

## Trusts and Tax Factsheet

### *Summary*

The taxation of trusts varies according to the nature of the trust, the settlor and when it was settled. However, most trusts that are settled by an individual in their lifetime are taxed in the same manner, as set out in this factsheet.

For interest in possession trusts settled before 22 March 2006, those settled for a spouse via a will, and those for disabled beneficiaries, the rules differ slightly and the rules contained herein may not be applicable.

### *Income tax*

As a rule of thumb, it is the ultimate recipient that is charged to income tax on trust income and at their marginal rate. Where a trust is an interest in possession, i.e. it pays out the income to a beneficiary immediately, the latter is taxed at their respective rate.

Where it is a discretionary trust, the trustees are charged to tax at the highest rate, with no personal allowance. When income is paid out, the beneficiary receives a credit for the tax paid by the trustees and, if they do not pay at the highest rate, a repayment of tax will be available.

Discretionary trusts are taxed in this way in order that HMRC receives the tax as early as possible and does not have to wait until income is actually paid out to a beneficiary.

### *CGT*

Trusts are charged to CGT in the same way as individuals, albeit that it is at the highest rate and only half the annual exemption is available.

### *IHT*

A trust is charged to IHT every ten years and whenever value leaves the trust. A nil rate band is available to the trust and is equivalent to that which was available to the settlor when the trust was created. The rate for each ten year anniversary is 6%. For other charges, this rate is apportioned to take into account the time between the last ten year charge and the next one.

Note, the actual calculation is particularly complex and may be impacted by other trusts settled by the same individual plus further additions made to the trust.



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