

# To Discount or Not to Discount under the Chargeable Transfer Regime and Interaction with the PET regime

## Technical Note for Tax Planners

NB. This note applies to HNWI with assets in excess of the IHT NRB as may be available to each client.

1. Many tax planning advisers have been asking the question as to how the option between 'Flexible' and 'Discounted' IHT plans should be balanced within the Chargeable Transfer (CT) regime and the bare trust PET regime under the new FA 2006 regulations as they impact on interest-in-possession and bare trusts.
2. There are two new fundamentals which need to be accepted and properly understood. The first is:- All discounted plan reversion values fall back into the estate of the Settlor if and when they occur whether from a trust which falls under the CT regime or a bare trust under the PET regime.
3. The second fundamental is that:- All flexible plans, under the CT regime, in the event that the trustees defer a reversion then such deferred reversion value will not fall back into the estate of the Settlor. Now it is no longer possible to have flexible plans, i.e. with trustee powers to defer reversions, under the PET regime via bare trusts. This may only apply under the CT regime.
4. Accepting the two fundamentals as explained above in conjunction with the inability to be able to provide the flexible plans under the bare trust PET regime it becomes obvious that there are two distinct trust zones.
5. The first trust zone should be flexible trusts falling under the CT regime thereby using the available NRB avoiding the 20% life time rate and not securing any discount because the reversion is defeasible.
6. The second trust zone should be for the discounted trusts which fall under the bare trust PET regime with no ceiling in relation to the NRB or life time rate problems, not to mention reporting.

7. The question now posed is "So where is the advantage?"

The answer is :-

- under a cluster of flexible trusts falling under the CT regime where asset value is not locked away from the family until the Settlor's demise or a reversion occurs to return some capital; and
- bearing in mind that appointments of capital may be made to beneficiaries during the Settlor's life time plus also it is incredibly useful and valuable tax wise to have the ability for the trustees to
- defer reversion value, if not required by the Settlor, without any IHT, CGT or income tax implications

Also,

- reversions may be structured to keep trust value beneath the ten year periodic NRB with
- no exit charge impost on such reversions to the Settlor.

Alternatively reversions from discounted plans falling under the bare trust PET regime where there are

- no reporting requirements or
- any NRB ceiling to consider and in any event
- the value of the reversions will fall back into the Settlor's estate, and this will
- maximise the value of assets which may be placed under the flexible trust CT regime every seven full years without
- deploying the NRB CT regime value, which will return to the Settlor's estate at some future date if alive, albeit at a discounted value.

8. The consequence of the ten advantages mentioned is for the bare trust PET regime, the second trust zone holding discounted plans, to become a holding pen which allows for the maximisation of asset value which may be held under the CT regime with the more sophisticated flexible trusts.

9. The second trust zone, being used as a holding pen, allows for the structured reversions for the Settlor to establish a new family of flexible trusts under the CT regime in eight years time within the Settlor's then available NRB, which will have been fully recharged since establishing the original trusts seven years previously. Health considerations may need to be considered seven years hence but husband and wife positions give options if required. 14 year level term assurance is always an option worth considering.

IHT mitigation plans easy reference.

1. Legacy – Non-Discounted and Discounted. Both CT regime.
2. ECB – Non-Discounted. CT regime.
3. ETB – Discounted. Bare trust PET regime.
4. FIP – Discounted. CT regime or bare trust PET regime.

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