

Client guide

# The Nucleus Discretionary Loan Trust

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## 1. Introduction

Welcome to the Nucleus Discretionary Loan Trust guide. This section explains how the document is structured and defines some of the terms we will be using.

This document consists of six sections:

1. Introduction
2. What is the Nucleus Discretionary Loan Trust?
3. When should you use the Nucleus Discretionary Loan Trust?
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Where we refer to 'you' in this guide, we mean you as both the settlor and the lender. A Nucleus Discretionary Loan Trust may only be set up by one person, i.e. it may not be set up jointly by two people.

The expression 'spouse' applies to husbands, wives and civil partners.

This document is provided strictly for general consideration only and is based on our understanding of the law as at October 2025. Any action taken or refrained from in connection with the Nucleus Draft Discretionary Loan Trust must be preceded by discussion with your 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 Loan Trust in any circumstances whatsoever.

## 2. What is the Nucleus Discretionary Loan Trust?

A trust is an arrangement where a person or persons (called the trustee(s)) hold property given to them by another person (called the settlor) for the benefit of yet another person or persons (called the beneficiary(ies)). The trustees have the control and legal ownership of the trust assets but must act as custodians of them and use them for the benefit of the beneficiaries.

Trusts are commonly used in estate planning as they can allow a person to make a gift that will reduce their estate and so the potential inheritance tax (IHT) on it, but without having to decide immediately who should receive the gift, how much and when.

The Nucleus Discretionary Loan Trust is designed to overcome this objection. It is an estate planning scheme which has three components:

- A trust
- A loan and
- An investment in the Nucleus wrap.

The Nucleus Discretionary Loan Trust has been designed for investors who wish to carry out estate planning and, while they cannot afford to give up all access to the funds intended to be used in the planning, they can give up access to any investment growth on these assets.

Under the Nucleus Discretionary Loan Trust you will first create a trust for the specific purpose of lending a sum of money to the trustees of that trust which is then invested by the trustees in investments held in the Nucleus wrap. After the trust is set up, you and the trustees enter into a loan agreement. You are both the settlor and the lender. The trustees jointly make the application for the investment. The underlying investment can be a Nucleus Onshore Bond, a Nucleus Offshore Bond or collective investments (collectives) in the Nucleus General Account.

The trustees hold the trust asset for the beneficiaries. However, you as the lender retain the right to have your loan repaid to you at any time.

There is no initial gift and so no immediate reduction in your estate for IHT purposes but, as the trust investment grows in value, all the investment growth will be outside your estate for IHT purposes and held for the beneficiaries of the trust. You can request the repayment of the whole or part of your outstanding loan at any time. Any loan repayments made by the trustees, and spent by you (without bringing an equivalent value asset into being), will reduce the value of your estate for IHT purposes.

Under the Nucleus Discretionary Loan Trust, no beneficiary is entitled to any benefit (capital or income) until the appointor decides who, from the classes of beneficiary specified in the trust, should benefit from the trust assets and when. The appointor is initially you and, after your death, the trustees.

The trust assets can be distributed to beneficiaries when the appointor believes it is appropriate. However, in order for a trust to be legally effective, the benefits must be distributed out of the trust by the end of the trust period – 125 years. For this reason, you need to appoint a default beneficiary or default beneficiaries who will benefit if assets are still in the trust at the end of the trust period, i.e. the assets haven't been distributed in full by that time.

In the unlikely event that no appointments have been made so that some assets remain in the trust at the end of the trust period (125 years), then the individual or individuals named as default beneficiaries (or their estates if, by then, the default beneficiaries are dead) will benefit.

## 3. When should you use the Nucleus Discretionary Loan Trust?

You should consider using the Nucleus Discretionary Loan Trust if:

- you wish to make an investment in the Nucleus wrap but do not wish to make a gift of your investment;
- you have established with your advisers that there may be IHT payable in respect of your estate on your death and wish to take some action to mitigate this; but
- you need to retain access to the capital you intend to invest for your own benefit, although you can afford to give away the growth on the capital to be invested; and
- you are not certain who is to benefit from your gift or when they are to benefit, i.e. you wish to retain flexibility over which of your beneficiaries will ultimately benefit from the trust fund.

