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# Tax Overview
# Protective Property Trust

**This guide is to help you** understand the key points of how Protective Property Trusts are taxed and is based on the current 2022/2023 tax year rules and therefore could be subject to change.

This guide applies to married couples and civil partners (C.P). In brief, the Protective Property Trust begins on the death of the first spouse/C.P. and provides the surviving spouse / C.P. ('the life tenant') with a 'life interest'.

The trust ends on death of the survivor and is when the beneficiaries receive the trust property.

## Inheritance Tax (IHT)

- Married couples / civil partners benefit from the spousal exemption.
- This type of trust qualifies for the Residence Nil Rate Band (subject to qualifying criteria). Typically, this is where the gross value of the estate is less than £2million and the beneficiaries are children, step-children, or grandchildren.
- There are no entry, anniversary or exit charges apply to this type of trust.
- The value of the trust fund is combined with the personal estate of the life tenant.
- On death of the life tenant, IHT may be due if the value exceeds available allowances and reliefs. If IHT is due, the trust will pay a proportionate share of this from trust funds.
- If the survivor (known as the 'life tenant') ends the trust early, this will be viewed as a gift ('Potentially Exempt Transfer'). If he/she survives seven years, then no tax is due.
- If he/she dies within seven years of ending the trust early, then whether Inheritance Tax needs to be paid on the Potentially Exempt Transfer will depend on the availability of the nil rate band.

## Capital Gains Tax (CGT)

- There is no Capital Gains Tax (CGT) payable on death of the first spouse / C.P.
- The trustees will receive the property at market value (Probate value) at time of death.
- If the property in trust was the main residence of the couple, then Principal Private Residence relief will be available in most cases and mean no CGT is payable if the property is sold e.g. if the life tenant wants to move or downsize.
- On death of the life tenant, the value of the trust property is given a further tax-free uplift to market value (Probate value).
- When the trustees transfer the property to the beneficiaries, CGT will only be payable if the property has risen in value above the Probate value.
- Trustees have an annual allowance of £6,150 that can be applied to any gains.
- The CGT rate for trustees is 20% and 28% for residential property.

## Income Tax

- Income is not usually generated by this type of trust unless the life tenant has moved out of the property and this is rented out or surplus from downsizing has been invested to produce an income.
- The trustees may mandate income to be paid directly to the life tenant so that they declare and pay any tax arising rather than the trust. The advantage of this is that the life tenant may use his/her personal allowances.
- If the trustees instead pay the income tax, this will be at 8.75% on dividends and 20% on other forms of income. Trustees do not have any savings or dividends allowances.