

Nucleus Bare Gift Trust

Adviser guide

Edition

05

Introduction

This document consists of six sections:

1. The Nucleus Bare Gift Trust: an overview
2. Inheritance tax (IHT) and capital gains tax (CGT) planning with the Nucleus Bare Gift Trust
3. The suitability of the Nucleus Bare Gift Trust
4. The Nucleus Bare Gift Trust provisions in detail
5. The UK tax implications of the Nucleus Bare Gift Trust
6. Frequently asked questions

Please note that the term 'donor' refers to both donors in joint donor cases.

1. The Nucleus Bare Gift Trust: an overview

1.1 The aim

The main aim of the draft Nucleus Bare Gift Trust is to enable a person to undertake simple but effective lifetime inheritance tax (IHT) planning. The draft trust is provided on the basis that it will achieve this objective and have the tax consequences specified in this guide. However, it is essential that each potential user of the draft trust should confirm with their legal and professional advisers that it is suitable for their particular purposes.

1.2 Who is it for?

The type of investors who may be interested in using the Nucleus Bare Gift Trust could be:

- new investors contemplating an investment in collective investments (referred to in this guide as 'collectives') in a Nucleus General account or a Nucleus Onshore or Offshore Bond in the Nucleus wrap.
- investors already holding collectives in a Nucleus General account in the Nucleus wrap.
- persons who already hold a Nucleus Offshore Bond provided by RL360 Insurance Company Limited or a Nucleus Onshore Bond provided by Sanlam or by Scottish Friendly Assurance in the Nucleus wrap.

An investor using the Nucleus Bare Gift Trust is called the donor. By using the bare gift trust with cash intended for a new investment, an existing bond or a holding of collectives, the donor(s) will be making a gift of the cash or asset(s) transferred into trust.

For a new investment, the gift is of cash and the trustees will collectively apply for the intended investment in the Nucleus wrap.

For existing investments, the ownership of the investment will be transferred to the trustees.

The trust can be used regardless of whether the gift is to be made by one individual or two jointly. A 'joint gift' will be made when the cash to constitute the transfer to the trust to be invested is coming from the joint account of a couple or when the existing bond or general account to be transferred to the trustees is owned jointly. For IHT purposes, each of the joint donors is then treated as a separate donor who has created a separate trust of half the value of the cash or investments transferred to the trust.

1.3 Tax effectiveness and flexibility

The trust is 'bare' which means that the named beneficiary(ies) is/are entitled to the trust property absolutely. The only impediment to the beneficiary being able to demand that the trust property is paid to them is a legal disability, such as being a minor child. Bare trusts are sometimes also called 'absolute' trusts.

When a donor creates a bare gift trust, with cash or existing investments, the gift will be a potentially exempt transfer (PET) for IHT purposes. If the donor makes no other lifetime transfers in the same tax year, the value of the gift will be reduced by the donor's available annual exemption of £3,000 as well as any unused annual exemption from the previous tax year.

If the gift is a PET, then there will be no lifetime IHT charge regardless of the size of the gift and the only time there may be an IHT liability is if the donor dies within seven years of making it.

To ensure that the bare gift trust is effective for IHT purposes and the gift is treated as a PET, neither the donor nor anybody else other than the named beneficiaries can benefit from the trust assets in any circumstances and the named beneficiaries must be entitled to the trust assets absolutely.

Full details of the UK tax implications of the Nucleus Bare Gift Trust can be found in section 5 of this guide.

1.4 Avoiding probate (confirmation in Scotland)

As well as the important tax benefits, the investment that is held by the trustees in a Nucleus Bare Gift Trust will not be an asset of the donor's estate for probate purposes. This means that, in the event of the death of the donor, the trustees can carry on dealing with the investment without waiting for probate on the donor's estate.

To ensure that this is possible, there must be at least one trustee who survives the donor. Under the Nucleus Bare Gift Trust the donor is automatically one of the trustees and further trustees are appointed in the trust deed. If any of the additional trustees retires or dies before the donor a replacement trustee should be appointed.

