Ellacotts

Using discretionary trusts for succession planning

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Speakers

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Ann is a Chartered Tax Adviser, a qualified accountant and a member of the Society of Trust and Estate Practitioners (STEP) and has over 25 years' experience advising on a range of business and personal tax issues.

Ann specialises in the areas of corporate, employment and business tax along with associated tax solutions and advises on all areas of business taxation, including Corporate Tax, Transaction Tax, R & D Tax Relief, Management Equity and Share Options, Restructuring, Capital Allowances and Employment tax issues.

Ann joined Ellacotts to lead and enhance the tax services provided by the firm and to provide support to the rest of the firm. Ann is a member of the UK200 Group Tax Panel.

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Joanne Wright, ATT, CTA, TEP, has over 15 years' experience specialising in tax planning for estates, landowners, farmers and agricultural businesses. Her work involves advising clients in all aspects of tax, both from a compliance and advisory aspect.

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Myths about trusts

1. Trusts are just for millionaires
2. Trusts are costly to establish and maintain
3. Trusts have very limited application
4. Trusts are an archaic concept

How does a discretionary trust work?

1. Structure to hold and **protect** assets
2. Trustees are appointed to **control** the assets
3. Letter of wishes
4. Flexible - wide class of beneficiaries

Why would you hold assets in a discretionary trust?

1. Protection for younger beneficiaries

2. Flexibility

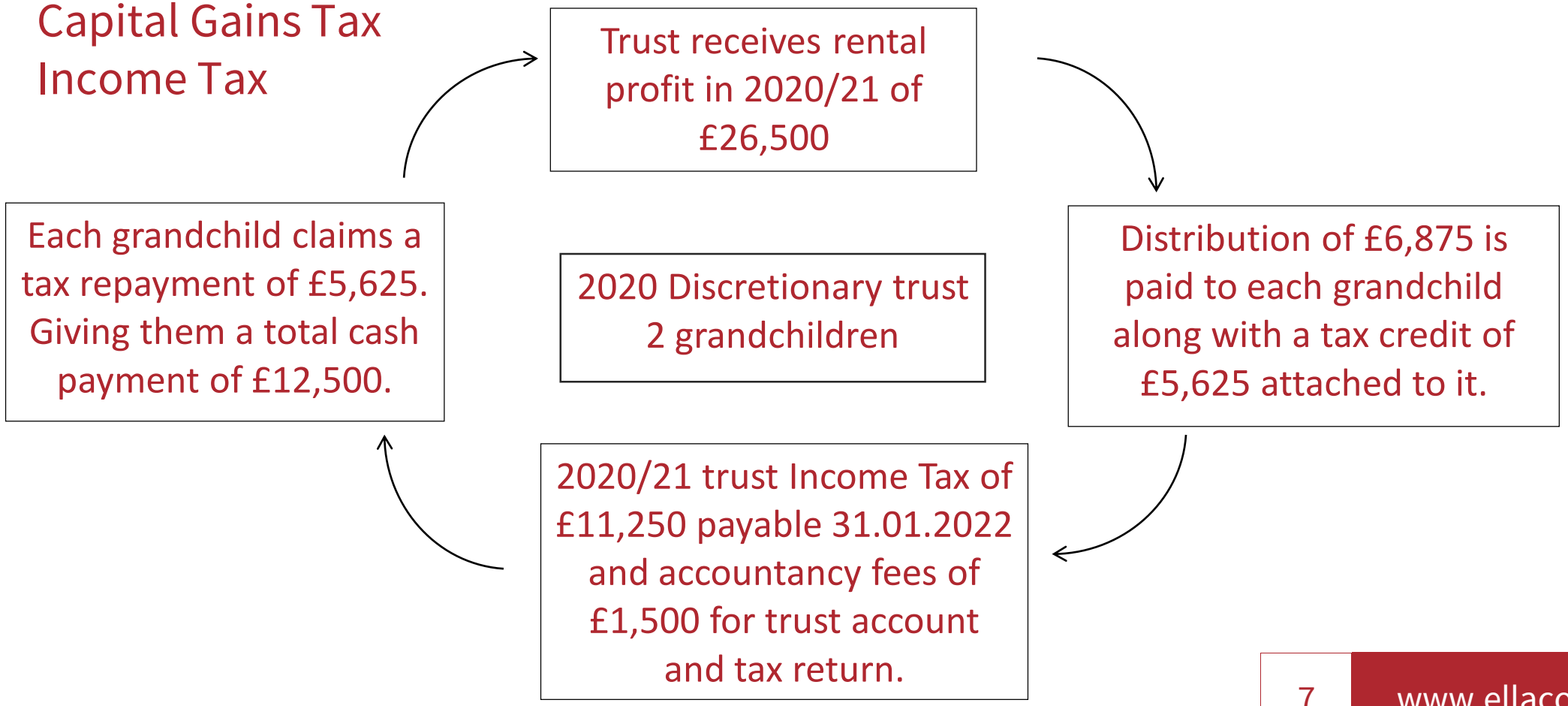
3. Protection
   - Vulnerable beneficiary
   - Assets' value
   - Guaranteeing succession of property

4. To conceal beneficial ownership

5. Employees / Charities

Why would you hold assets in a discretionary trust?

6. Tax advantages
   - Inheritance Tax
   - Capital Gains Tax
   - Income Tax



Discretionary trust top tips

1. Trustees have the power therefore chose carefully
2. A good trustee is someone:
   - All beneficiaries trust and respect
   - Understands the issues they need to deal with
   - Has experience
   - Able to make logical reasoned decisions

Pro's & Con's

1. Tax advantages
2. Beneficiaries do not own the assets
3. Privacy
4. Loss of ownership of assets
5. Can be expensive
6. Periodic tax charges
7. Lifetime of up to 125 years
8. Future law changes

Case Study

- Investment company holding property with following shareholding:
  - Mr A - father
  - Mrs B - mother
  - Mr C - son
  - Mrs D – wife of son

- Mr C and Mrs D have 3 children
- Mr A and Mrs B gift shares to discretionary trust for benefit of grandchildren to pay school fees.
- Value of shares less than £325,000 each.
- IHT – chargeable lifetime transfer, after 7 years gifts another £650,000 of shares.
- IHT tax every 10 years at a maximum rate of 6%.

Case Study

- Farming partnership – father, mother and son. Sister not in farming partnership. Married but marriage rocky.
- Own 250 acres of farmland with a let cottage worth £625,000. Wishing to pass down to son.
- Can gift the farmland direct to son – no CGT or IHT
- Can gift the let cottage into trust - Allows trustees to decide at a later date whether they wish to leave to son or daughter.
- No CGT or IHT
- Appoint out in the future. CGT – holdover, exit charge – Nil if still under £650,000.

Myths about trusts

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Any questions?

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