The Bare Trust for Settlor in action

Who it's for?

The trust may be suitable for clients who have a connection with the UK, Channel Islands or Isle of Man but may be currently tax-resident in another country.

The trust may be set up by one person or by two people (joint settlors).

The value of an investment can go down as well as up, so your client might get back less than they put in.

Key aspects of the trust

- The trust is available solely for new business.
- The asset in the trust will be a Prudential International bond, issued in the Republic of Ireland. This will benefit from the Irish regulatory and tax regime for life assurance (or capital redemption) contracts.
- The trustees must be resident in the UK, Channel Islands or the Isle of Man. These are jurisdictions with long-established and sophisticated legal and tax regimes governing trustees.
- The trustees are the legal owners of the bond. This means that all dealings in relation to the bond, such as switches or part surrenders, must be carried out under instruction from the trustees – the settlor cannot instruct Prudential International. Annual statements will be sent to the trustees.
- The settlor must not be resident in any of the countries on Prudential International's Prohibited Countries List (please refer to your Prudential Account Manager).
- The settlor is the only possible beneficiary under the trust.
- The settlor cannot be a trustee.
- The trust avoids the need for Irish Probate in respect of the bond.

How to set it up

- The settlor chooses the trustees – there must be at least two unless one is a trustee corporation.
- The settlor makes a gift of money to the trust (this could be in the form of a cheque payable to Prudential International).
- If there are joint settlors, the trust fund will normally be held for the survivor if one settlor dies. If this is not to happen, the settlors must indicate this on the trust deed. In this case, they should also indicate if the trust fund is to be held in unequal percentages for each of them.
- The trustees apply for a bond by completing the trustee section and other relevant sections of the application form.
- Prudential International issues the bond to the trustees.
- The settlor, as the sole beneficiary, can ask for the transfer of the trust fund at any time. The trustees would then assign the bond to the beneficiary, at which point the trust would cease to exist and Prudential International would then deal directly with the beneficiary as owner of the bond.

How it works

This is just an example designed to represent a typical situation and does not relate to any particular individual. It should not be considered as financial advice or a recommendation of a particular course of action.

Mr Brown, a UK citizen who is currently resident outside the UK, sets up a Bare Trust for Settlor with himself as the only beneficiary. He chooses his brother and sister, who are resident in the UK, as the trustees. He then gifts £100,000 to the trust.

The trustees invest the money in a bond from Prudential International. The bond is issued to them as trustees.

As it's a bare trust and Mr Brown is the only beneficiary, he can ask for money from the trust at any time. The trustees can make withdrawals from the bond and pay the money to him.

If a withdrawal creates a chargeable event gain, the income tax liability would fall on Mr Brown. However, as he's tax-resident outside the UK he will not be liable for any UK income tax at this time. (He may have a liability to overseas taxes.)

After six years the trustees assign the bond to him and the trust then ceases to exist. Mr Brown is now the absolute owner of the bond and can cash it in at any time. As before, he will not have any liability to UK income tax on the gain if he's still tax-resident outside the UK.

However, if he were now UK resident, he would be liable for income tax on the chargeable gain and the calculation would include any previous withdrawals from the bond.

continued overleaf

The tax position

Neither the trustees nor those who set up the trust have an obligation to report the establishment of the trust to HM Revenue & Customs (HMRC) under the Fourth Money Laundering Directive. This may change when the Trust Registration Service (TRS) requirements are updated to reflect the Fifth Money Laundering Directive. The Fifth Directive requires changes to the TRS and HMRC has issued consultation on this. Assuming the only asset in the trust is a Prudential International bond, the tax position will be as follows.

UK income tax

Income tax will only arise on a chargeable event gain. The settlor will be liable if UK resident at that time.

Gains made when UK resident

The settlor will be liable if UK resident at that time.

Gains made when UK resident (but there have been periods of non-residence)

It's a longstanding feature of UK tax legislation that the gain from a 'foreign policy' of life insurance or foreign capital redemption policy is reduced if the policyholder was not UK resident throughout the policy period. This is often referred to as a 'time apportioned reduction'.

From 6 April 2013, the following changes to this general rule apply:

- Time apportioned reductions are extended to gains made on life insurance policies issued by UK insurers.
- Time apportioned reductions will be calculated by reference to the residence history of the person liable to income tax on the gains. A time apportioned reduction can also apply to a chargeable event gain arising to the estate of a deceased individual.
- From 6 April 2013 tax residence is determined under the statutory residence test.

The changes in the first two bullet points above affect life insurance policies or capital redemption policies issued on or after 6 April 2013 and owned by individuals. Those changes also affect policies issued before this date if on or after 6 April 2013:

- The policy is varied and this results in an increase in the benefits secured.
- There's an assignment of rights, or a share of the rights, under the policy to the individual. This also applies if a chargeable event gain arises to the estate of an individual and the policy was assigned to the deceased person on or after 6 April 2013. An assignment includes an assignment into or out of a trust.

Changes to the time apportioned reduction rules, to reflect the introduction of the statutory residence test, apply to all policies where the gain arises on or after 6 April 2013.

Gains made during non-residence

If the settlor is not UK resident when the gain arises, there will be no UK income tax charge.

If a gain arises when a settlor temporarily lives abroad, the taxable amount is calculated in the same way as if the person had been UK resident. An individual is temporarily non-resident if:

- They have sole UK residence for a residence period and immediately following that period one or more residence periods occur for which they do not have sole UK residence.
- In four or more of the seven tax years immediately preceding the year of departure the individual had either sole UK residence for the tax year (or the year must have been a split year that included a residence period for which the individual had sole UK residence).
- The temporary period of non-residence is five years or less.

The gain is taxable in the tax year during which the person returns to the UK. A time apportioned reduction for the period of non-UK residence/foreign days is still applicable for this period. If the settlor is not UK resident when the gain arises, there will be no UK income tax charge

UK capital gains tax

There will be no charge to UK capital gains tax.

UK inheritance tax

The bond will be in the settlor's estate for the purposes of UK inheritance tax. This will only be an issue if the settlor is UK domiciled or deemed domiciled. If the settlor is non-UK domiciled, the bond is "excluded property".

The above comments relate only to UK taxes. Prudential International cannot comment on the tax position that may arise in other countries. Any tax issues arising from the use of this trust are the responsibility of the settlor and trustees.

The investment choices

The trust can be used with Prudential International's investment products:

UK

- Prudential International Investment Bond
- Prudential International Investment Portfolio

Non-UK

- International Prudence Bond

Important note

The settlor(s) may have personal tax or regulatory obligations in the jurisdiction where they are resident. They should take the appropriate level of local legal advice to ensure that any such obligations are satisfied.

Further information

For more information on our products, please contact your Prudential Account Manager.

Full terms and conditions for each of the investment bonds are available on request.

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