## 4. When should the Nucleus Discretionary Loan Trust not be used?

The Nucleus Discretionary Loan Trust should not be used if:

- you are not interested in estate planning; or
- you can afford to make a gift of the entire sum intended for investment without retaining any access; or
- you wish to retain total control over and access to the whole investment, not just the original capital.

## 5. How is the Discretionary Loan Trust established?

The Discretionary Loan Trust can be used only with cash available for investment. So, if existing investments in the Nucleus wrap are to be used to provide the cash for the loan, they will need to be realised. The tax implications of such a disposal should be fully considered before any such realisation takes place.

As explained earlier, the Nucleus Discretionary Loan Trust has three components.

First, the trust is established by you, as the settlor, and your chosen additional trustees completing the Discretionary Loan Trust Deed having, of course, first agreed with your legal advisers that the draft trust provided is suitable for you. You do not make a gift at that time but make a promise to make an interest-free loan, repayable on demand, to the trustees.

Second, once the trust is established you enter into a formal agreement with the trustees to make an interest-free loan repayable on demand. The intention is that the trustees will invest the loan moneys in the Nucleus wrap. The loan is satisfied by you handing over to the trustees your cheque payable to, or making a BACS transfer to, Nucleus Financial Services. The trustees acknowledge receipt of the loan using a special form which you should keep together with your copy of the loan agreement.

Third, the trustees collectively make the application to invest. This is done with the help of your financial adviser.

The draft Nucleus Discretionary Loan Trust provides for a maximum of four trustees (including the settlor).

Once the investment is made by the trustees, any dealings with the investment will be by the trustees rather than you personally.

## 6. Key provisions of the Nucleus Discretionary Loan Trust

During the trust period the appointor (initially you and then the trustees) may appoint the trust benefits (capital or income) to any of the discretionary beneficiaries. These beneficiaries include your widow/er, children and grandchildren, brothers and sisters and their issue.

You can also specify other beneficiaries at the time the trust is established. If after the trust has been established you want to include a person as a beneficiary who is not listed as a discretionary beneficiary, you can nominate that person to the trustees in writing.

You can choose whether to include your spouse among the beneficiaries by initialling the appropriate box in the trust deed. This can have income tax consequences, as explained below.

As the trust is a discretionary trust, no beneficiary is entitled to anything unless and until the appointor makes an appointment in their favour. If any income arises to the trustees from the trust investments, the trustees can distribute it to or for the benefit of any of the beneficiaries. Alternatively, they can accumulate the income ie. reinvest it. If the only investment of the trust is an onshore or offshore bond, no actual income will arise to the trustees.

You cannot benefit from the trust in any circumstances except that you are, of course, entitled to have your loan repaid to you.

You must name (as default beneficiaries) the individual or individuals who are to benefit from the trust fund at the end of the 125-year trust period in the unlikely event that no appointment has been made before then – see above for an explanation of why this is necessary.

The trustees have wide powers to invest, including reinvestment in other assets and generally dealing with the trust property.

The value of the trust fund available for the beneficiaries will increase as the value of the investment grows.

You remain entitled to have your loan repaid at any time and the amount of the outstanding loan remains in your estate for IHT purposes.

To be IHT effective the loan must be repayable on demand and interest free. You can request repayments of part or the whole of your loan at any time. A repayment will be made by the trustees after making withdrawals of capital from the bond or collectives. If, as expected, you spend these loan repayments without bringing into existence an asset of equivalent value, your taxable estate would reduce at that time.

Nucleus provides standard forms to make requests for loan repayments to make the running of the scheme easier. The trustees must keep a record of all repayments and ensure that no more than the original loan is ever repaid to you.

## 7. The law of the trust

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.

## 8. The trustees

You are automatically included as an original trustee. At least one additional trustee should be appointed at outset.

