Countrywide Assured

# Trust decision maker

## NOTES TO THE TRUST DECISION MAKER

**1** Inheritance tax (IHT) will mainly be relevant to investors who are UK domiciled. A non-UK domiciled person can acquire a UK domicile of choice or, for IHT purposes only, become deemed UK domiciled because they have been resident in the UK for 17 out of the last 20 tax years. Therefore, if an individual who is currently non-UK domiciled has been resident in the UK for a substantial period of time, consideration should be given to undertaking IHT planning while he/she is still non-UK domiciled.

**2** For investors who are currently non-UK domiciled but who may become UK domiciled or deemed domiciled in the future (for example, because they have been resident in the UK for 17 out of the last 20 tax years), an Offshore Bond subject to an excluded property trust may be appropriate. This will mean that the trust fund is outside the charge to IHT even if the settlor (the investor) later becomes UK domiciled.

**3** This question is aimed at ascertaining whether the investor wishes to consider planning that will result in the investor not having complete ownership of and access to the bond – whether he or she would be receptive to making a gift of the bond or even the growth on it to reduce IHT.

**4** The 'access' in question is any kind of access to the bond for personal use, including in part or whole, regularly or irregularly.

**5** The control contemplated here would not give the investor personal access to the bond – it only gives the ability to control which beneficiary benefits and when by the investor being an appointor under the trust.

**6** An individual under the age of 18 (16 in Scotland) cannot hold or deal with the bond. An unconditional gift of the bond to such an individual could therefore be made subject to an Absolute Gift Trust.

**7** The discretionary gift trust can be used with the bond. Under the trust, the settlor (the investor) is excluded from benefit. The appointor (initially the settlor and then the trustees) has power to appoint beneficiaries from the classes specified in the trust. Subject to any available annual exemptions, a gift of a bond into such a trust will be a chargeable lifetime transfer (CLT) for IHT purposes. Consideration should also be given to the IHT 10-year periodic and exit charges, which the trust may be liable for.

**8** No immediate IHT arises on a lifetime gift that is a potentially exempt transfer (PET), irrespective of size. On the other hand, if a lifetime gift is a CLT, immediate IHT at 20% will arise on any amount of the gift that causes the settlor to exceed his/her nil rate band.

**9** Under the discretionary discounted gift trust, the investor makes a gift for IHT purposes of the amount invested less the value of his or her retained right to pre-determined payments (funded by periodic withdrawals from the bond). The investor's right to these payments cannot be altered. As the investor has an absolute right to his predetermined payments and cannot benefit from the rest of the trust, the trust is effective for IHT purposes in that the gift does not amount to a gift with reservation as confirmed by HMRC. HMRC has also confirmed that as the settlor's rights are held on bare trust for the settlor, the arrangement is not s to the pre-owned assets tax rules.

Under the discretionary discounted gift trust, any discounted gift will be a CLT, but provided it falls within the investor's available nil rate band, no immediate IHT will arise.

Under the discretionary discounted gift trust, the investor (during his/her lifetime) and then the trustees (after the investor's death) are given power to appoint beneficiaries from a wide range of classes of beneficiary.

