

Realising the Benefits of an Asset Preservation Trust when a Client Dies

When a client dies, the full benefit of Trust planning can be realised by the family and Beneficiaries. Probate solicitors often advise clients to close Trusts (because many solicitors have little Trust experience, or do not know how to maintain Trusts economically). This will result in clients losing the protective and generational benefits. It may be beneficial to remind the Trustees of the benefits of the Asset Preservation Trust (APT):

- Families may avoid the unnecessary payment of significant amounts of inheritance tax (IHT) for future generations, specifically benefiting their own children, grandchildren, nephews and nieces. Benefits equating to £40,000 for every £100,000 directed through the framework is achievable.
- Protection of Trust assets down the generations.
- Potential protection of the inherited assets from third-party claims e.g. second marriages and care fee assessment.

Actions required after a client dies

1) Contact Solidus

Email support@solidustrusts.co.uk to advise us of a client death.

Let us know if details of the 'Assisted Probate Service' provided by our sister company Advisor Trusts and Probate Services Ltd ("ATPS") is required. Alternatively, for complex estates, the Executors may wish to engage for full Probate services.

To retrieve any documents stored with us we will need an authority letter signed by the Executors along with a copy of the death certificate.

2) Contact the Provider

Contact the provider and send them a copy of the death certificate. This will trigger the provider to send out a claim form to the Executors.

3) Trustee Bank Account

At the same time as you are notifying the employer for the DIS benefit, or the SIPP provider, or the pension provider, the Trustees of the APT will need to establish a Trustee Bank Account. This can either be at a local bank used by one or more of the Trustees, or Cater Allen who offer Trustee accounts (contact details are available from Solidus). Anti-Money Laundering (AML) for all Trustees will be required.

Death in Service (DIS)

Once the account details are established you can notify the employer and the DIS benefit can be transferred into the Trustee Bank Account.

Pension/SIPP

After notifying the pension provider they will write to the nominee and confirm the options open to them. They cannot provide advice at this point, just confirm that the pension can be transferred for their benefit, or a tax-free lump sum.

The nominee requires your advice at this stage. If it is a high net-worth estate, a second marriage, or where a client has care concerns then it should be beneficial to take the lump sum option.

Once the account is established a transfer can then be made to the Trustee Bank Account.

4) Realising the Benefits of the Asset Preservation Trust

Once the assets are transferred to the Trustee Bank Account the advice process can be implemented. The Letter of Wishes to the Trustees should be reviewed and followed, unless the Trustees have good reason to follow an alternative approach. Any deviation requires unanimous agreement. There are several options open to the Trustees, and they can adopt one or more of the following approaches:

- **Appoint out capital to a Beneficiary** - this is generally for smaller values as the protective and generational benefits may be lost, but is not uncommon if, for example, Trustees are seeking to minimise periodic charges.
- **Make a loan to a Beneficiary** - this is commonly used and requires Solidus to provide minutes, and one or more loan agreements. The Beneficiary can then use the funds to pay off any debt, assist their own children or seek investment advice.
- **Invest the sum in a tax-efficient investment in the names of the Trustees** - usually a bond is invested so that Trust reporting requirements are not triggered. Minutes are suggested from Solidus and the Trustees can transfer funds from the Trustee Bank Account to the provider chosen for the investment.

5) Instructing Solidus

We require details of the transfers to the Trustees. If a loan or Appointment of Capital is required we need to know the value and to whom the benefit is to be made.

Please instruct Solidus using the 'Asset Preservation Trust/Assurance Trust Fulfilment' application form which is available on the Knowledge and Resource Centre of the website.