You and the additional trustee(s) together execute the trust deed.

Anyone over the age of 18 and of sound mind can be a trustee. Obviously you should choose your trustees with care. You may wish to appoint a professional person, such as a solicitor, to be a trustee. Bear in mind that such professionals will normally charge fees to act as a trustee.

You can appoint further trustees later on and you may also dismiss a trustee provided at least one trustee other than you or your spouse remains.

The trustees of an English trust must act unanimously.

## 9. The tax implications of the Nucleus Discretionary Loan Trust

In what follows, in all cases, it is assumed that the settlor and the trustees and the beneficiaries are UK resident – special rules apply where this is not so and specialist advice must be taken. The following is an outline of the key tax implications. Full details of the tax implications of the Nucleus Discretionary Loan Trust are included in the adviser guide.

### 9.1 Inheritance tax (IHT)

#### 9.1.1 Establishment of the trust

Neither the declaration of trust nor the making of the interest-free, repayable on demand loan to the trustees gives rise to a gift for IHT purposes.

#### 9.1.2 Registering the trust with HMRC

- Almost all UK trusts set up during the settlors lifetime, unless excluded, will have to be registered within 90 days of creation.
- Before Nucleus can accept an application or monies for new registrable trust cases, we will need sight of a 'proof of registration' document issued to the lead trustee by HMRC.

#### 9.1.3 Death of a beneficiary

As no beneficiary is entitled to anything unless and until the appointor makes an appointment in their favour, the death of a beneficiary who is capable of benefiting under the trust has no IHT implications for this trust.

#### 9.1.4 Death of the settlor

On your death the amount of the outstanding loan will be an asset in your estate for IHT purposes. However, the balance value of the trust fund (represented by the bond and/or collectives) will be outside your estate and subject to its own tax rules.

If you are married you may, in your will, leave the right to the repayment of the outstanding loan to your surviving spouse. In such a case, no IHT will be due on the outstanding loan entitlement on death and loan repayments can continue to your spouse.

#### 9.1.5 IHT while the trust is in existence

The Discretionary Loan Trust subject to special IHT rules under the 'relevant property regime'. Under these rules there may be IHT charges. Under these rules there may be IHT charges on every 10-year anniversary of the trust ('the principal charge'), or whenever property leaves the discretionary trust environment, for example when capital is advanced to a beneficiary ('the exit charge').

#### 9.1.6 The principal charge

Principal charges may be applied to the value of the assets in the trust on every 10-year anniversary of the trust. Under the Discretionary Loan Trust the value of the trust assets will be determined after deducting the amount of the outstanding loan.

For further information about the principal charge and how this might apply to the trust fund, please speak with your financial and tax adviser.

#### 9.1.7 The exit charge

Exit charges apply when distributions are made from the trust to the beneficiaries. This will be based on the value of property leaving the trust and the timing of the distribution.

Exit charges will not apply to loan repayments (or loans made to beneficiaries out of the trust by the trustees).

The IHT rules on the taxation of discretionary trusts are quite complex and may change in the future. You should discuss them in more detail with your professional adviser if you think they may apply in your situation.

## 9.2 Income tax

### 9.2.1 Creation of the trust

There are no income tax implications when the loan is made to the trustees. As explained earlier the loan must be made in cash.

### 9.2.2 During the trust's existence

When a bond is encashed (wholly or partially), a chargeable event gain can arise that will be subject to income tax. Who that gain is taxed on depends on whether the settlor is alive and a UK resident in the tax year when this occurs.

#### During the settlor's lifetime and in the tax year in which the settlor's death occurs

For income tax purposes, any chargeable event gains arising under the bond will be assessed on the settlor provided the settlor is alive and UK tax resident. A 20% tax credit will apply if the bond is a Nucleus onshore bond which means that a liability will only arise if the settlor is a higher rate 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.

If the settlor is non-UK resident and the trustees are UK resident then the trustees are assessed to tax.

