



# Protecting YOUR Money For YOUR Family

How a Family Trust can work for You!



# Protecting your Family assets

Many people, often without realising it, will come into contact with a Trust of some sort during their lifetime. Yet Trusts are widely misunderstood and often seen as the preserve of the wealthy.

This brochure aims to give a quick overview of how Trusts work, what they are most commonly used for and to correct some of the misconceptions held about Trusts.

Trusts are becoming a more widespread tool in the search to protect and preserve Family assets.

The exact technical details of Trusts, how they are set up and taxed vary from Client to Client, so this guide focuses only on some of the broader principles.

This brochure will help to outline the use and types of Trusts available within the Penguin Trust portfolio as well as their significant Asset Protection qualities. Our Planning service gives you the peace of mind that the design and implementation of your new Family Trust Structure is in the best possible hands.

## Do I need a Family Trust?

If you answer yes to any of the below questions, a Family Trust may be appropriate for you...

- Do you wish to Protect some or all of your Estate for future generations - e.g grandchildren?
- Are you worried about your children losing their Inheritance - via a marriage breakup or bankruptcy - after you are gone?
- Do you wish to Protect your assets for your children from a previous marriage?
- Could your Estate receive funds from a life Insurance or Pension policy when you die? Do you wish to ensure they avoid unnecessary Inheritance Tax (IHT)?
- Do you have vulnerable beneficiaries that you wish to protect from creditors, Financial abuse, divorce claims or future care fees?
- Would you like to ensure your money doesn't pay Inheritance Tax, possibly for the second time, when your children leave it to your grandchildren?
- If you are not married, do you want to reduce your partner's future Inheritance Tax liability?
- A probated will is a Public document. Do you wish to avoid disclosure of who gets what? A Trust ensures this is not public knowledge.

# Family Trust Specialists

The main reason to use Trusts is to preserve, protect and provide longevity to the Estates of individuals. Trusts help to achieve this through two main features:

1- The effectiveness of Trusts to assist reducing second generation, third generation, and beyond, tax liabilities;

2- The ability to reduce exposure of assets to social impacts such as divorce, separation and bankruptcy - "sideways inheritance"

Trusts are extremely effective when planning how money and assets should pass from one generation to another, especially when Family structures can be complicated by divorces and second marriages. This, coupled with the growing frequency of marriage breakdowns, the increase in personal assets used in long term care costs and the number of individuals now liable to Inheritance Tax on their estates, helps illustrate the need for effective Trust Planning and their rise in popularity.

## Stats

£5.9 billion

The amount of Inheritance tax collected in 2021/22 by HMRC.

Some examples of Family situations where we have used Trusts are:-

- To protect death benefits on life cover policies from Inheritance Tax, Probate delays or remarriage of a partner
- To provide for a husband or wife after death while protecting the interests of any children

- To reduce the liability on the matrimonial home from care fees after the death of a partner/spouse
- To provide a Protected Inheritance to children
- To protect deposits given to children when assisting them buying a house
- To help succession planning in Family Businesses

Trusts have been used by families for centuries and are steeped in British history, dating back to Richard Whittington (the real-life inspiration for the pantomime character Dick Whittington), who bequeathed his fortune to Trust which, nearly 600 years later, continues today.

Trusts are also common place in everyday life in the UK, for example, most company Pension schemes are structured as Trusts, as well as many charitable organisations.

The type of Trust most relevant to you will be a trust established to arrange your Family's financial affairs. This will allow you the significant confidence in knowing how assets will be used in the future as well as maintaining control in the interim.

Essentially, Trusts provide a means of ring-fencing and looking after money, or property, for people who may not be ready or able to manage it for themselves. Trusts can even be created to assist people who are not even born yet i.e. future children, grandchildren or great-grandchildren.



Professional Trust Planning is often seen as the preserve of the very wealthy. This is due mainly to the lack of experts able to construct the intricate legal documentation required. There is a lack of expertise and knowledge required in advising the appropriate structures and the associated high costs that go hand in hand with rarity. But why do these wealthy people spend so much to create Trust Structures? Quite simply it is for efficient preservation of Family wealth, from all manner of deteriorating factors such as taxation, divorce, or simply bad relationships.

We are able to bring this level of planning to a much wider population, through consolidation of in-depth expertise and knowledge in Trust Planning, aggregating the legal paperwork to specialists in a centralised location thus allowing us economies of scale to bring the costs right down to affordable levels. We can therefore offer access to the establishment of personalised Family Trust Structures without the premium price.

**All of which provide bespoke Estate Planning and Legacy Protection for your Families future, and for generations to come.**

## The Penguin Trust portfolio includes:

- The Beneficiary Protection Plan
- The Penguin Education Trust
- The Protective Gifting Trust
- The Penguin Pension Trust
- The Protective Property Trust
- The Business Protection Trust
- The Inheritance Tax Trust
- The Legacy Plan

At Penguin we also offer a single point of contact for all your Estate Planning needs from Personal Wills, Trusts and Lasting Powers Of Attorney to Business Trusts and Cross Option Agreements.

We offer ongoing Trustee/Estate advice & guidance packages and the Trust Registration Service in line with new legislation.

# Why Penguin?



- Awarded Solidus Estate Planners of the year 2021 and 7 of the last 10 years.
- Awarded IFA/Wealth Manager of the year at the Finance Awards Wales 2021.
- Awarded Finance Team of the year at the Finance Awards Wales 2021.
- Society of Trust & Estate Practitioners affiliate members (STEP).
- Significant experience dealing with complex and diverse Family situations and estates.

## Our Estate Planning Health Check Tool

The Willing Wisdom Index™ is the perfect opportunity for you to conduct your own Estate Planning Health Check and find out what more you could be doing to protect your family and loved ones.