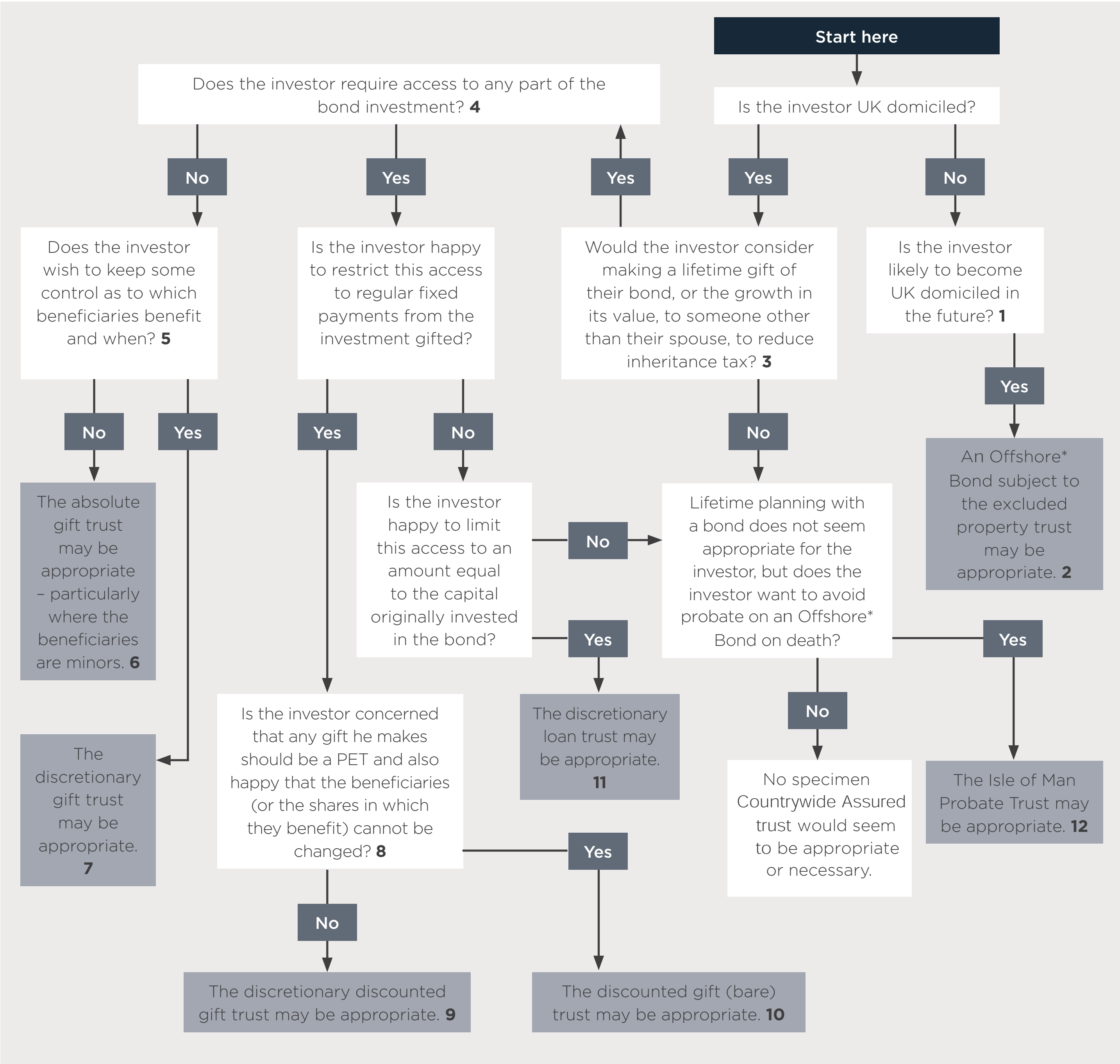
**10** The discounted gift (bare) trust could be used. Any discounted gift will be a PET and so there will be no immediate concern about exceeding the investor's available nil rate band. However, neither the beneficiaries nor their shares can be changed.

**11** Under the discretionary loan trust, the investor establishes a discretionary trust (excluding the investor from all benefit) and this is followed by a substantial loan, which is interest free and repayable on demand, to the trustees. The trustees invest the loan monies in the bond. The investor is entitled to repayment of the loan on demand but cannot otherwise benefit under the trust. The growth on the investment will be outside the investor's estate but the value of the outstanding loan will remain in the estate of the investor. It is anticipated that as the investor takes repayments of the loan and spends the money, his/her estate will gradually reduce for IHT purposes. Neither the gift with reservation nor the preowned assets tax rules will apply.

**12** Under the probate trust, the settlor retains beneficial access to the benefits of the bond. The probate trust will avoid UK and Isle of Man probate. It gives no IHT saving and involves no gift.

# Trust decision maker

This trust decision maker will help you decide which (if any) of the specimen trusts, provided by Countrywide Assured to facilitate estate/probate planning, may be appropriate for an investor in a Countrywide Assured Onshore Bond (bond). Answer each question 'Yes' or 'No' to lead you to a conclusion.




*The Offshore Bond is no longer open to new business. The excluded property and Isle of Man probate trusts remain available for use with existing Offshore Bonds.

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