

Case study: Funeral Plan Trust

Client: Kingfisher Independent Funeral Services

Objectives: To carry out a review of the existing trust documentation; to provide an up-to-date and robust trust deed to suit Kingfisher's purposes and to liaise with the trust's accountants, auditors and investment Manager and HMRC to advise on and determine the tax position.



Background

In 2001, a Regulated Activities Order changed the way in which pre-paid funeral plans could be offered without the provider being regulated by the FCA, which meant essentially by insurance policy or by trust.

Kingfisher offer their clients a pre-paid funeral plan, utilising a trust to protect their clients' investment. In order to confidently move forward with this aspect of the business, they needed to be sure that their clients were protected; that they were complying with the regulations and operating within trust law.

Kingfisher and the trustees were also concerned to ensure their trust was appropriately taxed and reported on to HMRC, as there appeared to be no formal written approach or policy statement from the Revenue. Should capital gains and income be taxed in the hands of the trustees, Kingfisher or the customers? Would the trust pay Income Tax and Capital Gains Tax, or Corporation Tax?

Solution

The Private Client team provided a comprehensive, plain-English review of Kingfisher's trust deed and offered recommendations and advice on possible amendments. A new, bespoke trust deed was drafted which took into account the needs of the business as well as those of the trustees. The document was also drafted within the Regulations and compliant with the relevant trust legislation.

To ensure the purpose of the trust was clear, a Statement of Intention was prepared for the trustees, setting out the trust's purpose and referencing its investment policy, which the trustees will continue to review. Advice was also given on the drafting and operation of the trust powers and on its registration requirements.

Finally (and perhaps most importantly given the impact on the drafting of the new trust deed and potential financial ramifications), the team was able to provide Kingfisher with HMRC's view on the taxation and reporting of the funeral plan trust.

With all the essentials now in place, Kingfisher can continue to offer the all-important pre-paid funeral service to their clients, safe in the knowledge that it is fit for purpose.