

a guide to trusts by  
**royal skandia trust company**  
(UK domiciles only)



enabling intelligent investment choice

# royal skandia trust company – experts you can trust

This document explains some of the benefits of trusts and how the professional trustee service provided by Royal Skandia Trust Company can take the effort out of managing your trust fund.

Tax and estate planning decisions are among some of the most important decisions you will ever make, so it is crucial to use an experienced service provider with solid foundations that offers the flexibility to adapt as your needs change.

Royal Skandia Trust Company has been offering its services exclusively through financial advisers since 1999. So, when they recommend us, you can be sure they are doing so because they truly believe in the company and the service we offer.

We are based in the Isle of Man and are part of Skandia UK, a division of the Skandia UK Group, itself owned by Old Mutual plc. Old Mutual is an international savings and wealth management company based in the UK. Originating in South Africa in 1845, the group has a balanced portfolio of businesses offering asset management, life assurance, banking and general insurance services in over 40 countries, primarily in South Africa, Europe and the United States. Old Mutual is listed on the London, Johannesburg and Stockholm stock exchanges, amongst others.

Being a part of Old Mutual makes Royal Skandia Trust Company an important part of the seventh largest life assurer in Europe\* with a strong financial base. The combined group has funds under management of £278.9 billion\*\* and nearly 53,000 employees.

Skandia International is the divisional name for the international companies within the Skandia UK Group; Royal Skandia Trust Company is one of these international companies.

*\* As at 31 December 2006,  
Source: Bloomberg.*

*\*\* As at 31 December 2007,  
Source: Old Mutual.*



**Throughout this brochure, wherever we want to explain a particular term or draw your attention to a potential risk, we have highlighted them in boxes like this on the page where the term is first used.**

#### **estate**

All the assets that a person owns (or, in some cases, is treated as owning) at the time of their death, less their liabilities. Your estate will also include the value of any property you have given away if either the gift you have made is subject to conditions or restrictions, or you keep back some benefit for yourself.

# the trust

## what is a trust?

Simply put, a trust allows you (the settlor) to entrust your assets (the trust fund) to the trustees for the benefit of your beneficiaries.

It is the responsibility of the trustees to take control of, manage and ultimately distribute the trust fund to your beneficiaries.

A trust is one way to move money out of your estate, perhaps to reduce your potential liability to certain taxes. It can also avoid the potentially lengthy delays often associated with administering estates so that, in the event of your death, the people you want to benefit from your estate do so as quickly as possible.

You can put all manner of assets in trust, including investments and life assurance policies. However, Royal Skandia Trust Company will only act as trustee for the policies issued by Royal Skandia Life Assurance Limited.

Certain trusts not only allow you to pass on your wealth when you die but can also give you access to regular 'income' when you are alive. However, you should be aware that with trusts designed to achieve a tax saving, you usually have to forgo access to some of the original capital as well as any capital growth.

## who is involved?

There are normally three parties involved in setting up a trust:

- you, the settlor;
- the trustees; and
- the beneficiaries.

There may also be a fourth party involved:

- The protector who monitors the trustees and ensures that their actions are in the best interest of the beneficiaries.

## why use a trust?

There are generally three reasons people want to create a trust:

1. Mitigating their potential liability to certain taxes.
2. Controlling how and when their assets are distributed and to whom.
3. Estate planning for potential changes to your circumstances.



### settlor

The settlor is the person who sets up the initial investment. You can be a settlor either on your own (as a single settlor) or with someone else, such as a spouse or civil partner\* (as joint settlors). The settlor(s) transfers the ownership of the assets to their chosen trustees. Some trusts need to be established by means of a loan where the settlor(s) lends the money to their trustees to invest.

### trustees

The trustees are the legal owner(s) of the assets, and manage the assets for the benefit of the beneficiaries. They are also responsible for dealing with the trust fund on the settlor's death.

### beneficiaries

The beneficiaries are the individuals or groups of people named under the trust. These are often children, or other family members. Depending upon the nature of the trust, it may also be possible to include future generations, such as grandchildren as yet unborn.

*\*As defined by the Civil Partnership Act 2004.*

# mitigating a potential tax liability

Before we cover inheritance tax (IHT) it is important to understand domicile and its importance in tax planning.

