ADVISER FACTSHEET

JAMES HAY PARTNERSHIP

Tech Talk

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Care required when considering a joint General Investment Account for high net worth couples

There are a number of reasons why a joint General Investment Account (GIA) may be unattractive to high net worth couples. Failure to take these into account could prove costly.

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For professional advisers only

Control of who inherits investments on death

The first issue is that assets held jointly in a GIA will normally be held as joint tenants. This means that each party to the GIA has equal rights over the property whilst alive, but when one individual dies, the ownership of all the investments in the GIA passes automatically to the survivor. This loss of control over where the deceased's share of the investments can be directed may conflict with their will and also have an impact on IHT planning.

EXAMPLE 1

John is widowed with two children. He and his new partner have a joint GIA, most of the money invested came from the sale of John's house. John's will states that he would like his estate held in trust for the benefit of his partner and on her death pass to his children. Unfortunately on his death the assets held in the GIA would automatically pass to his partner and not pass to the trust created in his will. The only way the joint tenancy could be severed after his death is by deed of variation, but that would rely on his partner's consent, which she may not be willing to give.

Tax planning

A second issue is when assets are held as joint tenants, some tax planning opportunities may not be available. For example, any income is treated as having been split equally and so in the case of the tax planning opportunity, where one individual pays a higher tax rate than the other, they will be unable to direct a larger proportion of income to the individual in the lower tax band. Legislation does however give spouses and civil partners who own assets as joint tenants the ability, by way of declaration, to split the income in a proportion other than 50/50. The caveat is that this is based on the assets being held directly in joint names. HMRC Trust, Settlements & Estates Manual 9810 clearly states;

'Where a husband and wife or civil partners are entitled to property and the income from it, but the property is held in the name of a nominee, then it's not property held by a married couple or civil partners living together, and the special rules do not apply'

Thus, where assets are held by a nominee, as they are in a GIA, the investments are not deemed to be directly held, and therefore the allocation of income can be in no other proportion than a 50/50 basis.

With the introduction of the lower rates of CGT, dividend allowance, the personal saving allowance and differences in the individual holder's tax rates, the ability to create a tax efficient combined portfolio is far more difficult to achieve than one established on an individual basis. One simple scenario is where growth suits one individual as opposed to income for the other. With a joint GIA this, is not possible.

EXAMPLE 2

Ken is a higher rate taxpayer, whilst his wife Fiona who works part time is a basic rate taxpayer. Fiona inherited money from her parents which has been invested in a portfolio of collectives held in a joint GIA with her husband. For 2016/17 there is dividend income of £20,000. Their tax liability on the dividend income would be as follows:

	Ken	Fiona
Dividends	£10,000	£10,000
Less dividend allowance	£5,000	£5,000
Taxable dividend	£5,000	£5,000
Tax @	32.5%	7.5%
Tax payable	£1,625	£375

If it was possible to allocate 75% of the dividends solely to Fiona, their combined tax liability would reduce by £1,250 as detailed below.

	Ken	Fiona
Dividends	£5,000	£15,000
Less dividend allowance	£5,000	£5,000
Taxable dividend	£0	£10,000
Tax @		7.5%
		£750

EXAMPLE 3

Ken used up his CGT allowance for 2016/17 when he sold shares acquired in his employer's company through an approved share option scheme. As a result, Fiona would not then be able to use all or part of her CGT annual allowance on a jointly held GIA without creating a corresponding CGT liability for Ken. If investments were subsequently sold, creating a gain of £10,000, Fiona would have no CGT to pay on her gain as this is covered by her annual exemption, but Ken would have a CGT liability of £1,000 (£5,000 x 20%). If Fiona had created the gain from sales in a GIA in her own name, there would have been no CGT liability on the £10,000 gain as this would have been covered by her annual CGT exemption.

A final issue around tax planning is from an IHT perspective in that being able to plan using assets held in an individual's own name is simpler and provides more flexibility than if held jointly.

EXAMPLE 4

Mark and Lesley have both been married previously and each has a child from their first marriage. Lesley wants to give her daughter £100,000 to help purchase a house and the money comes out of their joint GIA. Mark unfortunately dies shortly after. His will leaves £400,000 to his son, however he is deemed to have made a gift of £50,000 to Lesley's daughter so he loses £50,000 of his IHT nil rate band resulting in an additional £10,000 IHT charge on the bequest to his son. This could have been avoided if Lesley had made the gift to her daughter out of assets held solely in her name.

Attitude to risk

If a couple have differing attitudes to risk, then the only way this can be resolved is for each person to hold an investment portfolio in their own name. Even if they do have the same attitude to risk when a joint GIA is set up, this may not be the case as time elapses.

Conclusion

For high net worth couples care should be taken to consider the potential pitfalls of holding their investments jointly in a GIA as opposed to individual accounts. An adviser should be confident of their reasoning behind recommending a joint GIA, though often this is based purely on the grounds of cost. As can be seen from the issues raised above, this approach could prove far more costly in the longer term when a joint GIA is used rather than individual accounts.

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