

Adviser guide

The Nucleus Discretionary Gift Trust

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1. Introduction

This document consists of five sections:

1. The Nucleus Discretionary Gift Trust: an overview
2. The suitability of the Nucleus Discretionary Gift Trust
3. The Nucleus Discretionary Gift Trust provisions in detail
4. The UK tax implications of the Nucleus Discretionary Gift Trust
5. Frequently asked questions

Please note that the term 'settlor' refers to both settlors in joint settlor cases.

1. The Nucleus Discretionary Gift Trust: an overview

1.1 The aim

The aim of the draft Nucleus Discretionary Gift Trust deed is to enable a person to undertake effective lifetime inheritance tax (IHT) planning. The draft trust is provided on the basis that the client has discussed the suitability of this draft deed with their legal and professional advisers to ensure it matches their needs. The information contained in this document is for information purposes only and should not be deemed to be advice. While Nucleus believes the content of this document is correct and up to date, Nucleus does not take any responsibility for any reliance on the information contained in it and regulated tax and legal advice should be sought before creating this trust.

1.2 Who is it for?

The Nucleus Discretionary Gift Trust may be suitable for:

- new investors contemplating an investment in collective investments in a Nucleus General Account (referred to in this guide as 'collectives') or a Nucleus Onshore or Offshore Bond.
- investors already holding collectives in a Nucleus General Account.
- investors 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.

An investor using the Nucleus Discretionary Gift Trust is called the settlor. The settlor makes an outright gift known as a chargeable lifetime transfer (CLT) of either cash or an existing permitted investment to the trustees of the trust. With this type of trust, once this gift is made the settlor will have no further access to either the capital or the income from it.

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 by one individual or two jointly. For IHT purposes, each of the joint settlors is then treated as a separate settlor who has created a separate settlement of half the value of the cash or investments transferred to the trust.

1.3 Tax effectiveness and flexibility

The trust is 'discretionary' which means there are several classes of beneficiary and the settlor (and, following their death, the trustees) as the 'appointor' under the trust has a discretion as to which of those beneficiaries should receive what, how much and when. On completing the trust deed the settlor can add a class of beneficiary(ies) to the pre-designated list, along with default beneficiaries. Beneficiaries can also be added by the settlor if they do so in writing to the trustees. As the gift the settlor makes is a CLT for IHT purposes, consideration should be given not only to the value to see if this exceeds any exemption such as the annual exemption or available nil rate band but also any other chargeable transfers in the previous seven years.

While the settlor cannot benefit from the trust, they can choose whether to include their spouse or civil partner as one of the beneficiaries. However there could be adverse tax consequences and regulated tax advice should be sought. If there are joint settlors, neither can be beneficiaries.

1.4 Avoiding probate (confirmation in Scotland)

The investment that is held by the trustees in a Nucleus Discretionary Gift Trust will not be an asset of the settlor's estate for probate purposes. This means that, in the event of the death of the investor, the trustees can carry on dealing with the investment without waiting for probate on the settlor's estate.

However, to ensure that this is possible, there must be at least one trustee who survives the settlor. Under the Nucleus Discretionary Gift Trust the settlor 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 settlor, replacement trustees should be appointed to ensure there is no delay in dealing with the trust property.

2. The suitability of the Nucleus Discretionary Gift Trust

2.1 Suitability

The Discretionary 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 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.

2.2 Matters to consider before establishing the trust

Before recommending the Nucleus Discretionary Gift Trust, it would be appropriate to determine:

- the potential IHT liability on the investor's estate (including the history of previous gifts) if no action is taken.
- the objectives of the investor. Namely, how much flexibility is required, who the potential beneficiaries should be, especially if the settlor's spouse or civil partner (in single settlor cases), should be included amongst the beneficiaries.
- that the settlor is happy to give up all future access to the investment.
- the value of the intended gift.
- the choice of the intended investment (i.e. onshore or offshore bond or collectives).
- if the investment is to be in collectives, whether the income from the collectives should be accumulated or distributed.
- both the settlor and the trustees have received legal and tax advice and understand the provisions of the trust along with all the HMRC reporting and registration requirements.

3. The Nucleus Discretionary Gift Trust provisions in detail

For tax purposes the Nucleus Discretionary Gift Trust is a discretionary settlement. The trust gives the appointor power to appoint benefits under the trust among a wide class of beneficiaries. The settlor is the first appointor and, after the settlor's death (or mental incapacity), the appointor will be the trustees. No beneficiary is entitled to any benefit until the appointor decides. The ultimate default beneficiaries named in the trust will benefit only if trust property remains by the end of the trust period, which is 125 years.