The free report scores you out of 100 and provides you with a checklist of no nonsense, helpful actions that you can apply to make sure your family is protected for every eventuality.

## Estate Planning Health Check

<https://www.penguinwealth.com/willing-wisdom/>



# Protecting your money with Penguin Tax Planning

## Finding the right Trust Structures

One of the rewarding things about accumulating your wealth for the future is knowing that one day it can be passed onto others. Your wealth might be built up from 40 years of work to clear the mortgage on your home, Family businesses, property portfolio's, Savings & Investments, or even assets abroad, all of which will require individual considerations for it to pass intact to your loved ones.



At Penguin we work closely with our Clients spending time to understand your personal situation, motives and goals for your Family in the future. This time and attention to detail ensures that each Family Trust has YOUR Family at its heart! It is set up by YOU for YOUR Family, it is run by YOUR Family, for the sole benefit of YOUR Family.



We offer a wide variety of different Trust structures from helping to reduce your Family's potential Inheritance Tax liability, the likelihood of the Family home being used to pay for Care Home Costs, to removing delays to Life Cover proceeds being released.



But by far the most popular reason for many of our Family Structures being implemented at present is more for the protection of assets and legacies from social and domestic risks. With divorce rates projected to reach 50% and following the death of a partner the rates of remarriage and new partners is more than 60%. This presents a clear threat to any unprotected legacies that you leave.



# Case Study

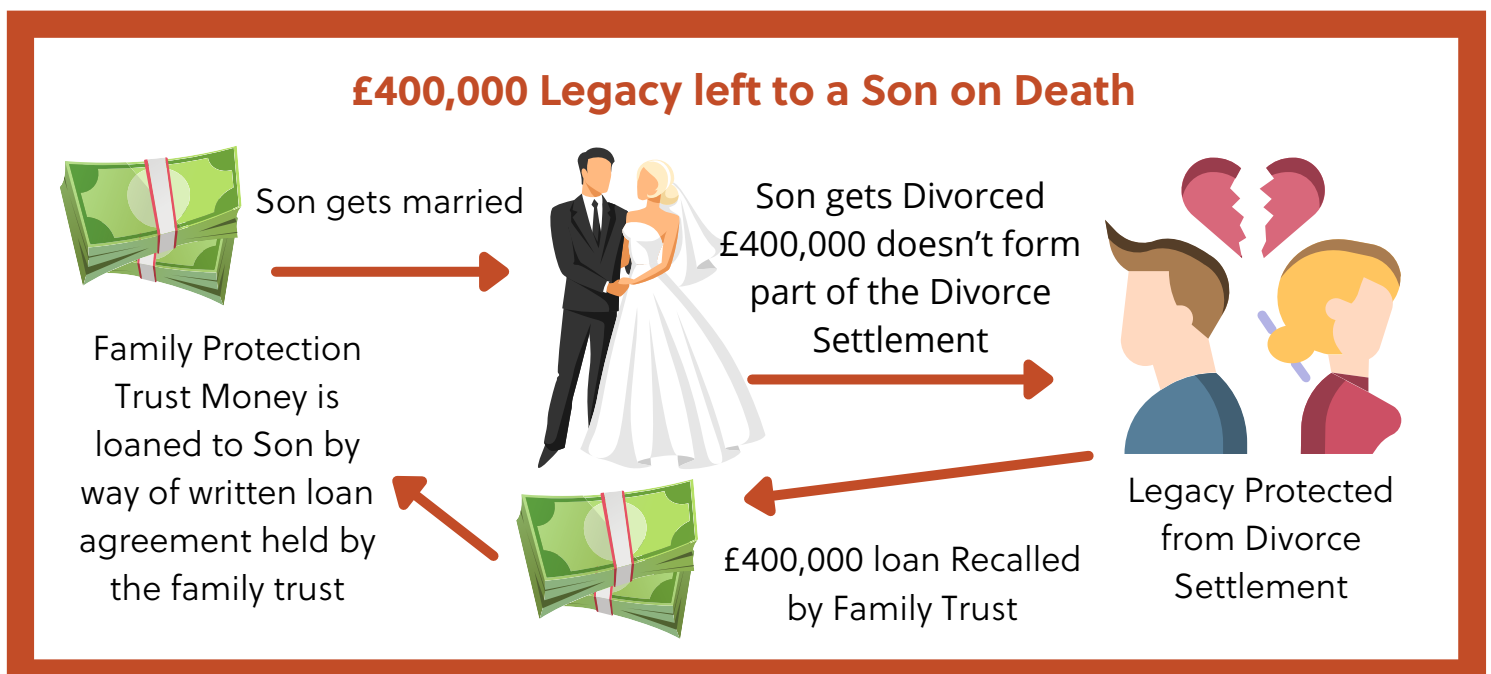
## What if one of your children goes through divorce?

Consider the following situations:-

A legacy left to a child totalling £400,000, the child subsequently marries and later on divorces. The legacy could be successfully challenged as part of a 50% divorce settlement resulting in a loss to your legacy of £200,000.



As you can see social risks pose even more of a threat than the traditional Tax issues and hence the increase in interest in such planning. Through the use of a Family Trust structure, the legacy would come back into the Family Trust intact, with the £400,000 available for payment to the son after the divorce was finalised.



# Case Study - Mr & Mrs Penguin

Consider the following situation where a legacy left to Mrs P with 2 children following the death of Mr P, with a total value of £800,000.

