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Saving for Gift Tax

Using a 'qualifying' savings plan can save your client 33% on their tax bill !!

Where your clients are planning to gift assets to their beneficiaries, instead of leaving them as an inheritance, Section 73 Relief from Gift Tax can be a valuable part of your client's estate planning solution.

What is the benefit for your client in taking out a Section 73 savings plan?

The benefit of using a 'qualifying' Section 73 life assurance savings plan to fund for the payment of gift tax is that, as long as the money from the plan is used to pay the beneficiaries gift tax bill, it will not increase their gift tax liability.

If your client gave their beneficiaries the money to pay the gift tax bill from their deposit account, this is considered by Revenue to be an additional gift, and will increase the beneficiaries' tax bill.

An example of how Section 73 relief from gift tax works in practice is shown below

John plans to transfer an investment property worth €800,000 to his son Paul in 8 years' time. Paul's gift tax liability will be €132,000, assuming he has received no other gifts or inheritances from his parents.

This means a loss of almost 17% of the value of the gift.

To fund for this tax, John could effect a (Section 73) savings plan.

If John saves €1,200* per month for 8 years, indexed, assuming a growth rate of 4% gross per annum, this will be worth €147,212 after tax and charges, John gives €132,000 of the plan value to Paul, who uses it to pay his Gift Tax liability on the gift of the property.

Because of Section 73 Relief, this money is not seen as an extra gift so it does not increase the gift tax liability.

If John had given Paul the €132,000 from his bank account this would have increased Paul's gift tax bill by €43,560.

John can keep the excess over the amount of the tax bill for himself, it is his savings plan after all !!

*Exclusive of the government levy

Warning: These figures are estimates only. They are not a reliable guide to the future performance of this investment.

Warning: The value of your investment may go down as well as up.

Warning: If you invest in this product you may lose some or all of the money you invest.

How is the Section 73 plan set up ?

The life assured, the plan owner and the payer of premiums is the person who will make the gift. In the example, this would be John. The plan is just a normal savings plan, but with a special endorsement in the plan schedule to say it is eligible for relief under Section 73 CAT Consolidation Act 2003.

Who owns the Section 73 savings plan?

The person giving the gift is the proposer / plan owner and owns the Section 73 savings plan.

Who pays the premium on the Section 73 savings plan?

The person giving the gift must pay the premium on the plan.

Can my client use an existing savings contract as a Section 73 savings plan?

No, an existing contract cannot be switched to a Section 73 plan. The plan must be specifically endorsed as a Section 73 contract at the date of commencement.

Can both Section 73 and Section 72 relief be availed of under the one plan?

For the proceeds of a policy to be eligible for both reliefs the contract would need to have both a life cover element AND a savings element.

To qualify for relief from inheritance tax (section 72 relief) the plan must have life cover of at least 8 times the annual premium. If the plan is ALSO to qualify for relief from gift tax (section 73 relief) there must be a unit linked savings element to the plan.

So, if there is no savings element on a protection plan it will not qualify for relief from gift tax (section 73 relief), and if there is not the minimum amount of life cover on a savings plan it will not qualify for relief from inheritance tax (section 72 relief)

What happens if my client dies during the lifetime of the Section 73 savings plan before the gift is made?

If your client dies before the end of the minimum 8-year period, the cash value of the plan will not qualify for relief in the payment of either gift tax or inheritance tax. Even if the plan owner died after the 8 years, and had not used the funds to pay gift tax before their death, the value of the plan would **not** be exempt from inheritance tax.

What happens if there is an excess amount on the Section 73 plan?

Any excess over the gift tax liability that is not used to pay gift tax remains with the plan owner as it is their money.

Will exit tax be deducted on the Section 73 plan?

Yes, it is still a normal savings plan. Exit tax will apply on certain chargeable events if there is any investment profit (gain) on the plan.

Are there certain restrictions to these plans?

There are some revenue restrictions and requirements. If these rules are not satisfied for any reason, the plan will lose its exemption from gift tax and could actually increase the beneficiaries' liability.

The more detailed Revenue conditions for these types of plans are below :

- ⇒ The plan must be expressly effected under the provisions of Section 73; normally the plan is endorsed to this effect when it is issued.
- ⇒ To qualify for Section 73 relief the person who owns the plan must also pay the premium.
- ⇒ A joint-life plan can only be taken out by a married couple or registered civil partners.
- ⇒ You must continue to make regular premium payments for at least eight years.
- ⇒ If you stop paying regular premiums, even after the eight-year period, you cannot restart.
- ⇒ Your premium cannot increase or reduce by more than 50% in any continuous eight-year period unless as a result of a plan review by the life company.
- ⇒ Once regular premiums have been paid for at least 8 years, any encashment from the plan after the plan has been in force for 8 years will be exempt from gift tax when used to pay gift tax within one year of making the encashment.

We advise that your client seeks professional tax and legal advice as the information given is a guideline only and does not take into account your client's personal circumstances.