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Answer-to-Question-_1_

REPORT

To: Claire Ireland and Paul Wood (Trustees of the Susan Wood Will Trust)

From: Chris Photi

Subject: Proposed Restructuring and Distributions of the Susan Wood WIll Trust

Date: 14 November 2024

Intorduction

This report is prepared for the trustees of the Susan Wood Will trust and for Mr Paul Wood personal.

The Report is intended for the sole use by the trustees and Mr Wood. No liability is accepted for any use of or reliance on this report by other parties.

This Report is based on the information provided by Clair in her Call with Chris Photi on 10 November 2024 and from Shaun's email to Chris Photi on 10 NOvember 2024, together with information that we already hold in our files.

This Report considers the tax implications of the Appointments of Beach Farm and Fairview rental property to Rebecca and Shaun.

This report also considers our recomendations for Paul's residence Sunnyside and how best to deal with this and the tax implications of any actions taken.

Executive Summary

• The Susan WOod will trust is cirrently a Qualifying interest in POssession. This means that the assets currently fall into Paul's estate and will be chargeable to IHT on Paul's death.

• Any Assets distributed by the trust will be subject to Capital Gains tax as the trustees are a chargeable person for CGT. The base cost for the assets will be the probate value. Cash in the trust will not be subject to CGT

• Assets passing to Paul will be IHT Neutral

• Assets Passing to any other Beneficiaries will have IHT iplications for Paul's estate. They are as if passed on by paul and will either be potentially expemt transfers of Chargeable lifetime transfers. It is therefore recomended to get the 7 year 'Clock' ticking whilst paul is i good health.

• Recbecca being in a vulnerable postion would benefit from the creation of a protective trust that gives the trustees control of the income and portects the assets from potential future relapses by Rebecca

• A discretionary protective trust is recomended for Rebecca, allowing the trustees to control income distributions to Rebccca as the see fit for her well being.

• It is recommended to Settle Beach farm on to Trust for Rebecca. This should be done before any other appoitments are made from the trust to preserve the unused nil rate band

• The Appointment of the farm into Trust should also be done before the full time Farm Labourer retires to preserve the aviailability of APR on Beach Cottage.

• The trust will need to be registered with HMRC

• A claim should be made to defer the gain on the Farm. This can be done via the self assessment return and should be done no later than 5th April 2029

• In February 2025 in time for Shaun's 30th Birthday. Fairview can be appointed to Shaun absolutley.

• CGT of £371,280 will be payable by the turstees. This will be payable within 60 days of completion and an online CGT return will need to be filed within the same period.

• Appoint Sunny Side to Paul absolutly thereby accessing the full Residence nil rate badn avialable to Paul and saving £140,000 in potential IHT liability.

• Distribute any surplus cash from the Susan Wood Will trust and disolve the trust.

Section A :Susan Wood Will Trust

A1)Trust Overview

As you are aware, the Trust is an interest in possession trust which currently provides Paul with the right to receive trust income during his life or until such a time that he may decide revoke his interest.

As the trust was created under the terms of Susan's Will, paul has aquired a qualifying interest in Possession Trust (QIIP). This means that for inheritance tax purposes, the value of the assets form part of Pauls estate.

Bing a QIIP means that the assets are not currently relevant property. There are no charges to Inheritance Tax (IHT) when the assets leave the trust (unless by way of a charegable transfer, discussed in more detail below) and there are no Ten Year Anniversay Charges which apply to relevant property trusts.

The terms of the trust are currently that on Paul's death, the assets will be held on discretionary trust for Susan's and Paul's children and grandchildren. At this point the trust will become a Relevant Property Trust (RPT).

Under the RPT regime, the trust will be suibject to periodic IHT charges on each 10 year anniversay. This anniversary is pegged to the orignal creation of the trust under Susan's Will.

Should the Trust pass through Paul's estate on his death and become an RPT, there wil be Exit Charges when capital/assets are appointed out of the trust.

Paul, is the holder of a QIIP created by his Spouse (Susan). Therefore he will be treated as the settlor of the new RPT which will commence on his death or if he revokes his Interest in the trust. As such it will be Paul's gifting history that will be taken into account when any IHT charges are calculated.

However, as Paul is now in a position where he feels he no longer needs the income from the trust, there is an opportunity to avoid this by distributing the assets out of the trust and winding up the trust.