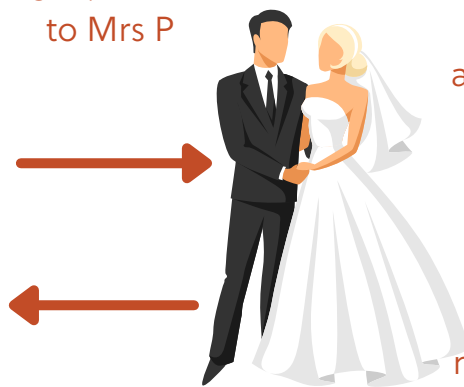
Mrs P subsequently remarries but then dies leaving everything to the new husband. Potentially the new husband could walk away with the whole £800,000 and the 2 children could be left with NOTHING!

## Social impact risks to Legacies and potential for disinheritance of children



All assets pass through a Family Trust Plan with Legacy loaned to Mrs P by way of written loan agreement held by the Trust

Legacy loaned to Mrs P

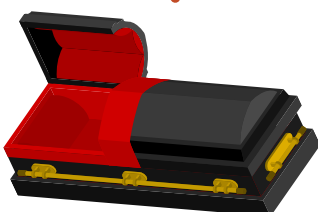


Mrs P dies with Legacy returning to the Trust Plan and not to the new husband

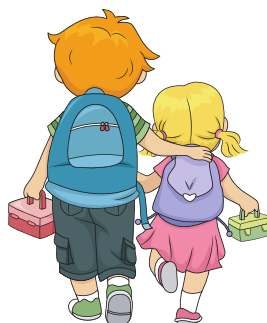
or gets divorced with the Legacy not becoming part of the divorce settlement