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

Recital

The deed, if thought to be suitable, would be executed by the settlor and the named additional trustees. Their details, and the date the trust deed is to be executed are all required in this 'opening' part of the trust deed.

Part 1 – Declaration

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

The settlor also chooses the name for their trust.

Part 2 – Definitions

In this part of the trust the terms used throughout the trust are defined to avoid repetition. The most important definitions are those of the discretionary beneficiaries and the default beneficiaries.

The discretionary beneficiaries are those in favour of whom the trustees may make appointments of benefits. They include:

- the widow or widower of the settlor.
- the children and the remoter issue of the settlor.
- the settlor's spouses or civil partners.
- the brothers and sisters of the settlor and their issue.
- anybody who would benefit from the estate of the settlor on the settlor's death.
- any person nominated in writing to the trustees by the settlor.
- any charity.

The settlor can add any other individuals not covered by the standard wording.

The settlor can choose whether to include their spouse or registered civil partner in the class of discretionary beneficiaries. This will have important income tax implications. The settlor is excluded as a beneficiary. In the case of joint settlors, because the spouse or civil partner will already be a settlor, he or she cannot by definition be a beneficiary.

The class of discretionary beneficiaries is therefore very wide and can be added to by the settlor; all that is necessary is a written notification of a 'new beneficiary' to the trustees. However, the settlor cannot add themselves to the class at any time.

The default beneficiary(ies) is the individual(s) who will benefit if the power of appointment is not exercised by the appointor by the end of the trust period, i.e. 125 years from the time the trust is created. They are named by the settlor 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. This is necessary to make sure the trust is valid and the property will not return to the settlor or the settlor's estate.

Part 3 – The main trust terms

In this part the power of appointment is defined as well as the default entitlement if the power of appointment is not exercised.

As previously indicated, the power to appoint capital and income under the trust is vested in the appointor. This is the settlor during their lifetime whilst they have full mental capacity and then the trustees. The power is exercisable at the appointor's discretion and includes the power to appoint further trusts in favour of beneficiaries.

The trustees have power to accumulate any trust income.

If not all of the trust property has been appointed by the end of the 125-year trust period then the default beneficiaries will benefit.

There is also a special provision dealing with any potential conflict of interest. In many cases the trustees of the trust would be family members who would also be beneficiaries under the trust. If an appointment of benefits were to be exercised in favour of a beneficiary who is also a trustee then a suspicion of conflict of interest could arise. For this reason there is a provision in this trust which states that if a beneficiary is also one of the trustees, the trustees (as appointor after the settlor's death) can only make an appointment in favour of that beneficiary if there is at least one other trustee who does not benefit directly or indirectly from the appointment being made.

The trustees have wide powers included in the trust to advance capital from the trust fund to the beneficiaries and to make loans to beneficiaries. The power to lend may be more appropriate than the power to advance in many circumstances.

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 the trustees.

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 settlor during their lifetime and with full mental capacity, and after their death in the trustees. The settlor whilst alive and of full mental capacity also has power to dismiss any trustee provided at least one trustee other than the settlor and/or the settlor's spouse or civil partner remains after such a dismissal.

After the death or loss of capacity of the settlor, if any trustee loses mental capacity, they can be dismissed by the majority of the other trustees. In all other cases, trustees under an English trust must act unanimously.

If two persons are joint settlors, 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 settlors' 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 for any loss to the trust fund.

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 liable for negligence.

There are also comprehensive provisions excluding the settlor from all benefit (and the settlor's spouse or civil partner unless the settlor specifically included the spouse or civil partner as a discretionary beneficiary at outset).

Part 7 – Proper law

The draft trust deed specifies that the trust will be governed by the laws of England and Wales. If the Settlor wishes to have the laws of Scotland or Northern Ireland applying then they should seek legal advice about getting a bespoke trust deed created to suit their circumstances and the implications of this.

The tax implications of the trust are the same throughout the UK.

The schedule

The asset(s) being transferred to the trust is (are) identified in the schedule.

Part 8 – Signatures

The trust deed is executed by all the parties by signing and having their signatures witnessed.

4. The UK tax implications of the Nucleus Discretionary Gift Trust

The following information assumes that the settlor, the beneficiaries and the trustees of the trust are UK resident. Special rules apply where this is not the case and specialist legal and tax advice should be sought.