If all of the additional trustees have resigned, died or have been removed so that there is no surviving trustee on the death of the donor, the donor will be the sole trustee at the time of their death. The trust will nevertheless continue to exist and be effective for IHT but the personal representatives of the deceased donor will assume the role of trustee. This means that although the trust investment will not be part of the donor's estate for IHT purposes, securing probate to the donor's estate will still be necessary to ensure that the personal representatives can act as trustee under the bare gift trust.

It is important that additional trustees are appointed who are likely to survive the donor to make sure that any delays in being able to deal with the trust investments are avoided.

An appointment of an additional trustee is particularly important if the settlor is domiciled in Scotland as, without an additional trustee, the trust may not be validly created under Scots law.

2. IHT and CGT planning with the Nucleus Bare Gift Trust

2.1 IHT planning

Only outright gifts to individuals and gifts into bare (absolute) trusts or into trusts for the disabled are treated as potentially exempt transfers (PETs).

All other lifetime gifts to a trust are treated as chargeable lifetime transfers (CLTs) and the trusts themselves fall into what is called the 'relevant property regime'. Many investors willing to make, especially larger (i.e. in excess of the available nil rate band), gifts of their investments are not happy to be subjected to the potential lifetime IHT charges as well as the HMRC reporting requirements that may be necessary with a relevant property settlement.

The bare gift trust therefore offers one of the few remaining opportunities to secure PET treatment on a gift, regardless of its size, and to avoid the potential charges (entry, periodic and exit) under the relevant property regime. Some prospective donors wishing to make other than an outright gift may decide to make a gift, for example, into a flexible or discretionary gift trust up to the nil rate band (with no immediate IHT charge but with maximum flexibility over the gift) and make any additional gift into a bare gift trust as a PET.

To ensure that the donor to a bare gift trust makes an effective gift for IHT purposes, the donor must not retain any benefit (actual or prospective) under the trust as otherwise the gift with reservation of benefit rules will apply. The Nucleus Bare Gift Trust is expressed as being irrevocable and the only persons who can benefit are the beneficiaries specified in the trust deed. As the donor is not and cannot be a beneficiary, the trust is therefore effective for IHT purposes.

As the named beneficiary(ies) is/are absolutely entitled to the trust property, the gift qualifies as a PET.

For a detailed consideration of the IHT implications of the bare gift trust, see section 5 of this guide.

2.2 CGT planning

For CGT purposes, the beneficiary is treated as an outright owner (see section 5 for further information). This means that, where the trust holds collectives, the beneficiary's annual CGT exemption (£11,700 for tax year 2018/19) will normally be available when the trustees sell or dispose of those collectives.

In most cases, the beneficiary under a bare gift trust will be a minor child. This means that a bare gift trust with an underlying investment in assets subject to CGT (such as collectives) may be a tax efficient vehicle for a parent wishing to make financial provision for their minor children, as this would represent a way to set the child beneficiary's annual CGT exemption against any gains realised by the trustees. Ideally, at least from a tax standpoint, the underlying investments should produce little or no income because, for income tax purposes, the parental settlor anti-avoidance provisions could apply (see section 5 for full details).

3. The suitability of the Nucleus Bare Gift Trust

3.1 Suitability

The bare gift trust may be suitable for an investor who:

- would like to make a gift of collectives held in an existing Nucleus General account or of a Nucleus Onshore or Offshore Bond in the Nucleus wrap, or the money intended for a new investment in the Nucleus wrap.
- would like their gift to be a PET and to avoid the relevant property regime.
- would like to take advantage of the CGT benefits of bare trusts, i.e. facilitating the potential use of the annual CGT exemption of the beneficiary(ies).
- has no need to retain control and flexibility over who should benefit from the investment.
- understands that they will not be able to benefit from the investment under any circumstances.
- would like the benefits of the investment to be outside their estate for probate purposes when they die.

The bare gift trust is not suitable where:

- an investor requires some beneficial access to the investment.
- an investor does not require access to the investment but nevertheless requires some control or flexibility over the ultimate destination of the assets to be gifted into the trust.

In these cases, although the bare gift trust will not be suitable, a different type of trust may be. Other draft trusts are available for consideration from Nucleus.