Mr P's Estate



Legacy recalled to Trust

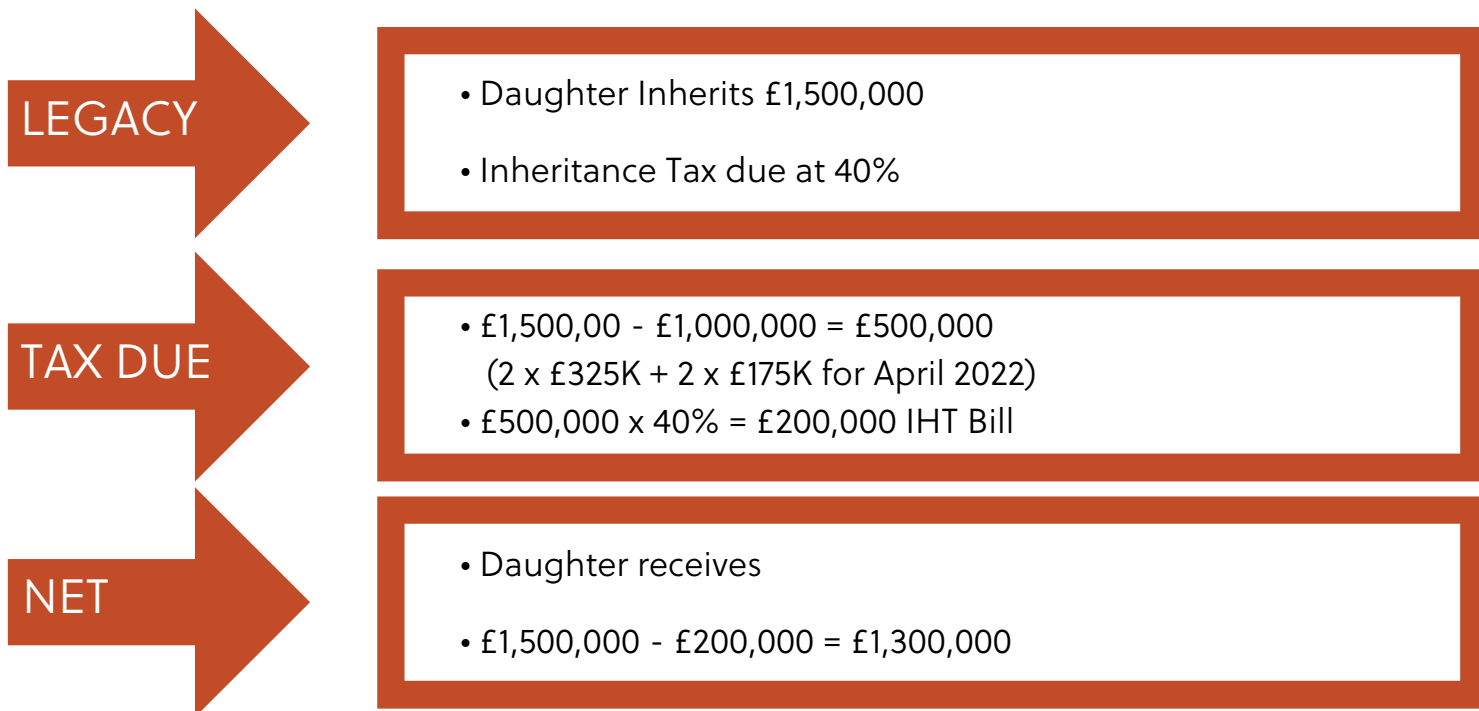


Legacy protected to help ensure Children benefit from Mr P's estate and wishes

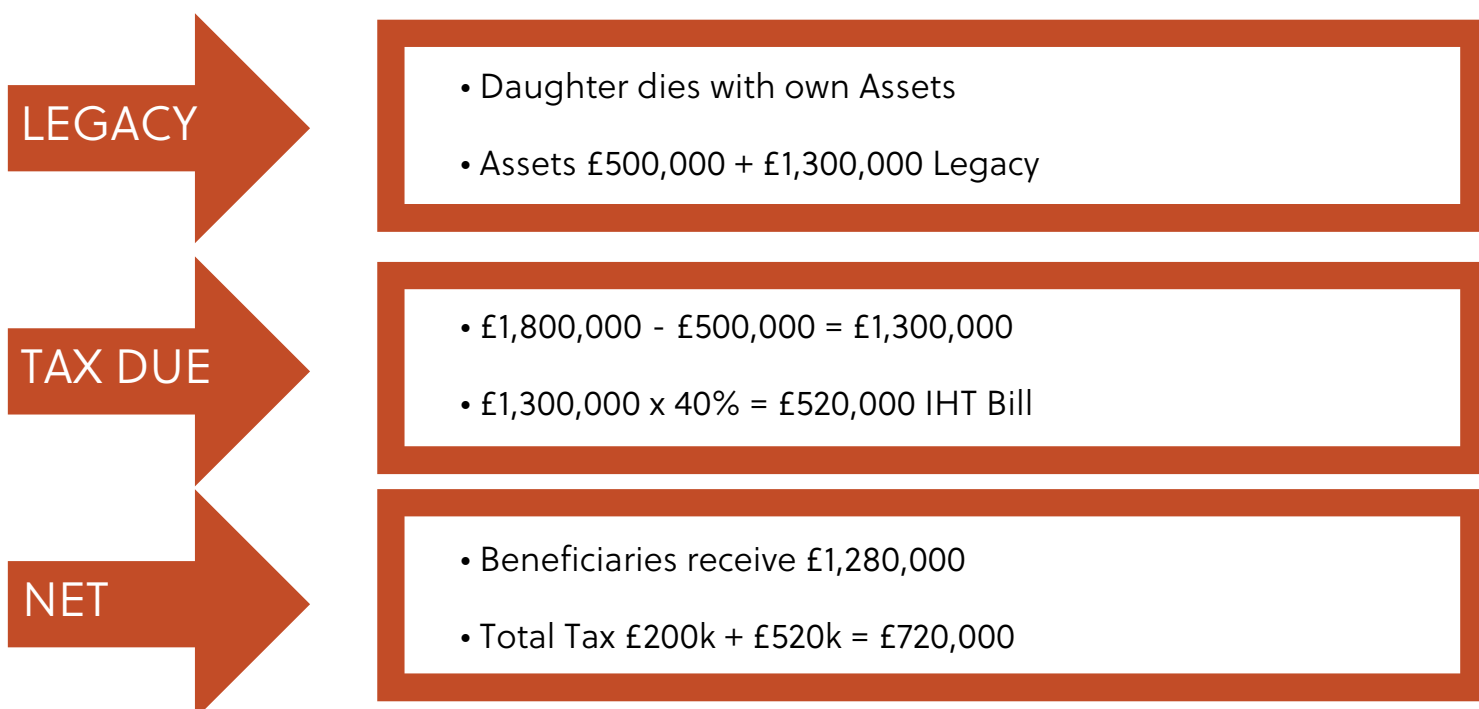
# Consider.... The double inheritance tax trap

\*Assuming rates for April 2022\*

A couple leave a legacy to their daughter of £1,500,000 (assuming all allowances used). Following the deduction of Inheritance Tax assuming 2 x Nil Rate Bands + 2 x Residential Nil Rate Bands are claimed successfully, she would inherit £1,300,000



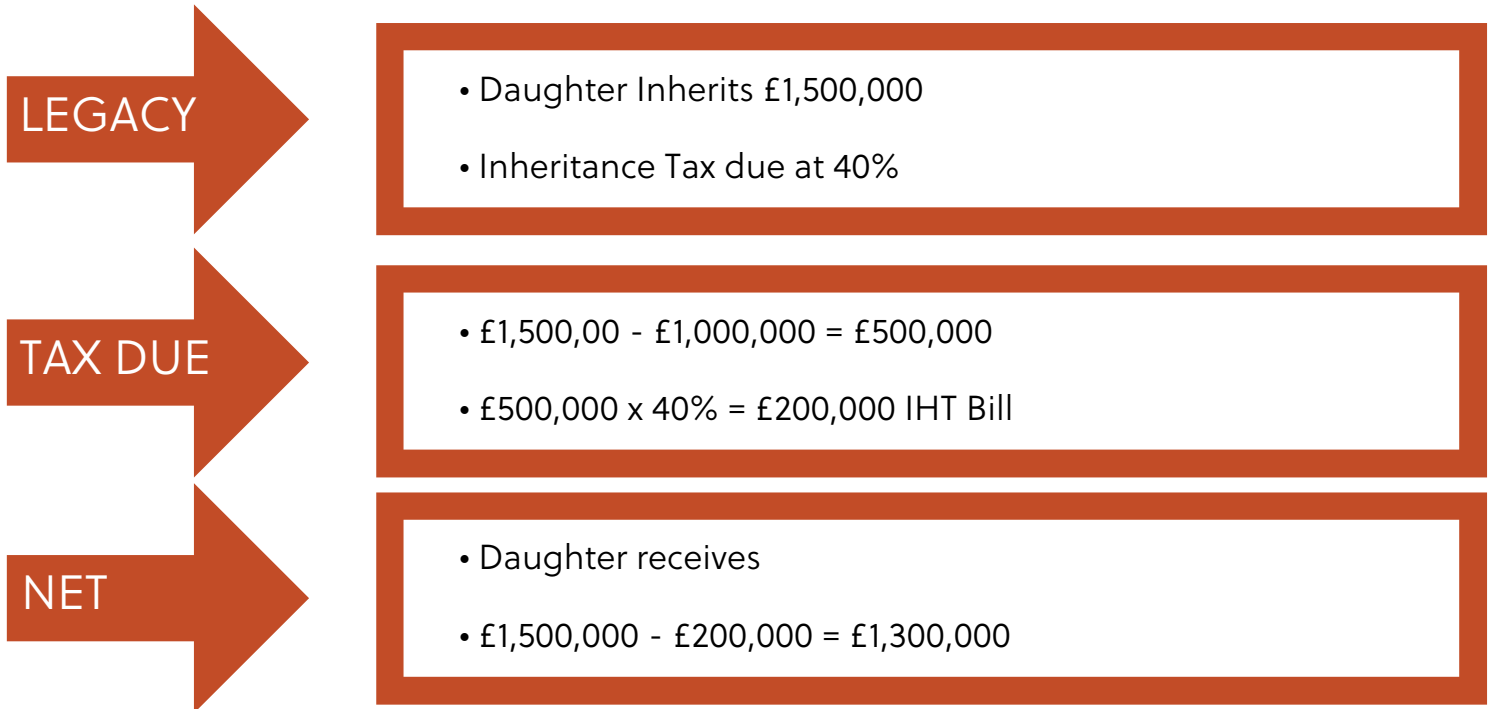
In the unfortunate event that the daughter subsequently dies and is single with assets in her own right totalling £500,000. Then the above legacy is subject to Inheritance Tax for a second time depleting the estate by a further £520,000.