4.1 Inheritance tax (IHT)

Establishing the trust

For IHT purposes a transfer of value (a gift) takes place at the time the trust is created and classified as a CLT, which could be chargeable depending on the value and exemptions available. Where there are two settlors, each is normally treated as making a gift of one half of the value transferred.

To the extent the gift exceeds the settlor's available annual exemption (currently £3,000 for each settlor or a maximum of £6,000 for each settlor if the exemption for the previous tax year has not been used), it will be a CLT. If the value of the gift to the trust plus the value of all other CLTs made by the settlor in the previous seven years, exceeds the settlor's nil rate band available, a lifetime entry charge will apply. A further tax liability at 20% could arise on the gift if the settlor dies within seven years of making the transfer.

Does HMRC need to be informed about the discretionary trust?

All UK express trusts unless specifically excluded need to register on the Trust Registration Service (TRS). Registration must be done within 90 days of the trust being created. Trustees have the obligation to ensure the trust is registered, proof of registration is provided as well and making sure the TRS record is kept up to date.

Each year the trustees receive the Trust and Estate Tax Return (form SA900), which they have to complete when they are liable to income tax or capital gains tax. In addition, where a person makes a gift that is a CLT (e.g. to a discretionary gift trust) they may need to report it to HMRC on IHT forms. The trustees will need tax advice to understand the registration and reporting requirements.

What are the IHT implications of the settlor dying within seven years of establishing the Discretionary Gift Trust?

On the death of the settlor within seven years a further tax liability at 20% of the excess would arise on the gift, if there was an IHT entry charge. Taper relief may be available to reduce the IHT liability if the settlor has survived the gift by at least three years.

If the value of the original gift (taking account of gifts within the previous seven years) is within the available nil rate band, no liability will arise on the gift itself either at the time it was made or on death within seven years of the gift.

As the gift (excluded any exemptions) is a CLT, this will use the whole or a part of the nil rate band (as appropriate) that would otherwise be

available to the settlor's estate to determine the liability arising on that part of the settlor's estate that passes to non-exempt beneficiaries. The settlor's personal representatives should seek advice to understand how they should value the estate and how gifts given in the seven years prior to death can affect the available NRB and tax payable.

What is the IHT regime for this type of trust?

Discretionary trusts are subject to the relevant property tax regime for IHT purposes. Under these rules there may be IHT charges on every 10-year anniversary of the trust – the 'principal charge' – and/or when property leaves the trust (e.g. when capital is advanced to a beneficiary) – the 'exit charge'.

If there are joint settlors, the trust is effectively treated as two separate trusts, with each settlor deemed to have established a trust for 50% of the total amount contributed for IHT purposes.

The principal charge

Principal charges at 10-yearly intervals from the creation of the trust are, broadly speaking, applied to the value of the assets in the trust at the time of the relevant 10-year anniversary. The effective rate of IHT will be determined by taking account of:

- the value of the property in the trust on the 10-year anniversary and the value in any other related trusts set up on the same day (the assumed transfer).
- the settlor's cumulative total of CLTs made immediately before the trust was established (or immediately before any property was added to the trust) plus any sums paid out of the trust in the 10 years prior to the anniversary (the cumulative total of the assumed transferor).
- the available nil rate band.
- any distributions made to the beneficiaries.

The maximum liability will, be 6% of the value of the trust property above the available nil rate band. This means that, in many cases, the effective rate on the whole of the trust property will be much lower than 6%.

If the capital in the trust fund at the anniversary includes income that has been accumulated by the trustees and added to the trust capital, there will be a reduction in the IHT rate that applies to this capital to allow for the period of time before which the accumulated income was added to the capital.

The exit charge

Exit charges will be based on the value of the distribution made by the trustees to the beneficiary(ies).

First 10 years

There should be no exit charges within the first 10 years if the total value of the settlor's CLTs (including the CLTs seven year prior to creating this trust) is below the nil rate band available. If an exit charge does arise, it will increase according to the number of quarters that have expired since the trust was created.

After the first 10-year anniversary

The amount of any exit charge occurring after the first 10 years will depend on the rate of tax charged at the previous 10-year anniversary (if any) and the length of time (in quarters) that the property has been in the trust since the last principal charge.

4.2 Income tax

The income tax implications of the discretionary gift trust depend on whether the asset held by the trustees is an onshore or offshore bond or collectives in the general account.