3.2 Matters to consider before establishing the trust

- A bare gift trust is suitable for cash or investments owned by one person or jointly, where the owner(s), after discussion with their legal and/or other professional advisers, are happy that the legal and tax implications of the trust are suitable for them and the trust will help them to achieve their objectives in relation to tax and financial planning.
- In particular, the potential donor(s) should understand that when a gift is made into a bare trust, neither the beneficiary nor their share, if more than one, can be changed.

Before recommending the Nucleus Bare Gift Trust, it is important for the adviser to determine:

- the potential IHT liability on the investor's estate (including the history of previous gifts) if no action is taken.
- the practical objectives of the investor, including whether any flexibility is required as to who the potential beneficiaries should be.
- that the donor is happy to give up all future access to the investment.
- that the donor will never want to change their mind about their choice of the beneficiary or how much the beneficiary should receive and when.

The size of the intended gift and the choice of the intended investment (i.e. onshore or offshore bond or collectives) will also be relevant especially if CGT planning (e.g. to maximise use of the annual CGT exemption) is also important, as this will only be available with investments in UK collectives or offshore reporting funds.

Where an investor is not totally certain about their choice of beneficiary and the investor's full nil rate band is available (undiminished by previous chargeable transfers), the Nucleus Bare Gift Trust may not be suitable but a discretionary gift trust or a flexible gift trust may be.

The Nucleus Bare Gift Trust will also not be suitable for an investor who requires some beneficial access to their investment. Other trusts offered by Nucleus may be suitable. Nucleus provides a trust selector to assist in this process.

Full details of the tax implications of the bare gift trust are set out in section 5 of this guide.

4. The Nucleus Bare Gift Trust provisions in detail

The Nucleus Bare Gift Trust ensures that the beneficiary named in the trust deed is entitled absolutely to both the income and capital of the trust. If there is more than one beneficiary named, they benefit in the shares specified in the trust deed. Neither the beneficiaries or their entitlements can be changed.

The following is a summary of the key provisions as they appear in the draft Nucleus Bare Gift Trust.

Part 1 – Execution of the trust deed

The trust deed, if thought to be suitable, would be executed by the donor and the named additional trustees.

The trust applies alternative provisions depending on whether a new investment is contemplated or an existing investment is being transferred to the trustees.

The donor also chooses the name for their trust.

Part 2 – Definitions

Here, the trust terms used throughout the trust are defined to avoid repetition. The most important definitions are those of the beneficiaries.

The beneficiaries are the individual(s) who are named by the donor in the trust deed at outset. At least one person must always be named and, if more than one is named, the shares in which they are to benefit must be stated.

Part 3 – The main trust terms

This part provides that the beneficiary(ies) is/are absolutely entitled to the trust capital and income. However, because in most, if not all, cases the beneficiaries will be children under the age of 18 (16 in Scotland), the trustees are also given powers to use the trust income (if any arises) and capital for the beneficiary's maintenance, education or benefit. When a beneficiary reaches the age of full legal capacity, he or she will be able to take control of his or her share of the trust fund.

Part 4 – Trustees' administrative powers

The trustees have wide administrative powers to deal with the trust fund and to reinvest the proceeds of any investment in any way they wish. They also have the power to borrow funds, to make payments to parents or guardians of minor beneficiaries and to delegate certain powers. There is a useful power to delegate any administrative functions in connection with investment of the trust fund to any two of their number. In such a case only two of the trustees will need to sign any instructions, e.g. to sell assets.

The exercise by the trustees of their powers requires the consent of the beneficiary who is over the age of legal capacity and otherwise capable.

Part 5 – Appointment, dismissal, retirement and remuneration of trustees

The power to appoint new or additional trustees is vested in the appointor, i.e. the donor(s) during their lifetime and with full mental capacity and after their death, in the trustees. The donor, whilst alive and of full mental capacity, also has power to dismiss any trustee provided at least one trustee other than the donor and/or spouse/civil partner remains after such a dismissal.

There is no power to dismiss a trustee after the death of the donor and it must be remembered that trustees under an English trust must act unanimously. In Scotland, trustees can make decisions by a simple majority.