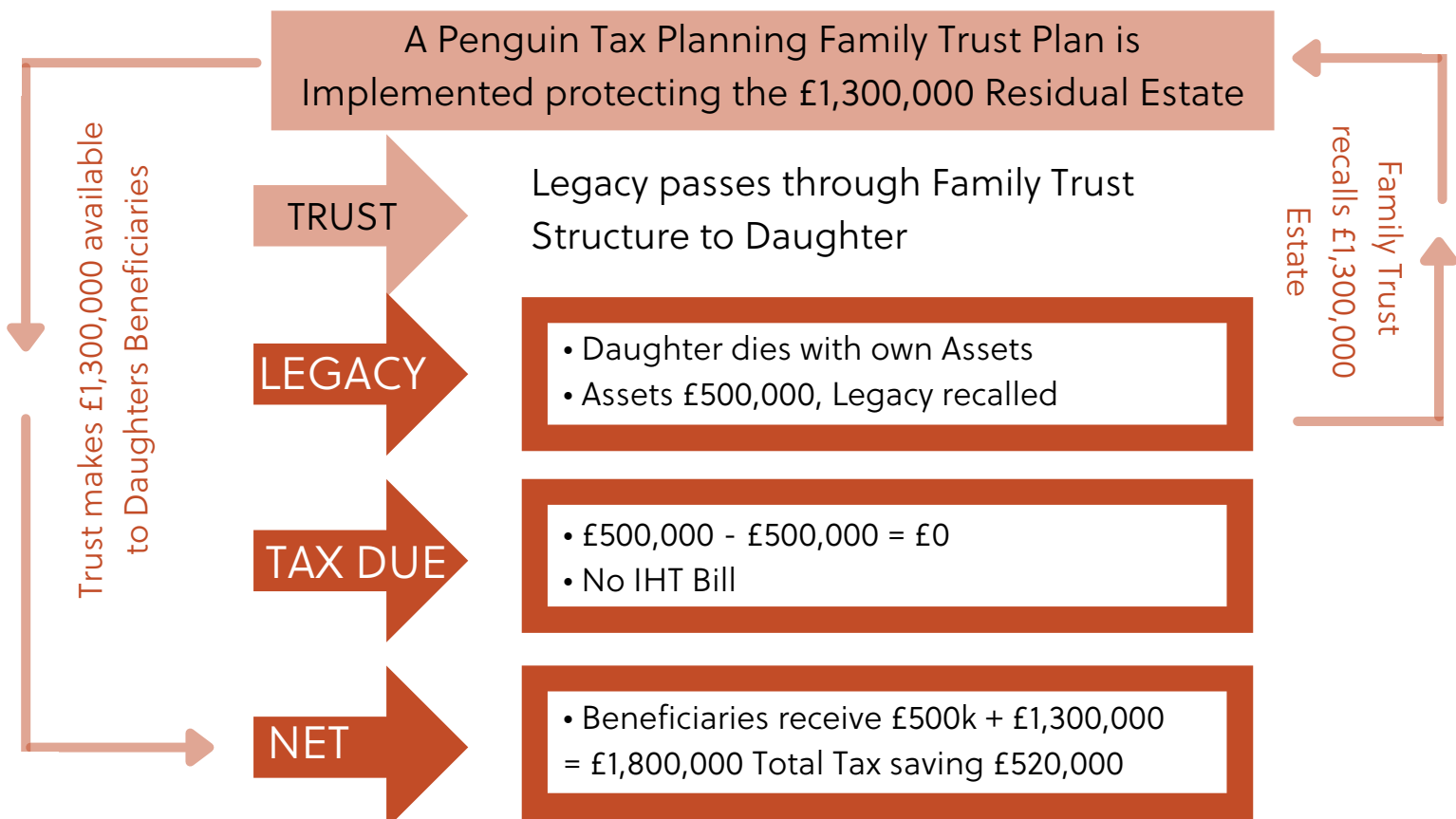
Without the benefit of effective Trust Planning the original £1,500,000 Inheritance has seen a reduction of £720,000 in tax. That's almost 50% after only having passed down one additional generation.

# Solution

As you will see below, the potential benefits in effective Will writing, combined with a Family Trust Structure, can provide significant future generational Tax planning. Considering the same example opposite, following the deduction of Inheritance Tax, the daughter benefits from a £1,500,000 Legacy.



Through the use of a Family Trust structure, the trust has the potential to recall the £1,300,000 legacy back into the Trust on the death of the daughter. This helps to avoid the second incidence of Inheritance Tax, thus saving up to £520,000. Significantly increasing the residual estate to the beneficiaries.