Creation of the trust

The transfer of an existing onshore or offshore bond into a trust does not give rise to a chargeable event and so there are no income tax implications.

There are no income tax implications on the transfer of a collective into trust except in the case of offshore non-reporting funds, in which case the gain (based on the market value of the investment at the date of transfer, less the acquisition price but without the benefit of the annual exemption) will be taxed as your income.

During the trust's existence

Chargeable event gains under a bond (onshore or offshore)

A bond held subject to a discretionary gift trust will be subject to a chargeable event when certain actions occurs which mean the bond could be subject to income tax. Who pays any tax due depends on whether the settlor is alive or not and whether they are UK resident.

During the settlor's lifetime and in the tax year in which the settlor's death occurs, any chargeable event gains arising under the bond will be assessed on the provided they are a UK tax resident. If there are joint settlors, each will be assessed on one half of the gain. A basic rate tax credit will apply to the Nucleus Onshore Bond, but further tax could be due if the settlor is a higher or additional rate 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 relevant bond taxation.

After the end of the tax year in which the settlor's death occurs or in a year in which the settlor is non-UK resident, any chargeable event will be assessed on the trustees if they are UK resident. If total income less than £500, taxed at 0%, though the £500 is split between the number of discretionary trusts created by the settlor. If the gain is over £501, then this will be taxed at 45%. A basic rate tax credit will apply if the bond is an onshore bond but this credit is not available for offshore bonds.

If the trustees are not UK resident there are special rules and specialist advice should be sought if this is the case.

Income arising to the trustees from investments in collectives

The income tax position will depend on the type of collective in question and whether the settlor's spouse or civil partner is included as a discretionary beneficiary. The settlor and trustees should seek regulated tax advice on the tax and reporting implications of holding different collectives as trust property.

UK funds and offshore reporting funds

(a) If the settlor's spouse or civil partner is excluded from benefit under the trust

If the spouse or civil partner of the settlor is excluded, the trustees will be liable for the income tax produced by the trust property and the rates applicable will depend on the source of that income, (e.g. dividends)

If total income less than £500, taxed at 0%, though the £500 is split between the number of discretionary trusts created by the settlor.

If the income is over £501, then this will be taxed at either 39.35% for dividend income or 45% for all other sources

Where income is to be distributed to a beneficiary, the trustees must first have paid 45% income tax on the income they have actually received regardless of its source. Where the trustees have paid insufficient tax on the income i.e. for dividend income, they may have to pay more tax to cover the beneficiary's tax credit.

The beneficiary will then be taxed on the income received from the trust grossed-up to take account of the tax credit in respect of the tax paid by the trustees. Where the beneficiary is not an additional 45% rate taxpayer, a tax reclaim may be made. However, as this income is classed as "trust income" neither the PSA nor the dividend allowances will be available.

If the trustees make a distribution from the trust to the settlor's minor, or for their benefit, it will be assessed to tax on the settlor under parental settlement rules.

(b) If the settlor's spouse or civil partner is included as a beneficiary under the trust

If the spouse or civil partner of the settlor is included as a discretionary beneficiary under the trust all trust income will be treated as income of the settlor. However, the trustees will still be liable to income tax at the trust rates. If the settlor pays a lower amount of tax on the income than that paid by the trustees, the tax overpaid can be reclaimed from HMRC. Any such reclaimed tax must be paid back to the trust. In such cases the settlor will be entitled to use his PSA and /or dividend allowance.

Offshore non-reporting funds

Where the collective is an offshore non-reporting fund there will normally not be any real income distributions from the fund. Instead, when units/shares are disposed of, the gain realised by the investor (the trustees) and taxed as income. The offshore income gain will be calculated in the same way that a capital gain would be calculated but without the benefit of the annual exemption from capital gains tax.

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.

Who is assessed to tax on an offshore income gain made by the trustees depends on whether the settlor's spouse or civil partner can benefit under the trust or not. This could be the trustees if the spouse is not a beneficiary or the settlor if the spouse is a beneficiary. The settlor and the trustees should speak to their tax advisers about the implications of holding these assets as trust property.

4.3 Capital gains tax (CGT)

Creation of the trust

When collectives in the Nucleus General account are transferred to the discretionary gift trust this will be a disposal for CGT purposes, treated as having been made at the market value on the date they are transferred. Any gain will be calculated using the market value as the disposal price and, subject to the deduction of the settlor's available annual exemption and taxed at 18% or 24% depending on the level of the settlor's rate of income tax.

