are exempt from Inheritance Tax provided they are made more than seven years prior to death. Obviously none of us know when that is going to happen and so it is often useful to make gifts early. It may be that the intended recipients are too young for you to want to give them substantial amounts or perhaps you can't decide how much should go to one or other of them. A trust enables you to make the gift now without giving the eventual intended recipient access to it or even deciding, within limits, who will benefit at all.

From next April, however, the Chancellor has announced a new 50% tax rate for high earners. Hidden in the small print is the announcement that this will also apply to income taxed on trustees.

Does this spell the end of tax planning with trusts; will I have to go back to my tax legislation with a cold towel wrapped round my head and think again?

Fortunately for my peace of mind, the answer is no. A modern trust deed ought to be a flexible document which should normally enable the 50% rate to be avoided. Alternatively, it is sometimes possible for tax paid by trusts to be repaid to beneficiaries.

Trusts are unfamiliar to many people despite having been around for many years. They are not the sole preserve of the wealthy. Essentially a trust is a fund which normally contains investments or property and which is managed (by trustees) for beneficiaries. Sometimes trustees are also beneficiaries. The terms of the trust set out what the trustees are allowed to do – and not do.

The way that these terms operate can usually be amended within limits and existing trusts should certainly be reviewed before next April with this in mind. That is something we have already started to do at Armstrong Watson.

For further information on how Armstrong Watson can help you, call freephone 0800 195 2161 or email [moneymatters@armstrongwatson.co.uk](mailto:moneymatters@armstrongwatson.co.uk)