# YOUR ASSETS - WILLS DIRECT ... TRUSTS PROTECT!

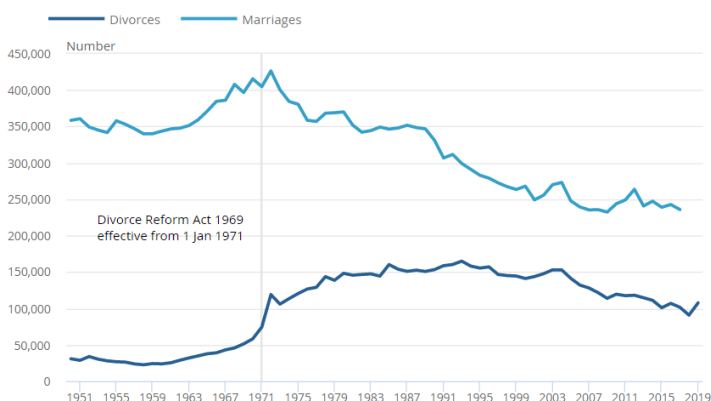
## Don't leave your loved ones with additional costs and complications

People who die without a valid Will, or Intestate, leave costs and complications to their loved ones and often lose thousands of pounds to the State in what may be avoidable Inheritance Tax (IHT). The Law Society says that anyone with assets and Family or friends should make a Will, regardless of their age. It is especially important if you are not married to your partner, because the law does not accord partners the same automatic rights of inheritance as spouses. Under the current intestacy rules, an unmarried partner has no rights to any assets that were not jointly owned. Making a Will is also vital if you have children, as you can nominate guardians to care for them.

Many people may be tempted to take the DIY approach with many high-street shops selling "write your own Will" packs for about £10. Yet a badly-made Will could land relatives with huge legal fees, dwarfing those charged to draw up a Will correctly by a professional. You also miss the opportunity to implement some of the significant estate protection measures that we specialise in.

We can look to protect your residual Legacy against the remarriage of your surviving spouse, the value of your legacy that could be used towards Long term Care Costs, protecting your Legacy against the divorce, separation or unfortunate death of your children. We can assist in removing the likelihood of your Estate being liable to Inheritance Tax twice. All through the effective use of our Trusts.

Number of marriages and divorces of opposite-sex couples, England and Wales, 1950 to 2019



This Graph shows the steady increase in the number of divorces in England. It also shows that in 2010 an equivalent of half the number of people getting married get divorced. According to estimates from the Office for National Statistics up to 60% of second marriages end in divorce.

We recommend that you update your planning every two years or so and whenever your circumstances are changed by a significant life event, such as marriage, divorce or a birth or death in the immediate family.

# Making a Will

## How to leave the maximum amount to your Family and not the tax man or even someone else's family

Integral to any Estate Planning is also making a Will.

### Why do I need a Will?

The vast majority of people put off making a Will for a variety of reasons, either believing that the people they would wish to inherit will automatically do so, or because they don't think it is relevant to them at this particular time. The reality is that you can put off making a Will until it is too late and this poses all sorts of problems for the people left behind and could mean that some or all of your inheritance either goes to the wrong person or to the state.



### Affording you Peace of Mind

Firstly and most importantly is the peace of mind making a Will provides. Making a Will enables you to plan exactly what will happen to your property (estate) following your demise. This ensures that those you would like to benefit actually do so in accordance with your wishes, and at the same time avoiding any possible disputes between relatives.

### Who needs to make a Will?

The answer is EVERYONE.

In particular, anyone with dependant relatives (children under the age of 18, elderly relatives or relatives with disability who have special needs), anyone who owns property or has any type of asset which they would wish relatives, friends or charities to benefit from.

### But won't everything go to my husband/wife/civil partner/parents/children etc automatically?

This is a common misconception and dependant on the size of your estate, there are set rules which will be applied to determine who inherits and how much if you do not make a Will.



### So what happens if I don't make a Will?

This is called having died Intestate. There are specific rules of intestacy which set out who will inherit and by how much if you do not leave a valid Will, this may not be what you would have wished and in the worst case scenarios where relatives cannot be traced, your assets will be taken by the Crown.

# Protecting your Business

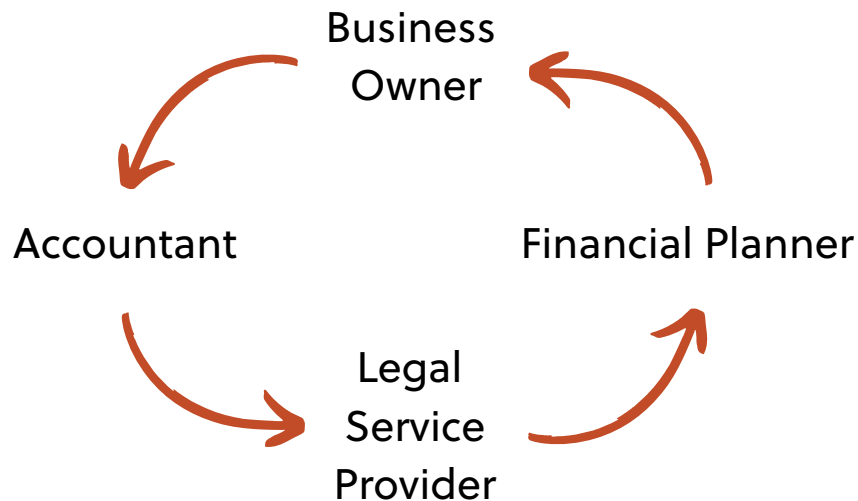
The establishment of Business Trusts as part of your overall estate planning framework is key to protecting YOUR business for YOUR Family.

Business planning for clients requires a combination of specialist Legal advice, Accountancy advice and Financial Planning advice.

The Estates of the majority of small and medium sized business owners are quite often neglected.

What was once an Inheritance Tax exempt asset, via Business Property Relief, can suddenly attract 40% tax as it passes down the generations. Even worse still, half the business could suddenly belong to a future spouse, or to your children's future spouses!