If two persons are joint donors, they exercise their powers jointly during their joint lives and after the death or mental incapacity of the first of them, the survivor exercises the donors' powers alone.

There are also powers dealing with the retirement of trustees and corporate trustees.

Trustees who act in their professional capacity are entitled to charge fees.

Part 6 – Further trust provisions

These mainly deal with the trustees' liability.

The liability of individual trustees is limited so that they will not be held liable for any loss to the trust fund provided they act in good faith. Trustees who are paid for their services are also liable for negligence.

Part 7 – Proper law

The trust gives the donor the choice of law to govern it, either the law of England or the law of Scotland. Those domiciled in Scotland will usually choose Scots law to apply to their trusts but there is no requirement to choose the law of the donor's domicile.

The tax implications of the trust are the same in the whole of the UK.

The schedule

The asset being transferred to the trust is identified in the schedule.

5. The UK tax implications of the Nucleus Bare Gift Trust

In what follows it is assumed that the donor, the beneficiary(ies) and the trustees of the trust are all UK resident and domiciled. Special rules apply where this is not the case and in these cases specialist advice must be sought.

5.1 Inheritance tax (IHT)

5.1.1 Establishing the trust

- For IHT purposes a transfer of value (a gift) takes place at the time the trust is created.
- Where there are two donors, each is normally treated as making a gift of one half of the value transferred.
- The value of the gift will be the value of the assets in the general account or the value of the bond that is or are made subject to the trust at the time of the gift. For new investments it will be the amount invested.

To the extent the gift exceeds the donor's available annual exemption, currently £3,000 for each donor (£6,000 maximum for each donor if the exemption for the previous tax year has not been used), it will be a potentially exempt transfer (PET). This means that, regardless of the amount of the transfer, no tax liability will arise at the time of the transfer.

A tax liability on the gift could only arise if the donor dies within seven years of making the transfer and even then, only if the value of the gift together with any chargeable transfers made in the seven years immediately preceding the gift exceeds the IHT nil rate band at the date of death. On the donor's death within seven years of making the gift, the value of the original gift will also be taken into account in determining the IHT liability on the donor's estate.

5.1.2 Does HMRC need to be informed about the bare gift trust?

No, there is no need to do this with a bare gift trust (unlike with a discretionary gift trust). The usual rules will apply to the reporting of the income and gains of the trust via the beneficiary's or the parental donor's annual tax return (where relevant).

5.1.3 What are the IHT implications of the donor dying within seven years of establishing the bare gift trust?

IHT could potentially need to be considered where the value of the original gift to the trust is not covered by any available exemptions and the donor dies within seven years of creating the trust. This is because the original PET will become chargeable on the death of the donor. Even then, as stated above, if the value of the original gift falls within the available IHT nil rate band, no liability will arise on the gift itself. However, the nil rate band available to determine the liability arising on the donor's estate at that time will be correspondingly reduced. To the extent that the value of the original gift exceeds the available exemptions and the nil rate band, a liability to IHT in the gift itself could arise.

5.1.4 What are the IHT implications for the bare gift trust?

As this is a bare trust, and not a settlement, the IHT relevant property rules (which apply to settlements) do not apply. The value of the trust assets (or where there are two or more beneficiaries, the value of the appropriate share of the value of the trust assets) is in the estate of the beneficiary(ies) for IHT purposes.

5.1.5 What are the IHT implications of the death of the beneficiary?

The beneficiary(ies) is/are treated as owning the trust property for IHT purposes.

On the death of a beneficiary the value of the beneficiary's underlying interest in the trust property (i.e. the investments held by the trustees) will be included in the estate of the beneficiary. If there is more than one beneficiary then the value included in their estate will be the value of their share of the trust fund.

If, as will usually be the case, the beneficiary is under the age of 18 (16 in Scotland), unmarried and not in a civil partnership, the assets will usually pass to the deceased beneficiary's parents under the intestacy rules.

5.2 Income tax

The income tax implications of the bare gift trust depend on whether the asset held by the trustees is an onshore or offshore bond (see section 5.2.1 below for further information), an offshore collective that is a non-reporting fund or other collectives (any UK fund or an offshore reporting fund) (see section 5.2.2 for further information) in the investment account (see section 5.2.3 for further information).

