



## TAX TREATMENT

- Assets passing into a Life Interest Trust will be chargeable to Inheritance Tax unless the Life Tenant is an exempt beneficiary, like a spouse.
- Creating a Life Interest Trust for a non-spouse may result in double Inheritance Tax on the property, potentially reducing trust funds for remaindermen due to the Life Tenant being taxed at 40% if their estate exceeds the nil rate band.
- Upon the first death after Probate has been completed, the deceased share of the property must be vested in the Trustees' names on the HM Land Registry. Once registered, the Trust must then be registered on the HMRC Trust Registry.

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# Life Interest Trust





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A Life Interest Trust in a Will allows the testator to give a life interest in their main residence to a beneficiary called the 'Life Tenant'. The Life Tenant can enjoy the property during their lifetime but does not own it outright. Upon the Life Tenant's passing, the property goes to the 'remainderman' beneficiary as specified in the Will.



## IN WHAT CIRCUMSTANCES WOULD YOU ADVISE A LIFE INTEREST TRUST?

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Life Interest Trusts are often used to prevent "sideways disinheritance," where a surviving spouse changes their Will after remarrying or recoupling, potentially leaving intended beneficiaries, often children, with reduced or no share of the property at all.

Another reason to consider using a Life Interest Trust is if you have expressed concerns over asset preservation should you require long-term care in the future.

Many clients are property rich and cash poor and their largest asset is the property in which they reside. This is often something they want to preserve in order to maximise the inheritance passed to their chosen beneficiaries.

The Trust offers protection following the 'first death' by passing the deceased's share of the property into trust rather than directly into the estate of the survivor. This means that if the survivor requires long term care in the future then they do not have the deceased's share of property calculated as part of their wealth, but they do have a lifetime interest in it so they can enjoy it as if it is their own.

## KEY FEATURES OF THE LIFE INTEREST TRUST

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- The Life Interest Trust provides an interest for life in the main residence or a share of the main residence for the chosen 'Life Tenant'.
- At least two Trustees are required. Careful thought should be made as to who may be the most appropriate as they will have to work harmoniously with each other and the Life Tenant. The Life Tenant can also be a Trustee.
- The Life Tenant never owns the property held in trust absolutely and has no rights to dispose of the property.
- The property held in trust is guaranteed to pass to the 'remaindermen' beneficiaries who are named in the Will which created the Life Interest Trust.
- It provides power to the trustees with the agreement of the life tenant to sell the property and buy another under the same trust terms. This is useful as clients get older they may want to downsize. Any surplus cash from a sale and purchase will be held in trust until the death of the Life Tenant.
- The Life Tenant is responsible for keeping the property in good repair, insured and paying all outgoings.