Common shortfalls include a total lack of bloodline protection planning, no controlled succession planning and the omission of additional legitimate tax planning.

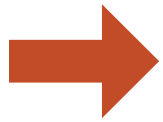


A good Accountant will advise you on the best way to set up your Business (e.g. sole trader, partnership, limited company) to meet your needs. A good Accountant will also help you build the Business value up and maximise profit.

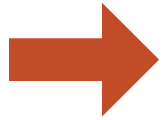
## The Accountant and Financial Planner together will identify shortfalls in your business - The "What happens if?" question:



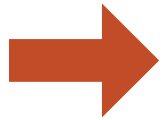
What does your family need if something happens to you?



How do you ensure that your family inherit your share of the business without your business partner closing things down, or devaluing your share of the business?



What if your children come into the business after you are gone and then go through a divorce?



How will your business partners cope financially if you pass away?

The Financial Planner will crunch the numbers and recommend the appropriate Insurances e.g. Shareholder Protection, keyman cover. The Financial Planner will recommend the appropriate trusts. The legal service provider will arrange the cross option agreements and ensure that they tie in with your company Articles of Association. With the three working in tandem you can rest assured that your family and business partner/s will be protected as best they can be.

### Consider

Mr Penguin owns Widget & Son Ltd, and dies unexpectedly. Mrs Penguin decides to sell the business for £500,000. Mrs Penguin passes away 2 years later. The children may lose 40% Inheritance Tax - that is £200,000 in tax.

### Solution

Mr Penguin creates the Penguin Business Trust during his lifetime. On his demise the Business shares pass to the Trust. As the shares qualified for Business Property Relief at the time of his death there is no Inheritance Tax to pay.

Mrs Penguin sells the business for £500,000, and the £500,000 passes to the Trust.

Mrs Penguin receives the £500,000 from the Business Trust, but signs a loan agreement to show she is "borrowing" the money.

On Mrs Penguin's demise the £500,000 loan is recalled by the Business Trust, saving £200,000 Inheritance Tax.

If Mrs Penguin had remarried, her new husband would have no claim on Mr Penguin's business value. When the children inherit they will also receive a loan from the trust. Should they divorce or go bankrupt themselves, their share of the £500,000 will not end up in a future ex partner's hands.

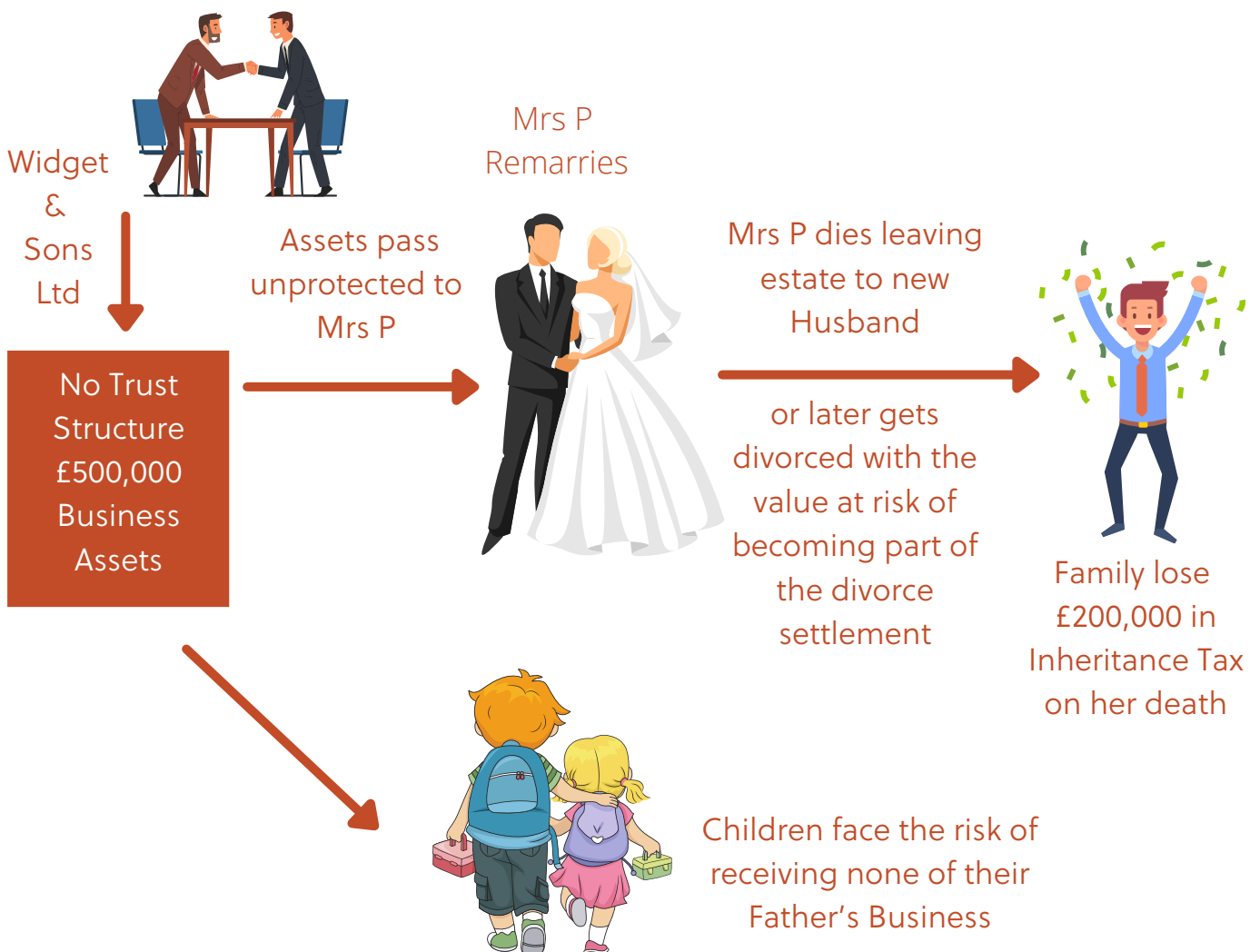
### Great Tax Planning

# Case Study - Mr & Mrs Penguin

Consider the following situation where a business is left to Mrs P with 2 children following the death of Mr P, with a total value of £500,000.

