

# Guidance Notes

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## The Bare Trust



## What is The Bare Trust?

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The Bare Trust is intended to enable an individual to make a gift of an asset held on the Transact platform to children or other specified beneficiaries to secure certain inheritance tax benefits. It takes the form of a trust deed signed by you as settlor, and persons you wish to act as trustee(s). You are automatically appointed as a trustee but can elect to be replaced if you do not wish to act. You should not be the only trustee.

## What does The Bare Trust do?

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There are two main aims of The Bare Trust:

1. To make an effective gift for inheritance tax purposes of an asset held on the Transact platform and
2. To set aside a fund for the benefit of a specific beneficiary.

However, there may be other benefits of the arrangement depending on the circumstances.

By transferring money or assets to the trustees of The Bare Trust you are transferring property out of your ownership and into the ownership of the trustees. Such transfers are treated as 'potentially exempt transfers' ("PET") for inheritance tax purposes with the result that if you survive the gift by seven years, the value of your estate is lower than would otherwise be the case. Accordingly, the amount of inheritance tax payable is also reduced.

The Bare Trust is an absolute trust meaning that the beneficiary(ies) once appointed cannot be varied and if more than one beneficiary appointed, neither can their respective interests be changed. Furthermore, once a beneficiary attains age 18 they can demand ownership of the asset.

It is important to understand that, once established, the settlor cannot benefit in any way from the assets transferred into The Bare Trust.

## Estate planning benefits in more detail

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On the assumption that you are resident and domiciled in the United Kingdom for tax purposes, use of The Bare Trust offers the following features:

**Reduction in Value of Estate** – the value of property transferred into The Bare Trust will be a PET for inheritance tax. This means that the value of your estate for inheritance tax purposes is reduced by the value of the PET if you survive the gift by seven years. If you die between three and seven years of making the transfer, any potential inheritance tax that might otherwise have been payable (e.g. if that amount had been transferred on death) is reduced according to a sliding scale if the gift exceeds the nil rate band.

**Value to Beneficiaries** – your beneficiaries will receive the benefit of the value of the property transferred to The Bare Trust with effect from the date of transfer together with all investment growth and income.

Income and gains arising from the trust investment belong to the beneficiary (including without limitation any spouse) who will be liable for any income and capital gains tax. Professional advice should be sought.

However this tax treatment will vary if the settlor is the parent of a minor child beneficiary. In this case, if the income exceeds £100 per annum (£200 per annum for joint parental settlors) the income will be assessed on the settlor(s).

**Avoidance of Probate** – property held by The Bare Trust will not be property in respect of which a grant of probate will be required by your executors on your death. Therefore the trustees will continue to be able to deal with trust property in accordance with their powers under the trust deed without the restrictions which apply whilst a grant of probate is obtained over the rest of your estate.

## How to set up The Bare Trust

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Assuming that you have agreed with your professional adviser that estate planning with The Bare Trust is appropriate - and have identified the investments you wish to be held by The Bare Trust, there are certain other practicalities you may need to consider:

### Appointing trustees

Until the beneficiary is 18, the trustees will have control over the trust fund. Any person over the age of 18 can be a trustee. When a grandparent makes a gift it is usual to appoint the parents as trustees. Decisions cannot be made unilaterally but must be made by all trustees.

### Should I be a trustee?

Under the deed you are appointed automatically as a trustee but can elect to be replaced if you do not wish to act. Although it is possible for you to act as the sole trustee, it is strongly recommended that at least one additional trustee is appointed. The trust deed is drafted on this basis and stipulates that there must be at least two trustees (unless a trust company is appointed).

It should be noted that by transferring the property into the trust, you will cease to be the owner of that property. If you continue in the role of trustee you will not be able to act unilaterally as if you were still the property owner. Decisions must be made by all trustees.

### **Should I appoint a trust company?**

There are practical advantages in appointing a trust company to act as trustee, rather than appointing two or more individuals. These include the benefit of in-house administrative expertise in the maintenance of trust accounts and returns, as well as continuity. Charges for these services are typically competitive, although they can become disproportionate for smaller trust funds. Your professional adviser will be able to make appropriate recommendations.

### **Do I need legal advice on the trust deed?**

Transact provides a specimen trust deed for consideration by you and your professional advisers. However, the circumstances and estate-planning requirements of each settlor are different, and the specimen trust deed is provided only for guidance and without any acceptance of responsibility by Transact for its use. The law and interpretation in this area is also subject to change in the light of decided cases. You should therefore take your own professional advice.

### **How quickly can The Bare Trust be set up?**

Once you have agreed with your advisor upon the investments you wish to place in The Bare Trust and the form of the trust deed, the establishment of the trust can take place straight away.