5.2.1 UK and offshore investment bonds

When an existing UK or offshore bond is transferred to the trustees of a bare gift trust this does not amount to a chargeable event for income tax and so no liability to income tax can arise.

When a UK or offshore bond held subject to a bare gift trust is encashed (fully or partially), a chargeable event gain can arise that will be subject to income tax.

With a bare trust, the chargeable event gains will normally be assessed on the beneficiary, even if the beneficiary is a minor and not in a marriage or civil partnership. The exception to this applies during the minority of the beneficiary in cases where the trust funds were provided by the parent of the beneficiary and the gains exceed £100 in a tax year (when added to income from all other gifts made by that parent to that child). In those cases chargeable event gains will be assessed on the parent.

5. The UK tax implications of the Nucleus Bare Gift Trust

A 20% tax credit will apply if the bond is a Nucleus Onshore Bond, which means that a liability will only arise if the beneficiary (or the parental donor) is a higher rate (40%) or additional rate (45%) taxpayer. This credit will not be available for gains made under offshore bonds.

Please refer to the relevant Nucleus Onshore and Offshore Bond literature for full details of the taxation of onshore and offshore bonds.

5.2.2 Offshore non-reporting funds

The transfer of the investment to the bare gift trust will be a disposal. If the investment has increased in value, and a gain arises using CGT principles, this will give rise to an offshore income gain. This will be charged to income tax on the donor.

In the event of the trustees later realising investments in the non-reporting fund, such offshore income gains will be taxed on the beneficiary except in cases where the beneficiary is a minor, unmarried child of the donor, where the offshore income gains will be taxed on the donor.

In addition to the income tax calculation, a capital gains tax calculation also has to be performed. Any offshore income gain subject to income tax is deducted from the proceeds for capital gains tax purposes which means, in most cases, that there will be no capital gain subject to tax. However, in certain circumstances, this may result in a CGT loss being available.

The death of a beneficiary will also count as a disposal for tax purposes at the market value of the investment at the time of the beneficiary's death. Any income tax liability will be assessed on the deceased and would have to be met by their personal representatives. Any such income tax arising will be an allowable deduction for the purpose of calculating any inheritance tax.

Special rules apply if you or the beneficiary is non-UK domiciled and trust income arises on overseas investments, but this is not something contemplated with investments in a Nucleus wrap.

5.2.3 Collective investments (UK and offshore reporting funds)

There will be no income tax implications on the transfer of a UK collective investment or an offshore reporting fund to the trustees of a bare gift trust. Income tax will however be due on income arising to the trustees from investments in collectives. This will apply to both accumulated and distributed income.

If the beneficiary of the trust is a minor child of the donor and that beneficiary is unmarried and not in a civil partnership, any income from the shares or units held in trust will be assessed for income tax on the donor. This will be the case if, when added to any other income on gifts made by the donor to that child, the gross trust income exceeds £100 in a tax year. The £100 limit applies per parent donor per child.

In all other cases, all trust income will be assessed on the beneficiary regardless of the amount.

How the income is taxed will depend on whether the income is treated as an interest distribution or dividend.

From tax year 2016/17 an investor is entitled to a personal savings allowance (PSA) of £1000 (if a basic rate taxpayer) or £500 (if a higher rate taxpayer). Interest or interest distributions which fall within the PSA will be tax free. Additional rate taxpayers do not benefit from a PSA.

Interest from UK banks and building societies and interest distributions from open-ended investment companies, authorised unit trusts and investment trust companies is now paid gross. Interest in excess of the PSA is taxed at the taxpayer's marginal rate, i.e. 20% (basic rate), 40% (higher rate) and 45% (additional rate).

From tax year 2016/17 all dividends are paid gross and without a tax credit. From tax year 2018/19, the annual tax-free dividend allowance is reduced to £2,000. Dividends in excess of this allowance are taxed at the investor's marginal rate, i.e. 7.5% (basic rate), 32.5% (higher rate) and 38.1% (additional rate).