Mrs P subsequently remarries but then dies leaving everything to the new husband. Potentially the new husband could walk away with the whole £500,000 and the 2 children could be left with NOTHING!

## Beware of the Risk!

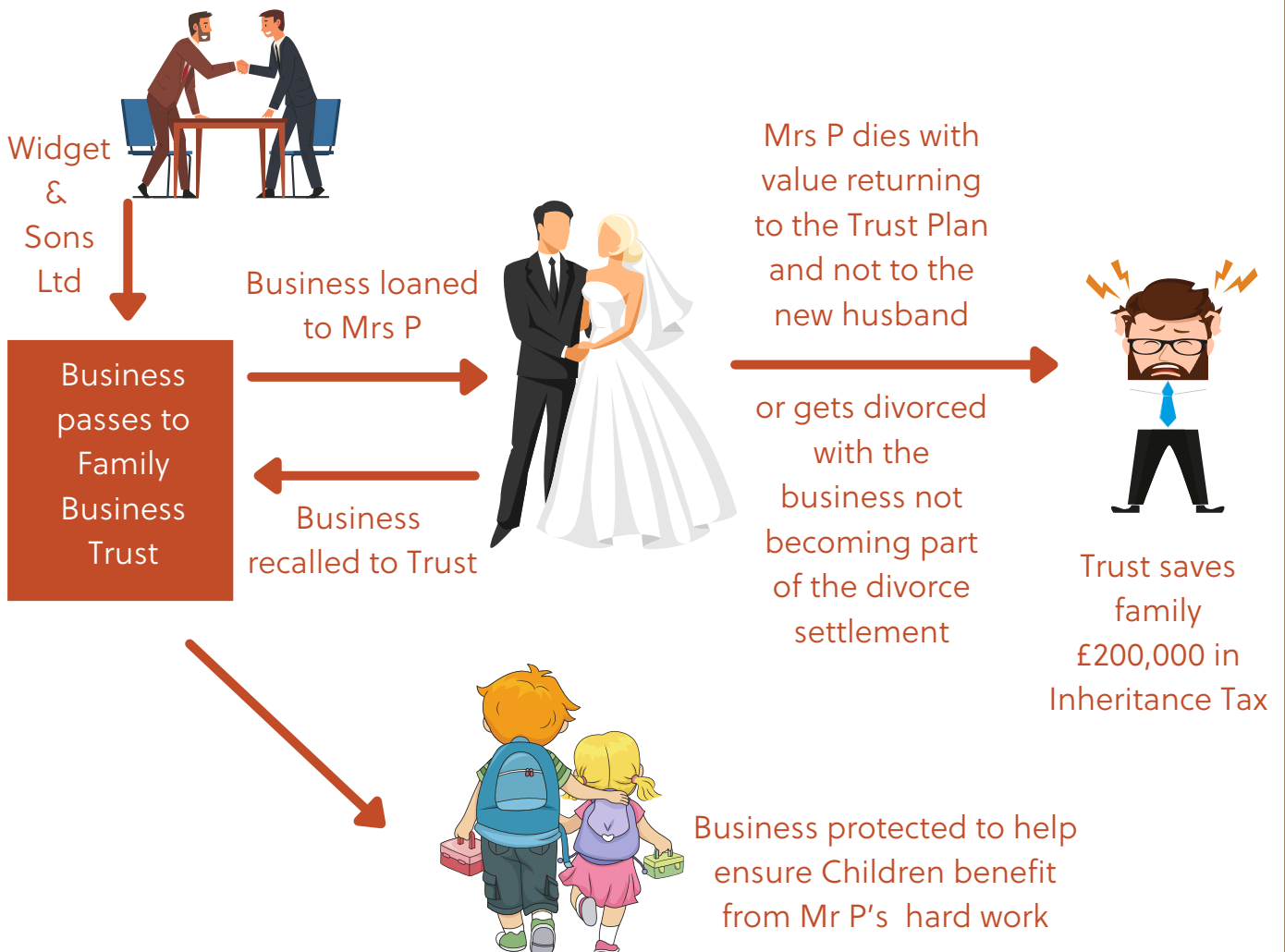


# Mr & Mrs Penguin's Solution

With the benefit of a Penguin Tax Planning Family Trust Structure the business becomes protected against the social risks and potential disinheritance of the children.

Whether it be through death or subsequent divorce of Mrs P, under this example the Family Trust would look to recall the business value. This would help to ensure its bloodline protection, passing it on to support the children which no doubt would have been Mr P's dying wish.

## How to remove the risk and save the Tax!



# A typical solution for our married clients

## Mr Penguin's Will

## Mrs Penguin's Will



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Readers should not rely on, or take any action or steps, based on anything written in this guide without first taking appropriate advice. Penguin cannot be held responsible for any decisions based on the wording in this guide where such advice has not been sought or taken.

The information contained in this guide is based on tax and trust legislation as of April 2021.

All statements concerning the tax treatment of trusts, their benefits and proactive qualities are based on our understanding of the current law and Inland Revenue practice as at the date of publication and does not form personal advice and is for general guidance only. Whilst effort is made to ensure accuracy, no liability can be accepted for any errors or omissions. Levels and basis of, and reliefs from taxation are subject to change.