Winding up the trust now and appointing assets to Rebecca and Shaun, whilst Paul is in Good health, will also serve to reduce the value of the assets in
Paul's estate meaning that there is opportunity to reduce his IHT exposure.

Susan's will trust has given the trustees wide overriding powers to allow adaptability in distributing the assets or adjusting the provisions which can benefit Paul and the broader family and which can be used given the current circumstances particularly for Rebecca.

A2 IHT Implications of Distributing Assets out of the trust

The assets within the trust currently fall within the Paul's estate. Therefore Any assets disturbted out of the trust will be as if Paul has made the transfers himself.

This means that anything distributed directly to Paul will be IHT Neutral.

Any assets or capital given to any other individual absolutly will be a Potentially exempt transfer for IHT purposes. This means that there will be no immediate charge to IHT. Paul will be able to use his Annual Exempt Amounts of £3,000 against the transfer and IHT wil only be chargeable in the event that Paul dies within 7 years. After 3 years the IHT will be tapered down by 20% per year.

This is important because Paul is currently in Good health and no longer in need of the

Trust income. Distributing the assets now will get the 7 year clock ticking and could potentially save a large amount of IHT.

Finaly, gifting assets to another trust will be a chargeable transfer. IHT may be payable at 20% though Paul's Nil Rate band of £325,000 will be available deduct from the the chargebale trasnfer. This will not be restricted as Pail has not made any other chargeable transfers to date.

The benefit of settling proeprty into trust will be that the trustees will be able to maintain control of the income and capital from the trust which will be very useful for Rebbecca's current circumstances.

A3 Capital Gains Tax Implications of Distribting Assets from the Trust

Though Paul has a right to the income from the trust, the Trustess are a chargeable person in thier own right. This means that if the trustees sell or dispose of assets they will realise a gain and this will be a chargeable event for CGT.

Should Assets be distributed out of the trust to any of the beneficiaries, including Paul, this will be a chargeable event for capital gains tax.

If they transfer an asset to any beneficiary they will be deemed to have disposed of it at Market Value.

All of the assets except the Cash in the Trust are liable to CGT. The base cost for the trustess will be the Probate value at Susan's death and this will be deducted from the

Market Value to determine the gain that will be chargeable.

The Trustees will get an Annual exempt amount of £3,000 per tax year and the remaining gain will be chargeable at 20% for all gains accept residential property which will be chargeable at 24%.

There are circumstances that mitigate the CGT payable which are discussed and considered in more detail later in this report as each of the assets are looked at in turn.

A4 Income tax Consequenses.

It seems that Paul is aware of the income tax consequences but he should be aware that Once assets are distributed out of the trust and away from Paul, he will no longer be able to enjoy the income.

The income will be enjoyed by the recipient and will be taxed on them at their marginal rate. Should any assets be settled into trust then the Rate applicable to trusts will apply. Again this is discussed in more detial where relevant below.

Section B - Appointments to Rebecca and Shaun

Section B1 - Rebeccas and Shaun's current circumstances

The dispositive powers of the trustess to create further trusts for Susan and Paul's issue are particularly helpful for Rebecca. Whilst Shaun is soon to be 30 and as per Susan's wishes, can benefiot from assets within the trust, Rebecca is clearly in a vulnerable possition.

It would be recomended for the Trustees to creat a protective trust for Rebecca. Protective Trusts anable the protection against Bankruptcy, divorce and financal instability. They provide a structured support for vulnerable Beneficiaries.

The terms of the trust could be that Rebecca gains an Ineterest in possession to the trust assets once certain conditions are meet. These conditions can do linked to her resolving her cirrent drug problem or can be at a given point in time.

The protective nature of the trust will also mean that the interest in posssession is revoked and returned to a discretionary trust should Rebecca try to sell the interest or become bankrupt.

For now it is recomended that the trust is set up as a protective discretionary trust and the remainder of this report will be based on the assumption that this recomendation is followed.

It would not be recomended for the Trustees to settle more than one truat as this will have implications of related settlements and may cause unneccessary complications.

Section B2 - Appointments to Rebeecas & Paul

Option 1 -

Beach Farm to Rebecca and Fairwiew to Paul

If the Farm to be transferred to a Trust for Rebecca this will be a Chargeable lifetime transfer. The transfer will immediately be chargeable to Inheritance tax. Because the transfer is reducing the value of Paul's estate, it will be his transfer history that will be used to calculate the amount of IHT payable.