## domicile

In most countries, domicile has no impact on a person's potential liability to tax. However, in the UK it is possible for someone to remain domiciled elsewhere under the general law but to be deemed to be domiciled in the UK for UK IHT purposes.

A person who is not UK domiciled would be deemed UK domiciled when they have been resident in the UK for at least 17 of the previous 20 tax years.

### On leaving the UK

On leaving the UK there are a couple of residency rules which apply before a person is no longer deemed domiciled in the UK for IHT purposes.

Firstly, a person who is UK domiciled, but who has acquired a different domicile of choice, would still be deemed domiciled in the UK

for IHT purposes within three calendar years of establishing their new domicile of choice.

Secondly, if a person who was deemed UK domiciled leaves the UK they would be assessed on the 17 out of 20 year rule to establish if they would still be treated as domiciled within the UK for IHT purposes. Once this person has been non-UK resident for income tax for more than four out of the previous 20 tax years, then they will no longer be deemed domiciled for UK IHT purposes.

## inheritance tax (IHT)

IHT is payable when your estate is passed on to your heirs. In the UK, the estate of a UK domiciled or deemed domiciled individual is liable to IHT if its value exceeds the 'nil-rate band' (NRB) and it is not left to an exempt person/body.

IHT affects more and more people every year. One reason for this is the rapid rise in house prices over recent years, which has taken many estates over the NRB.

A trust is one way to move money out of your estate in order to reduce your IHT bill.

Without IHT planning your family could be faced with a large tax bill when you die. They may even have to sell assets, such as the family home, in order to pay the bill.

With some forward planning you can ensure that those you wish to benefit from your estate actually do.



### domicile

Domicile is a concept of general law and is distinct from nationality or residence. Whilst it is possible to be resident in more than one country, it is not possible to be domiciled in more than one country at any given time. Generally speaking, but not always, this means that a person will be domiciled in the country in which they have their permanent home, whether or not they actually live there.

### domicile of origin

Domicile of origin is inherited, normally from the father.

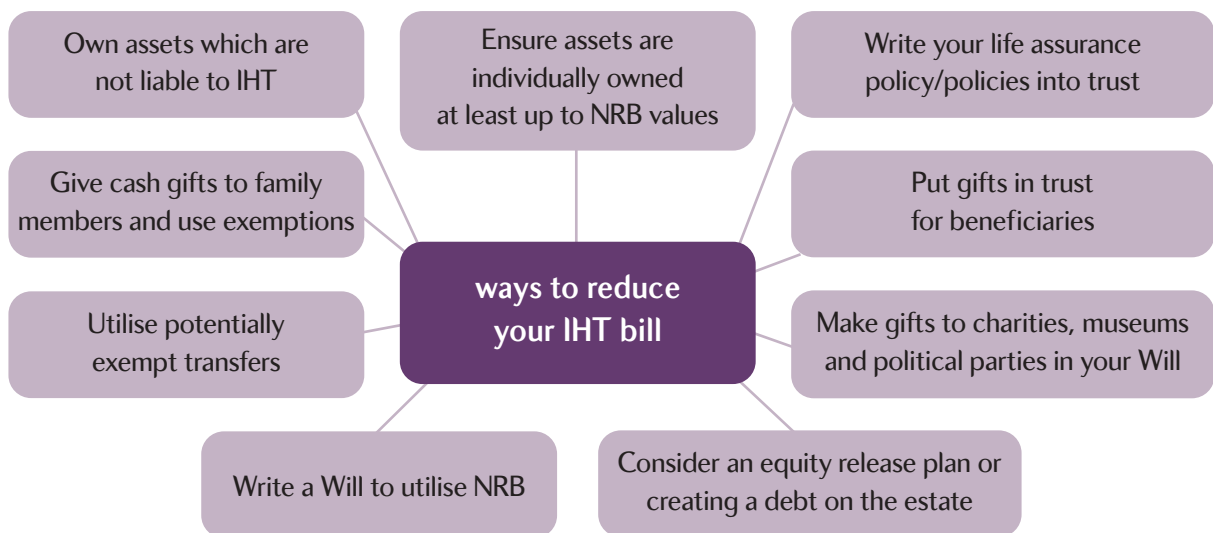
### domicile of choice

A domicile of choice can be acquired by settling in a new country with the intention of living there permanently and cutting all ties with the domicile of origin. However, it is very difficult to achieve a domicile of choice as there are no fixed rules as to what is required to acquire this. The ultimate decision lies with the UK HM Revenue & Customs.