As the transfer to the discretionary trust is also a chargeable transfer for IHT purposes, any chargeable capital gain can be held-over, i.e. deferred until a subsequent disposal by the trustees. However, a claim for hold-over relief will not be possible if the settlor's spouse/civil partner or minor child/children can benefit under the trust. Regulated tax advice should be sought if making a claim for gift hold-over relief.

For a transfer of cash, an offshore non-reporting fund or an onshore or offshore bond to the discretionary gift trust, no CGT liability will arise.

Trust capital gains (only relevant to collectives held in the general account)

The trustees are assessed to CGT on any capital gains arising when they sell the shares/units held in the Nucleus General. However, where the fund is an offshore non-reporting fund the gain will be subject to income tax.

Unless the settlor has created more than one settlement the trustees are entitled to an annual CGT exemption equal to £1,500. The trustees will pay tax at a rate of 24% for gains in excess of their annual exempt amount. If the settlor has created more than one discretionary trusts the CGT exemption can be split up to a maximum of five so could be just £300.

5. Frequently asked questions

Who can be a trustee of the discretionary gift trust?

The settlor will automatically be a trustee. Additional trustees must be appointed and this is contemplated in the trust deed at outset. Anyone over 18 years old 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 settlor if the need for probate is to be avoided following the settlor's death to determine who the successor trustee will be.

Why is it necessary to name a default beneficiary?

The settlor must name (as 'default beneficiaries') the individual or individuals who the settlor would like to benefit from the trust fund if no other appointment is made during the trust period. As this is 125 years from the date the trust is created, this is an unlikely outcome. Nevertheless, this is necessary, not just to ensure that there is certainty as to who is a beneficiary at all times, but also to avoid potential unwanted tax implications. If there is no certain default beneficiary under a trust, there can be a 'resulting trust' in favour of the settlor. Although this will not upset the IHT treatment of the trust, for income tax purposes the trust may then be treated as a 'settlor-interested' trust, even if the spouse or civil partner of the settlor is excluded from all benefit. This means that they may be a risk that the POAT (pre-owned assets tax) income tax charge may arise.

Is the discretionary trust available for joint settlors?

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 settlors 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. In these circumstances the settlor's spouse or civil partner would not be specified as a category of discretionary beneficiary.

Is stamp duty payable?

A transfer of shares/securities is normally 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 settlor transfers to the trustees. In order to perfect the gift the settlor 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.

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

This is possible if the appointor first makes an irrevocable appointment of benefits in favour of the beneficiary.

For new investments, can the settlor 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, a cheque (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.

How do the trustees find cash to pay income tax if they invest in accumulation shares/units in their general account?

If all the funds are invested in accumulation units/shares, the trustees may have to sell some of the shares/units to raise the necessary cash.

What are the charges associated with an investment in this trust?

There is no charge for setting up the trust. Professional trustees may charge. The charges relating to the Nucleus General account and the Nucleus Onshore and Offshore Bonds are covered in the relevant product literature. The financial adviser is, however, likely to make a separate charge for advice given in relation to the establishment of the trust.

How do you set up a Discretionary Gift Trust?

The settlor and the additional trustees complete the discretionary 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 settlor 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 (and with reference where appropriate, to the settlor's legal advisers) who has access to the Nucleus online processing system. Full details of the procedures are covered in the Nucleus guides on the platform-related processes.

Please remember that the discretionary gift trust is provided as a draft.

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

The fee for the initial advice (leading to the investment and the trust creation) will be paid by the settlor. 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 trust income in the general account then the adviser charges can be paid from that. To the extent that additional amounts are needed, 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 and non-reporting offshore funds) or CGT (for collectives other than non-reporting offshore funds in the general account) implications.

Alternatively, the settlor may offer to pay the advisers' fees so as not to deplete the trust funds. As the settlor will, in effect, pay the fees on behalf of the trustees, these payments will be treated as further gifts (CLTs) made by the settlor which may have IHT consequences as outlined in section 5. Tax law is subject to change. At the time of publication of this guide, HMRC are consulting on the IHT taxation of discretionary trusts and changes in this area are likely to take place in the future. The information in this guide is based on our understanding of current law and HMRC practice.

Important note

This document is provided strictly for general consideration only. Any action taken or refrained from in connection with the Nucleus Draft Discretionary Gift Trust must be preceded by discussion with the settlor'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 the use of the Nucleus Draft Discretionary Gift Trust in any circumstances whatsoever.