Transferring the farm into a trust would cause there to be an IHT liablity of £63,500 assuming that the IHT would be paid by the trustees of Paul's QIIP.

The Farm is Agricultural property and much of the farm would benefit from Agricultural property relief. This relief reduces the value for IHT purposes by up to 100% depending on the nuture of the lease and the use of the farm.

There is unlikely to be any Business property relief on the Furnished Holiday let. Although this will be classified as a business asset for CGT purposes, meaniing a lower rate of tax for CGT, case law tells us that BPR relief is much stricter and does not follow the same parameters. The level of services provided would need to be discussed and looked into further to see if BPR would in fact be available.

As explained in section 1 there will be Capital gains tax and Inheritance tax to consider for the appoitnment of assets out of the trust.

The disposal of the farm wuld also cause a charge for CGT. The amount chargeabel to CGT on the Farm would be £344,280 (See apendix 2).

However, as there is an immediate charge to IHT, there would be the opportunity to claim gift relief. This would defer the CGT and mean that the New Protective trust would take on the base cost of the QIIP being the probate value at Susan's death.

This will leave Fairview t be apointed to Shaun absolutely, this will be a disposal for the trustees resulting in a Capital Gain Tax of £371,280 (see Apendix 1). This amount will be payable by the Trustees and if Fairview is appointed to paul abosulutly then there will be no option for any gift relief to defer this gain.

Fairview will pass to Shaun and he will then be able to benefit directly from the income. The base cost for Shaun will be the Market value of 4,300,000 assuming no further change in the value.

The transfer will be a PET for Paul. This will remain as part of his estate and be taxable if he should die within 7 years with a maximum IHT of 40%. The rate of tax will be tapered away after 3 years the transfer wil be fully exempt by March 2032 assuming the transfer to paul is made in February 2025.

The Total cost of Option 1 would be £434,780

Option 2

Fairview to Rebecca and Beach Farm to Paul

If Fairview is transferred to a trust for Rebecca, as Above there will be an entry IHT charge for the trutess to pay. The IHT charge on Trasnferring Fairview will be significantly larger than that of transferring the farm as there is no avasilabiliy of APR.

The IHT charge would be £992,250 (See Appendix 3). Whils this would give the opportunity to defer the gain on the property which is larger than the gain on the farm, the

IHT charge completely negates this the the funds in the trust would not be sufficient to cover the costs.

This would leave the farm to be appointed to Shaun absolutley creating a lower CGT liabilty of £344,280 (see apendix 2).

The total total cost to the trustees would be £1,336,780.

As such this option would not be recomended.

Section B3 - Recomendations for appointments to Rebecca and Shaun

Considering the options it is recomended that Beach Farm is settled into a trust Protective Discretionary trust for Rebecca and Fairview is gifted absolutely to Shaun.

A protective trust will need to be set up by the trustess which will require the attention of a Solicitor.

Form OHT 100 will need to be filed within 6 months from the end of the month of Transfer. The IHT payable of £63,500 will also be payable witin 6 months of the end of the month of transfer of by the followgin 30 April, whichever is later. WE can of course help you with this.

A claim for gift relief will need to be made within 4 years from the year of trasnfer. Therefore is the transfer is made in the 2024/25 tax year the claim will need to be made no later than 5 April 2029.

it is recomended that The trust for rebecca is settled before the transfer of Fairview to Shaun. Paul's annual exepmtions will be used in cronollogical order and it will therefore be benefical to use then againt a Chargeable trasnfer. This will also benefit future IHT exit charges as theywill be calculated based on Paul's chargeable transfers in the 7 years before the trust is created and he currently does not have any.

After the Farm is settled into trust for Rebecca, the trusttees will be required to register the trust and file self-assessment forms for the trust income. The rate for trusts will apply being 45% for Non savings and savings income and 39.35% for Dividends.

The trustees will be able to control how much income is distributed to Rebecca and they will be required to supply her with a form R185. This will show the income that she has recieved and and the tax credit attached to it for the tax paid by the trustees.

Rebecca may then get a tax refund depending on her marginal rate of tax. The trustees will also be able to withold any distributions to rebeccas if her personal circumstances are such that it may not be wise to distribute in come to her.

After the farm has been settled into trust for Rebecca, it is recomended that Fairview is transferred to Shaun.

This will be a PET on Paul's clock as discussed above but no tax will be payble provided Paul survives seven years.