5.3 Capital gains tax

5.3.1 Creation of the trust

When collectives in the Nucleus General account are transferred to the bare trust this will be a disposal for CGT purposes treated as having been made at the market value of the investments transferred to the trustees on the date they are transferred. Any gain will be calculated in the usual way (using the market value as the disposal price) and, subject to the deduction of the donor's available annual exemption, (£11,700 in 2018/19, taxed at 10% and/or 20% depending on the level of the donor's other taxable income unless the collective is an offshore non-reporting fund, in which case the gain (without the benefit of the annual exemption) will be taxed as the donor's income.

CGT hold-over (deferral) relief is not available on transfers to a bare trust.

For a transfer of cash or an existing UK or offshore bond (that was not previously acquired for consideration by the investor from another investor) to the bare gift trust, no CGT liability will arise.

5. The UK tax implications of the Nucleus Bare Gift Trust

5.3.2 Trust capital gains

For CGT purposes and regardless of the relationship of the donor to the beneficiary(ies), the trust is ignored and the beneficiary(ies) are treated as outright owners of the collectives. This means that all capital gains arising when the trustees sell shares or units in collectives are assessed on the beneficiaries, regardless of who the donor is. Each beneficiary is entitled to a CGT annual exemption (equal to £11,700 in tax year 2018/19), before any tax is actually payable. Subject to the special rules for offshore non-reporting funds the death of a beneficiary will cause the revaluation of the collective for CGT purposes but with no liability to tax arising.

Where the collective is an offshore non-reporting fund, the gain, without the benefit of the annual exemption, will be taxed as income. If, as is likely to be the case, the beneficiary is the minor, unmarried child of the donor, the parental anti-avoidance rules will apply. In these circumstances, the offshore income gains will be taxed on the parental donor and the beneficiary's death will give rise to a deemed disposal of the offshore fund for tax purposes at the market value of the investment at the date of the death of the deceased beneficiary (see section 5.2.2 above for further details).

5.3.3 Advancement of assets out the trust

As the beneficiary is already treated as entitled to the trust assets for CGT purposes, an advancement of assets to the beneficiary will have no tax implications.

6. Frequently asked questions

Who can be a trustee of the bare gift trust?

The donor will automatically be a trustee. Additional trustees must be appointed and this is contemplated in the trust deed at outset. Anyone aged 18 or over and of sound mind may be appointed. It may be appropriate to appoint a professional adviser, such as a solicitor or accountant, as a trustee, although such a person is likely to charge a fee for acting as trustee. It is essential that at least one additional trustee survives the donor if the need for probate is to be avoided following the donor's death to determine who the successor trustee will be.

What investments can be held in the bare gift trust?

The bare gift trust is only available for use with investments held within a Nucleus wrap; collectives in a Nucleus General account or the Nucleus Onshore or Offshore Bond. The trustees are free to reinvest elsewhere if they so choose in due course. Once the trust is created, the nature of the underlying investments does not impact on the validity of the trust.

Should each of a couple set up their own individual bare gift trust?

There is no reason why not since neither can benefit under either trust.

Is the bare gift trust available for joint donors?

Yes, but only where the couple are married or registered civil partners. In those circumstances the funds for investment must come out of a joint account or the donors must already jointly hold a Nucleus General account or a Nucleus Onshore or Offshore Bond.

Each will normally be treated as settling 50% of the assets.

Is stamp duty payable?

With effect from 1 December 2003, stamp duty on documents was abolished. This means that a declaration of trust no longer needs stamping. A transfer of shares/securities will normally be subject to stamp duty but transfers for no consideration (i.e. gifts) are exempt. The notice of trust to the nominee company (see below) includes the relevant certification to this effect.

What is the role of the nominee company and why is the notice of trust necessary?

The nominee company holds the legal title to the collectives held in the general account. The notice of trust applies only to collectives held in a general account. As the underlying investments of the general account (i.e. shares and units in collectives) are held in the name of the nominee (as the 'legal owner'), what the investor actually holds is a 'beneficial title' to those assets and it is this beneficial title that the donor transfers to the trustees. In order to perfect the gift, the donor must also instruct the nominee company to re-register the beneficial title in the name of the trustees. This is done by giving the 'notice of trust and direction to the nominee' to the nominee company. A form of words to effect this is included in the trust deed and takes effect when the trust deed is sent to Nucleus.

