

## Flexible Life Interest Trusts (FLITs)

### What is a FLIT?

A Flexible Life Interest Trust can allow a person to benefit immediately upon the death of a testator (Immediate Post Death Interest Trust), all whilst protecting the value of assets for others. This type of trust operates in a very similar way to a discretionary trust.

### In what circumstances would a FLIT be used?

In a case where a testator is married for the second time and has children from their first marriage, which is now becoming a common situation, the interests of their husband/wife and children can be protected by putting property or assets into a Flexible Life Interest Trust. It can also be used to protect any vulnerable adults.

### How does a FLIT work?

Upon first death, rather than assets passing straight and outright to the survivor, they go into a trust. The trustees hold the assets and pay any income to the survivor for the rest of their life. The survivor has a “life interest” in assets and this can also be a right for them to occupy any property within the estate for their lifetime. Trustees also have the power to rearrange any capital and income during the lifetime of the survivor.

As an example, this type of trust would enable the testator to gift his estate (or any specific items or property) to his wife for her lifetime, meaning that she would be entitled to live in the property or receive any income from any investments etc., and the children can be residuary beneficiaries, who will have any capital held upon trust by trustees and then passed to them upon the wife’s death.

## What are the advantages of using a FLIT?

Using a FLIT is a good way of controlling not only the estate, but what then happens to that estate upon second death and allows for the distribution of wealth through future generations in a way that the trustees may consider best.

Another advantage with this type of trust is that a surviving spouse is given more rights under it; they may have the right to both the capital of a trust and also the right to any income.

A FLIT is also far less structured than other types of trust and how it defines the rights of the life tenant. The trust ultimately works alongside and is based around the use of a letter of wishes which sets out how the trustees should exercise their powers.

## What happens when the life tenant dies?

On the death of the life tenant the trust will come to an end in regards to qualifying as an Immediate Post Death Interest trust, and the trust will then change into a full discretionary trust. The trust therefore should to be managed in the future and if not, it will be subject to exit and anniversary charges. The life tenant should therefore consider any tax issues that may arise upon their death and should put any plans in place for future tax mitigation.