### nil-rate band

The nil-rate band (NRB) is not fixed and has, historically, increased year-on-year. Currently the first £312,000 (for the tax year 2008/09) in your estate is taxed at 0% for IHT purposes. This is known as the NRB. Any assets above the NRB are liable to IHT at 40%.

The main approach to IHT mitigation is to reduce the value of your estate over a number of years. There are many ways of doing this, such as those outlined below.



For specific information about Skandia’s IHT solutions, please speak to your financial adviser.

## income tax

Gains made from life assurance policies are generally subject to income tax. The rules relating to these are known as the ‘chargeable event’ rules. If a chargeable event occurs in respect of a bond held subject to a trust, the tax charge will usually be based on your income, as the settlor of the trust.

If you are no longer UK resident, or you have died and the chargeable event occurs in a tax year after your death, then different rules apply:

- If the trustees are UK resident, the chargeable event gain will be assessed on the trustees at the trustee rate of 40%.
- If the trustees are not UK resident (please note that Royal Skandia Trust Company are non-UK resident) then any UK beneficiary receiving a benefit from the trust will be taxable on that amount at their tax rates.

- A trust can be employed to mitigate the amount of any income tax payable. For specific information on this, please speak to your financial adviser.

## capital gains tax

Generally speaking, gains made from life assurance policies are not subject to capital gains tax.

# controlling assets

Creating a trust provides a means of making provision for beneficiaries who haven't got the experience, capacity or ability to manage the property themselves, such as minor children or the disabled. You can also use a trust to make provision for a beneficiary who is incapable of managing money sensibly.

A trust might also provide a solution if you have complicated family circumstances, such as children from a previous marriage or stepchildren. You might also be concerned about the heirship rules governing your estate.

## probate

The assets held in a trust are owned by the trustees for the benefit of the beneficiaries. Therefore, a trust avoids the possible delay involved in administering your estate by avoiding the need for probate on your death in respect of your assets held in trust.

## intestacy/succession

If your assets are not held subject to trust and you die without leaving a valid Will, a court must decide who should administer your estate.

The people chosen may not be the people you would have wanted to handle your estate.

## forced heirship

In England, Wales and Northern Ireland you can leave your assets to whomever you choose. In most European countries, including Scotland, this is not the case. The laws of succession define specific rights for certain persons (the protected heirs).

Whatever your Will might say, it can easily be overturned by the protected heirs. This is known as forced heirship.

The primary purpose of forced heirship is to ensure that individuals make proper financial provision for their dependants. To avoid these provisions, it may be possible to create a trust which is governed by the laws of a jurisdiction other than that in which you are domiciled.

The law in the Isle of Man (Trusts Act 1995) recognises an individual's right to create a trust under the Manx law, even if their home jurisdiction does not. The Isle of Man Courts will not enforce the rights under the home jurisdiction of dispossessed heirs.

In many common law jurisdictions, where the concept of forced heirship does not apply, it may still be possible for someone who felt inadequately provided for to make a claim against your estate for redress.

As mentioned earlier, in England, Wales and Northern Ireland you can leave your assets to whomever you choose. But, if someone felt that you had failed to make adequate provision for them under your Will (or intestacy), such a person might then be able to make a successful claim against your estate for reasonable financial provision.



### probate

When someone dies, the executor or administrators of the deceased's estate apply to the Court for authority to deal with the estate. This authority is called probate.

### intestate

If you die without leaving a valid Will, ie intestate, the so called rules of intestacy applicable in the jurisdiction to which you or your property are subject will dictate who benefits from your estate and to what extent. The rules of intestacy will vary depending on where in the world you are domiciled.

### forced heirship

Depending on where you live or own property, you may not be entirely free to decide who should benefit from your estate when you die. Although, by a Will or a codicil to it, you may specify that certain people are to benefit, it is possible that your wishes will be overridden by the local law. This is commonly referred to as 'forced heirship'. Forced heirship laws are found in civil law jurisdictions, Islamic countries and some others.