Paul Will of course have to declare the income via his Self assessment return.

Section C - Sunnyside

The Trustees currently own Sunnyside. As it stands the property held in trust will devolve on Paul's death and thereafter pass into a descretinary trust.

Sunny side is Paul's main residence and as such it would normally qualify for the Nil Rate Residence band. This is an additional inheritnace tax free alowance of £175,000 which is available when one's main residence passes down to a lineal descendant. For Paul both Rebecca or Emily would qualify for this.

In Addition an Individual can gain an unused Band from a desceased spouse. In Paul's case his first Wife Anna would not have used it because it was not available in 1996. Susan's estate was too big got and her RNRB would have been tapered down to zero.

However, paul's band can be uplifted by 100% to £350,000 with the use of Anna's unused band.

The RNRB can only be utilised is an individuas's main residence passes directly via a will or intestacy. The residence cannot pass into a trust as will currently be the case.

Therefore it recomended that Sunnyside is trasnferred in to Paul's name absolutely.

The traansfer of Sunny side into paul's name will be IHT Neutral as his estate has not reduced in value.

There will however be a Disposal by the trustess at Market Value. However as Paul has enjoyed an interest in possession. the trustees will be able to claim principle resident relief. This is because paul has occupied Sunny sude as his main residence since it was put into trust and he has had an interest in possession in the trust.

This means that there will be no CGT for the trustees to pay and paul will gain the property at its current probate value of £850,000.

This will mean that the residence nil rate band will be available. Once the other assets have been aapointed out of the trust and the trust is dissolved, the assets in Susan's will trust will no longer form part of Paul's estate.

This will make pauls estate £1,250,000.

The RNRB is tapered abouve £2 million so Paul will benefit from the entire amount of £350,000 this reducing his estate IHT liability by £140,000.

As it is the intention of Paul and the trustess to for the house to pass to Poppy or Emily then it would be recommended to for the house to be transferred to paul immeditalely. Shold paul then wish to Skip a generation and delay IHT payable even furhter he can consider leaving the property to Emily rather than to Poppy.

Summary and Recomendations:

In usmmary it is recomended that the trustees take the following actions:

- Appoint Beach Farm to a Protective Trust for Rebbecca
- Register the Trust and Pay the IHT within 6 Months from the month of transfer
- Appoint Fairview to Shaun. Submit a CGT Return and pay CGT within 60 days

- Transfer Sunny side to Paul
- Distribute any surplus cash to beneficiaries
- Dissolve the Susan wood will trust

C Photi

Tax Advisers

Apendix 1

Capital Gains tax payable on the Disposal of Fairview:

Market Value		4,300,000	
Less Probate Value		(2,750,000)	
Trustees Gain		1,550,000	
Less AEA (N1)		(3,000)	
Taxable Gain		1,547,000	
Tax @ 24%		**£371,280**	

Appendix 2

Capital Gains tax payable on the Disposal of Beach Farm:

			Residential Proeprty		Non Residential Property
Market Value	Long Field	2,700,000			
	Less PV	(1,700,000)			

			1,000,000		
	Barns			220,000	
	Less PV			(100,000)	
					120,000
	Bulls Paddock			740,000	
	Less PV			(400,000)	
					340,000
	Red Cottage			215,000	
	Less PV			(150,000)	
			___________ __		65,000
	Total		1,000,000		525,000
Less AEA			(3,000)		
			997,000		
CGT@ 24/20%			239,280		105,000
Total CGT		**£344,280**			

Appendix 3

IHT On Transfer of Fairview into Trust for Rebecca

Market Value			4,300,000	
	Less NRB		(325,000)	

	Less AEA	2024/25	(3,000)	
		2023/24	(3,000)	
			3,969,000	
	IHT @ 25%	**992,250**		

Appendix 4

IHT On Transfer of Beach Farm into Trust for Rebecca

Market Value	Long Field		2,700,000	
		Less APR	(2,450,000)	
				250,000
	Barns		220,000	
		Less APR	(220,000)	
				NIL
	Beach Cottage		300,000	
		Less APR	(300,000)	
				NIL
	Bulls Padock		740,000	
			(620,000)	
				120,000
	Red Cottage			215,000
	Total			585,000
	Less NRB			(325,000)
	Less AEA	2024/25		(3,000)
		2023/24		(3,000)
				254,000
	IHT @ 20/80	**£63,500**		