Is the nominee company relevant to Nucleus Offshore and Onshore Bonds?

No, where an existing bond is to be transferred, the asset that is transferred to a trust is the bond itself, i.e. the insurance contract made between the investor and the relevant company (Sanlam, Scottish Friendly Assurance or RL360). Legally this is called a 'chose in action' and the method of transfer of such an asset to the trustees is a legal assignment. Words to effect the assignment are included in the trust deed. In this case a notice of assignment must be given to the relevant life office. The sending of a copy of the trust deed to Nucleus will constitute a notice of assignment.

Can the trustees encash investments held in the Nucleus wrap and pay the proceeds to the beneficiaries?

Yes, but if the beneficiary is a minor, the payment will normally be made to the parent or guardian of the child to use for the child's benefit.

What happens if the donor dies within seven years of establishing the trust?

This may have IHT consequences as explained in section 5.1.3. There may be IHT to pay if the donor's nil rate band had already been used (and so was unavailable) or the gift itself caused the donor's nil rate band to be exceeded. To the extent that the initial gift was covered by the donor's nil rate band, while no liability to IHT would arise in relation to that part of the gift itself, the nil rate band available to the donor's estate on death will be correspondingly reduced.

6. Frequently asked questions

For new investments, can the donor get their money back under the cooling off rules?

No. As the application for the investment, be it a bond or general account, will be made by the trustees, if they exercise their right to cancel, the refund (which may be less than the amount invested) will be sent to the trustees. For full details of the cooling off procedure please refer to the relevant product literature.

What are the charges associated with an investment in the bare gift trust?

There is no charge for using the draft Nucleus Bare Gift Trust. However, if professional trustees are used, they are likely to charge a fee. The charges relating to the Nucleus General account and the Nucleus Onshore and Offshore Bonds are covered in the relevant product literature.

How do you set up a bare gift trust?

The donor and the additional trustees complete the bare gift trust deed. The trustees make an application for the relevant investment if the gift is made with cash, satisfied with a cheque or BACS transfer from the donor to Nucleus Financial Services.

For a transfer of existing investments into a trust, a new Nucleus wrap account will have to be set up in the name of the trustees and an appropriate transfer form completed.

Both need to be done with the assistance of a financial adviser who has access to the Nucleus online processing system. Full details of the procedures are covered in the Nucleus guides on platform processes.

How do the trustees find cash to pay fees of their investment advisers?

The fee for the initial advice (leading to the investment and the trust creation) will be paid by the donor.

The responsibility for adviser charges made in relation to the trust and trustee investments after its creation will usually be that of the trustees of the trust. As a matter of trust law, such fees are normally paid out of trust capital (not the trust income).

If there is available uninvested cash (that is not the trust income) in the general account then the adviser charges can be paid from that. To the extent that additional amounts are needed then the trustees may have to sell some of the shares/units of the collectives in the general account to raise the necessary cash. If the underlying investment is a bond, the trustees may need to take a part-withdrawal to meet the adviser charges. There will be the usual potential income tax (for bonds) or CGT (for the general account) implications.

Alternatively, the donor may offer to pay the advisers' fees so as not to deplete the trust funds. In such circumstances, as the donor will, in effect, pay the fees on behalf of the trustees, any such payments will be treated as further gifts made by the donor which may have IHT consequences, outlined in section 5 of this guide. Professional guidance should be sought in such circumstances.

Important note

Tax law is subject to change. The information in this guide is based on our understanding of current law and HMRC practice as at October 2018.

This document is provided strictly for general consideration only. Any action taken or refrained from in connection with the Nucleus Draft Bare Gift Trust must be preceded by discussion with the donor's legal and other professional advisers. Accordingly, neither Nucleus nor any associated or affiliated company nor any of their representatives, officials or employees can accept any responsibility for any loss occasioned as a result of any of the content of this guide or any use of the Nucleus Draft Bare Gift Trust in any circumstances whatsoever except as provided by law.



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