CHARGEABLE EVENT IN A TRUST

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The following guide outlines the general UK taxation rule for a policy of life assurance or capital redemption when held in trust.

WHEN CAN A CHARGEABLE EVENT OCCUR?

When a policy is held in trust, the main occasions a chargeable event will occur are:

- full surrender of the policy;
- part surrenders that exceed the 5% cumulative annual allowance; and
- death of the last life assured.

WHO IS LIABLE FOR THE GAIN?

The liability will depend on which provision the trust has been setup i.e. discretionary or bare provision. RL360 offer a number of draft trust deeds that can be taken out on different provisions.

RL360 Trust Name	Provision
Isle of Man Probate	Bare
Beneficiary Trust	Bare / Discretionary
Loan Trust	Bare / Discretionary
Gift Trust	Bare / Discretionary
Discounted Gift Trust	Bare / Discretionary
International Flexible / Excluded Property	Discretionary

DISCRETIONARY PROVISION

If the trustees create a chargeable event gain, the taxable person on whom the gain will be assessed will depend on when the chargeable event occurs:

1. Gain is treated as income of the **settlor** if they are alive and UK resident immediately before the chargeable event, or if the chargeable event happens in the same tax year as the settlor's death.

2. The gain will be taxed on the **trustee** if:

- the chargeable event happens in a tax year after the one in which the UK resident settlor died; or
- immediately before the chargeable event, the settlor is non-UK resident but at least one of the trustees is UK resident.

3. Where the trustees are non-UK resident and the settlor is also non-UK resident immediately before the chargeable event or has died in a previous tax year, any **UK beneficiary** receiving a benefit from the gain will be taxable on that amount.

NB: The above represents the general position. In some cases:

- Gain could be completely free of any income tax. This situation could occur where the settlor died before 17 March 1998 and original investment has not been altered (i.e. topped-up).
- Gain divided equally between the settlor and UK trustee. This situation could occur where trust was created by joint settlors and gain occurs in a tax year where only one settlor is surviving.

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BARE PROVISION

With a bare trust, the taxation will depend on the type of trust used.

Trust Type	Bare
Gift Trust	The beneficiary is absolutely entitled to the trust fund so any tax liability will fall on the beneficiary at his or her marginal rate. Exception: trust was created for a minor by the parent(s). In this case, **parental settlement*** provisions apply.
Loan Trust	The beneficiary is absolutely entitled to the trust fund so any tax liability will fall on the beneficiary at his or her marginal rate. Exception: trust was created for a minor by the parent(s). In this case, **parental settlement*** provisions apply. ⚠ If the trustees created a chargeable event, perhaps when repaying the settlor's loan, then the gain would fall on the absolute beneficiary (even though they have not received any payment).
Discounted Gift Trust	During the settlor's lifetime, both the settlor and named beneficiary have a material interest in the rights under the trust fund. The chargeable event gain would need to be apportioned based on the value of rights of each beneficiary and the donor on an actuarial basis. Exception: trust was created for a minor by the parent(s). In this case, **parental settlement*** provisions apply. ⚠ If the trustees created a chargeable event, perhaps when paying the regular income required under the trust, then part of the gain would fall on the absolute beneficiary (even though they have not received any payment).

***Parental settlement** provisions apply where:

- the beneficiary is a minor who is unmarried and not in a civil partnership; and
- the settlor is the parent of the beneficiary; and
- the chargeable event gain, plus all other income arising from gifts by the same parent to that minor, exceed in total £100 in the tax year in question.

Where the parental settlement provision applies, the whole amount (i.e. the gain) will be taxed as the income of the parent who created the trust.

IMPORTANT

For financial advisers only. Not to be distributed to, nor relied on by, retail clients.

Please note that every care has been taken to ensure that the information provided is current and in accordance with our understanding of current law and HM Revenue and Customs' (HMRC) practice as at August 2022.

You should note however, that we cannot take on the role of an individual taxation adviser and independent confirmation should be obtained before acting or refraining from acting upon the information given. The law and HMRC practice are subject to change.