Lifetime/Asset Protection Trusts

Overview

The ownership of assets, such as property or other valuables, can be transferred through lifetime trusts while a person is alive rather than giving them directly to a person and as opposed to will trusts, which come into effect once a person dies.

Assets are placed into a lifetime trust that is managed by appointed 'Trustees'. Any amount of assets can be placed into a lifetime trust, but any more than £325,000 per person or £650,000 per married couple (2016/17) could mean that the assets are still included in your relative's estate and liable for IHT when they die. If they live for more than seven years after creating the trust, assets would not form part of their estate.

So why consider a Lifetime trust ?

- to pass assets to a minor who has limited mental capacity and needs the help of trustees to manage their finances
- to 'protect' their assets from being included in the financial assessment for care costs.

However –

Placing assets in a trust is unlikely to help your relative to avoid care home charges. When the local authority carries out the financial assessment for care, any assets that your relative has moved into a trust could be seen as **deliberate deprivation** of assets and the local authority might still be able to take their value into account.

There is no "silver bullet" when it comes to avoiding care fees and please be wary of anyone who has a plan that appears to do this. If it sounds too good to be true, it probably is. Sensible, non-contentious planning can help in many ways so please speak to us about your options.

You should always discuss this with a qualified solicitor

In conclusion

- Set up fees can be expensive.
- Your relative will lose ownership of their assets – although they may be able to maintain some level of control if they are themselves a trustee.
- There is no going back - your relative can't change their mind, give the money to someone else or simply spend it. This could put them in a very bad position should they need funds later on.
- If your relative is thinking about setting up a lifetime trust it is vital that they seek advice from an IFA or solicitor with expertise in the field.
- Loss of financial security: assets might be needed for other costs in the future such as moving house or paying for care at home.
- Choice and control: reducing assets will limit the choices one has in the future.
- Situations can change: someone that is entrusted to 'manage' a valuable asset might not always live up to their end of the bargain.
- Divorce/bankruptcy: someone may give their house to a relative on the understanding that they can stay living there. If the recipient of the gift gets divorced or goes bankrupt, the house may have to be sold as part of a settlement. This could leave your relative homeless

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