# estate planning for potential changes to your circumstances

There are a number of circumstances in which estate planning via a trust may be appropriate.

## divorce or complex families

You may wish to ensure that on your death, all assets are held only for the benefit of your own children and not be shared out to ex-spouses/partners of those children.

Similarly, if you have married for a second time, you may want to ensure that assets are held solely for the benefit of your children and not for any stepchildren.

Alternatively, in the same circumstances, you may wish to ensure that assets are held solely for the benefit of your current spouse/partner and not for an ex-spouse/partner.

For each example, an absolute trust may be used to specify the intended beneficiary; however, a discretionary trust may also provide protection through careful wording in the trust deed although the law of the trust must also be considered to ascertain the depth of any definitions for beneficiaries.

## protecting personal assets

If you run your own business, it might be advantageous to consider a trust for your personal assets in case something should go wrong with the business in the future. Without protecting personal assets, creditors might have the ability to pursue the business owner's personal wealth in certain circumstances.

In general terms, it is unlikely under any jurisdiction that a trust would be considered valid if its sole purpose was to avoid payment of creditors for known debts when the business is already known to be insolvent. It is also unlikely that the assets would be protected if you, the settlor, were a trustee or beneficiary of the trust.

If an offshore trust was set up where the trustee was an offshore trust company and the business was solvent at the time (ie no known or ascertained creditors at the time), then these assets would be unlikely to be treated as your property in any later creditor claims against the business.

# the role of a trustee

## appropriate administration

The primary responsibility of a trustee is to manage the trust funds in accordance with the terms of the trust and trust law. The trustee must administer the trust for the benefit of the beneficiaries with honesty and with impartiality.

The role of trustee carries with it significant responsibilities. Administering a trust successfully can be something of a challenge for someone unfamiliar with trust and/or tax law. The law relating to trusts and tax is not static and a trustee must, therefore, ensure that they keep up-to-date with any changes.

If a trustee acts in a way that contradicts the terms of the trust, there will be a breach of trust for which the trustee may be personally liable.

## tax reporting

Depending upon the jurisdiction which governs your tax liability, there may be tax to pay on the creation of a trust, or at some future date in connection with that trust.

For example, for UK domiciled settlors, a trustee's responsibilities might also include dealing with tax matters such as:

- reporting the creation of a trust by a UK domiciled individual who appoints non-UK resident trustees\*
- calculating and arranging payment of any tax due, such as 10-yearly periodic charges.\*\*

These calculations can be quite complex, so this is an example where a professional trustee, such as Royal Skandia Trust Company, can not only add value to the management of your trust fund but also give you the comfort and reassurance that the trust is being administered appropriately.

\* This involves completion of an HMRC form known as section 218 form.

\*\* This involves completion of an HMRC form to calculate this change, known as the IHT100d form.

# choosing your trustee

## the quality of the person

The choice of trustee will always be important but where the funds involved are substantial or the family circumstances complex, the choice of who will serve as trustee of your personal trust will be even more so.

You could appoint a family member or close friend to take on the responsibility of managing your trust fund. Of course, the person you appoint (the trustee) would have to accept the appointment for it to be valid.

You will obviously need to have faith in the person you ask to act as trustee and that person will need to have the necessary judgment, skills, perspective and time to perform their duties adequately.

Clearly, not every individual will have these qualities and if, as sometimes happens, the individual is also a beneficiary under the trust, they may not have the necessary objectivity to carry out those duties appropriately. Appointing a professional trustee could solve all these potential problems.

## continuity

If you appoint a family member or close friend as your trustee and that person dies after your death, any remaining trustees could appoint someone you do not even know to manage your trust fund. By appointing Royal Skandia Trust Company as your sole trustee you know that your chosen trustee can remain the same until your trust fund has been distributed.

# why appoint a corporate trustee?

Royal Skandia Trust Company offers an independent trustee service, which can give you peace of mind that your assets will be dealt with in a professional and unbiased manner, in accordance with your wishes.

