

## Planning with properties

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Despite Brexit concerns, recent figures show that average house prices increased by 2.2% last year, meaning many first-time buyers are still struggling to get on the property ladder.

Parents may be considering how to help their children. One very generous way is to gift a property to them – but, before you do it, ensure you have considered the implications.

### Capital gains tax (CGT)

CGT is often the biggest issue when disposing of a second property. It is a tax on the increase in value of the property (minus the cost of sale or improvements) from the date it was acquired until the date of sale or gift.

If you inherited the property recently, the CGT will have been wiped out on death, which makes gifting the property attractive. If you inherited in the last two years, you could use a deed of variation, which will also be beneficial for inheritance tax.

If however you have owned the property for some time, the CGT may be substantial.

### Transfers into trust

If you transfer the property into a discretionary trust, the CGT can be postponed until the property is sold, using 'holdover relief'.

A discretionary trust has a number of potential beneficiaries, none of whom has the right to benefit from trust assets. The trustees decide which of the potential beneficiaries benefit from the trust and when, guided by a

letter of wishes from you.

You shouldn't transfer property worth more than £325,000 into trust (or if the property is jointly owned with your spouse / civil partner, £650,000) otherwise inheritance tax is immediately payable.

## Settlor interested trust

Holdover relief is not available if you, your spouse or your minor children can benefit from the trust. If you have children under 18, they cannot benefit until they are adults.

## Principal Private Residence Relief (PPR)

If your child will live in the property as their main home, you shouldn't normally claim holdover relief, as they would then have to pay CGT on a sale even though it was their main home, which would usually attract PPR.

## Stamp Duty Land Tax (SDLT)

SDLT is not normally payable on gifts. However, if there is a mortgage on the property and your child takes on responsibility for this, SDLT could be payable.

## Avoiding the 'GROB prob'

To be effective for inheritance tax, you cannot keep any benefit in the gifted property. If you gift your main home and continue living there, this is a gift with reservation of benefit ('GROB').

One way to avoid a GROB is to pay rent for living in the property. This must be done carefully. A legal agreement must be prepared and it is essential that you pay rent at market value for the rest of your life.

## Deliberate deprivation

Finally, be aware that if one of the reasons for gifting your property is to avoid care home fees, the gift may not be effective.

A gift of property may be the best way to help your child onto the property ladder but there are complexities. A solicitor can advise on the best options for you, please [get in touch](#) with us.



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