#### After the end of the tax year in which the settlor's death occurs

Following the settlor's death, any chargeable event gains arising in a tax year after that in which the settlor died will be assessed on the trustees if they are UK resident.

If the total income of the trust is less than £500, then there is no tax to pay. However please note the £500 can be split depending on the number of discretionary trusts the settlor has created and could be as little as £100. If the gain is over £501, then this will be taxed at 45%. A 20% tax credit will apply if the bond is an onshore bond but this is not available for offshore bonds.

If the trustees are not UK resident there are special rules to tax UK ordinarily resident beneficiaries when and to the extent that they receive benefits – specialist advice should be sought if this situation applies.

#### Income arising to the trustees from investments in collectives

The income tax position will depend on whether the loan is still outstanding or has been repaid in full, and whether the settlor's spouse is included as a discretionary beneficiary.

Those previously in the remittance taxation basis for their foreign income and gains, are now subject to new rules and tax advice

should be sought.

#### UK funds and offshore reporting funds

#### Where the loan has been repaid and the settlor's spouse is excluded from all benefit under the trust

Under a discretionary trust there is no beneficiary who is entitled to income when it arises to the trustees. The trustees themselves are taxed on any income arising from the funds at the special 'trust' rates.

Trusts with income less than £500 in a tax year are not subject to Income Tax. If income is £501 or more then all income will be taxed at the appropriate trust rate depending on the income source.

Where trust income is paid to a beneficiary it is treated as having already been taxed at the trust rate of 45%. Where the trustees have paid insufficient tax on the income, they may have to pay more tax.

If the beneficiary is a non, basic or higher rate taxpayer, they may be able to claim some or all of the tax back. If they pay tax at the 45% rate they will have no more tax to pay on the trust income.

Special rules also apply if the income distribution is made to a beneficiary who is the settlor's minor child. In such a case the settlor will be taxed on that income if, it exceeds £100 gross in a tax year.

#### (b) Where the loan remains outstanding or the spouse of the settlor may benefit under the trust

If any amount of the loan remains outstanding, all trust income will be taxed on you at your personal rates of income tax. The same applies if you choose to include your spouse as a beneficiary under the Nucleus Discretionary Loan Trust. This last rule, though, does not apply if only your widow or widower can benefit.

However, despite this, the trustees will still be liable at the trust rates. You will receive a credit for the tax paid by the trustees and you may be able to reclaim any excess tax paid. Please speak to your financial and tax adviser about if this applies to you.

### 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 e.g. on sale, the gain (known as an offshore income gain) realised by the investor (the trustees) will be taxed as income.

Please speak to your financial and tax adviser if you are investing in this type of fund about which taxes will apply and who is assessable for these.

- a) Where the loan has been repaid and the settlor's spouse is excluded from all benefit under the trust

The trustees are liable to tax at the special rate of 45% on offshore income gains.

- (b) Where the loan remains outstanding or the spouse of the settlor may benefit under the trust

If any amount of the loan remains outstanding, all trust income, including offshore income gains will be taxed at your personal rates of income tax. The same applies if you choose to include your spouse as a beneficiary under the Nucleus Discretionary Loan trust. This last rule, though, does not apply if only your widow or widower can benefit.

However, despite this, the trustees will still be liable at the 45% trust rate described above, effectively paying tax on your behalf. You will receive a credit for the tax paid by the trustees and you may be able to reclaim any excess tax paid. Please speak to your financial and tax adviser about if this applies to you.

## 9.3 Capital Gains Tax (CGT)

### 9.3.1 Creation of the trust

There are no CGT implications when the trust is set up. There may be the usual CGT implications if you have to sell investments that you own in order to raise the cash for the loan.

### 9.3.2 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 in a collective unless it is an offshore non-reporting fund when the gain will be subject to income tax.

Unless the settlor has created more than one settlement the trustees are normally entitled to an annual CGT exemption, currently £1,500, before any tax is actually payable. The trustees pay tax at a special trustee rate, which is 24% on capital gains arising from investments that exceed their available annual exemption.

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