The advantages of using Royal Skandia Trust Company as your professional trustee include the following:

- You will not have the dilemma of whom to select as personal trustees.
- Your chosen trustee will remain the same until such time as you decide or your trust fund has been distributed.
- Decisions made by the trustee will be objective and in line with the aims of the trust, without personal complications. This means no family member or personal friend will find themselves in a predicament – for example, when distributing your trust fund or being personally liable for their actions.
- All trust paperwork will be dealt with professionally, so there is no need for a lay trustee to spend time understanding the terms of the trust and trust law when dealing with any paperwork.
- The trust assets will be held in an offshore location, which may provide a number of tax advantages.

## the service we offer

### What's included

The Royal Skandia Trust Company provides you with trust administration services only, leaving you free to continue your relationship with your existing financial and investment advisers – we do not replace or duplicate those relationships.

The goal of our well-trained, responsive staff is to provide you with the best possible service at reasonable cost.

We concentrate on implementing the provisions of your trust and our duties will include reviewing documents, maintaining trust records, filing the appropriate tax returns (eg s218 on creation, IHT100d for 10-yearly periodic charges), undertaking yearly trust and asset reviews, as well as responding to enquiries from the various parties to the trust – you, the beneficiaries and third parties.

### What's not included

Royal Skandia Trust Company's trustee service does not include tax or investment advice. You should always consult your financial adviser on both of these matters.

### What it costs

The current fee scale is published in the client agreement which is available from your financial adviser.

# the isle of man

## a secure environment

The law by which a trust is to be governed is very important. Royal Skandia Trust Company is based in the Isle of Man, which is a politically and legally stable jurisdiction, both important factors when considering an offshore centre.

The politically and economically stable environment provides a lower risk for an investor and is unlikely to result in sudden changes in currency or legislation.

The Isle of Man is politically and constitutionally not part of the United Kingdom or Europe. It has one of the longest unbroken histories of parliamentary government in the world and its trust law has its origin in and owes most of its continued development to English trust law, to which it is almost identical.

## trustee regulation

The Isle of Man is well regulated with regulatory legislation specifically aimed at those who provide administration of trusts in the Isle of Man.

The Financial Action Task Force has made favourable comments about the anti-money laundering controls in operation in the Isle of Man and the island received the top rating of AAA by Moodys and Standard & Poor's.

A trust managed and controlled in the Isle of Man does have the advantage that it will be exempt from Isle of Man income taxes, as long as neither the settlor nor beneficiaries are resident on the Isle of Man.

Royal Skandia Trust Company holds a Category one Trust Service Provider (TSP) licence. Full details of the regulations governing fiduciaries such as Royal Skandia Trust Company can be found at:  
[www.gov.im/fsc/beingregulated/fiduciary](http://www.gov.im/fsc/beingregulated/fiduciary)

# trusts for which the royal skandia trust company will act as trustee

## absolute trust

Absolute Trust: a trust created by means of a gift, where the beneficiaries are named at outset and cannot be changed at any time in the future. When a beneficiary reaches the age of majority (which is 18 in the UK but will depend upon the jurisdiction) they can demand their rights under the trust.

## discretionary trust – settlor included

Discretionary Trust: a trust (from which you can benefit) created by means of a gift, where the beneficiaries can be added to and the trustees use their discretion to decide who may benefit from the trust and when. The beneficiaries cannot demand their rights from the trustees.

## discretionary trust – settlor excluded

Discretionary Trust: a trust (from which you cannot benefit) created by means of a gift, where the beneficiaries can be added to and the trustees use their discretion to decide who may benefit from the trust and when. The beneficiaries cannot demand their rights from the trustees.

## discounted gift trust – bare and discretionary versions

Discounted Gift Trust: a trust created by means of a gift, but under the terms of which you retain the right to receive certain capital payments which may continue for the whole of your life or until the fund has been exhausted. For UK IHT purposes, the 'discount' is determined by the actuarial value of the withdrawals and has the effect of reducing the value of the transfer into trust.

## loan trust – bare and discretionary versions

Loan Trust: a trust which you create by lending money to your trustees to invest, rather than giving it away. The loan is repayable to you on demand, giving you flexibility for the future and can be repaid to you on an occasional basis or by regular repayments.

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