

Important information for the Settlor, Trustees and their adviser(s)

# Estate planning needn't be taxing

These questions and answers are designed to be given to the Settlor(s). We will normally call the Settlor 'you' in this guide and we assume that you are UK resident.

## Why use the Standard Life Discounted Gift Plan?

- The Standard Life Discounted Gift Plan allows you to take steps to reduce inheritance tax (IHT). Any growth in the Trust will be outside your estate for IHT purposes.
- It allows you to receive fixed regular withdrawal payments during your lifetime unless the fund reduces to nil.
- Payments can be made to Beneficiaries in the event of your death without any need to wait for probate/confirmation.
- It allows you to select the Beneficiaries today that you wish to benefit from your Plan after your death without including this in your will. For maximum flexibility, you can add Beneficiaries if a Discretionary or Flexible Trust is chosen. If you use an Absolute Trust, the Beneficiaries cannot be changed by the Trustees.
- It allows you to make a gift which may reduce the value of your estate for IHT purposes. In the event of your death within seven years of making the gift, the value added back to your estate may be less than the value of the cheque you wrote, if HM Revenue & Customs (HMRC) accepts that a discount applies.

Standard Life has prepared this document with due care and attention.

Any reference to legislation and tax is based on our current understanding of law and tax practice in Ireland and the UK at September 2010. The future tax position of the bond, or your own tax position, may alter. Standard Life cannot accept any responsibility for loss, damage or other claim which may arise from using this document or perform the function of a legal or tax adviser. You are strongly recommended to consult your own legal or tax adviser.

Please note that before buying a product, factors such as commitment and investment risk need to be considered. Full details are available in the relevant Key Features Document.

### The Trust

#### Are there different types of Trust available under the Discounted Gift Plan?

- Yes. You can choose to use either a Discretionary Trust, a Flexible Trust or an Absolute Trust.

#### What are the differences?

- A Discretionary Trust allows you (the Settlor) to indicate whom you would like to benefit from the Plan on your death, but the Trustees have the final choice on who benefits from those outlined in the Trust.
- A Flexible Trust allows the Trustees to choose who benefits from a wide class of Beneficiaries as defined in the Trust. At outset you (the Settlor) will specify a 'Main Beneficiary or Beneficiaries' who are entitled to any income and who will benefit if the Trustees do not make any appointment.
- With an Absolute Trust, you (the Settlor) specify the Beneficiary(ies) when the Plan is set up. The specified Beneficiary(ies) cannot later be changed by the Trustees.
- Under each Trust, there must be at least one Beneficiary alive at the time of creating the Trust.

#### What is the governing law of the Trust?

- English law will apply unless you initial the 'Choice of Law' section of the relevant Trust.
- It is not possible to set up a Discounted Gift Plan under Scots law, but if you are resident in Scotland you can set up the Plan under either English or Northern Irish law.

#### Can I cancel the Discounted Gift Plan?

- Once the Discounted Gift Plan has started the Trust cannot be cancelled.

### The Investment

#### What investment powers do the Trustees have?

- The Trustees have wide powers of investment. For example, the Trustees can select a non-income producing investment such as a bond. This means that no taxable income arises in the Trust until the bond is cashed in. This would simplify the tax compliance and accounts for the Trustees.

#### Who makes the application for the bond?

- The Trustees, using the Trustee Application Pack.

#### To whom should the cheque be made payable?

- The cheque should be made payable to 'Standard Life International Limited'.
- If you choose no underwriting, the cheque should be sent to us with the completed Trustee Application Pack. If your Plan is to be underwritten, please do not send the cheque until underwriting is complete and you have received your discount certificate.

#### Who are the lives assured on the bond?

- You can choose to give the investment bond a potentially longer lifespan by selecting one or more Beneficiaries to be the lives assured.
- It is possible for there to be six lives assured on the bond; you should speak to your adviser about this. There may be a charge for this.
- Neither the Settlor nor their spouse or Civil Partner should be lives assured on the bond, in order for the Plan to be effective for IHT purposes. Lives assured must be UK resident.
- Once the Plan is set up, lives assured cannot later be changed, added to or removed.

#### Can the Trustees make payments to the Beneficiaries?

- The Trustees can only make payments to the Beneficiaries after the Settlor's death.
- The Trustees should not take partial surrenders from the bond unless this is being used to pay their tax liability.

### Is there a minimum or maximum investment?

- The minimum investment is £60,000. There is no maximum but if the Trustees wish to invest more than £1,000,000 we reserve the right to review the application.

### Can the Settlor make additional gifts to the Plan?

- No, the Plan should not be topped up as this could affect how IHT applies to your Plan.
- You can, however, set up another Plan, where the minimum investment level will apply.

## The Settlor

### Who is the Settlor?

- You are the Settlor if you set up the Plan by transferring money to the Trustees.

### Can spouses or Civil Partners take out a Joint Discounted Gift Plan?

- Yes. A Joint Settlor version of the Plan is available. On first death the specified withdrawal payments will continue to be paid to the survivor.
- A spouse or Civil Partner who is also a Joint Settlor cannot be a Beneficiary of the Trust.

### Can spouses or Civil Partners each take out a Discounted Gift Plan?

- Yes. Your (the Settlor's) spouse or Civil Partner cannot benefit from your Plan during your lifetime, but your widow, widower or surviving Civil Partner can benefit after your death.
- Please speak to your adviser about the most suitable action for your personal circumstances. There may be a charge for this.

### Can I take out more than one Discounted Gift Plan?

- Yes, but it is important that these have different start dates. Whenever you set up more than one Trust, you should always make sure that these are on different dates or the IHT payable could be increased as a result. Please speak to your adviser for more detail. There may be a charge for this.

### What benefits will I (the Settlor) receive from the Discounted Gift Plan?

- At outset, you specify the amount and frequency of fixed regular withdrawal payments you wish to receive from the Plan (this is called the 'retained rights'). You can choose withdrawal payments of between 0.5% and 10% (available in steps of 0.5%) of the initial investment each year, paid monthly, three monthly, six monthly or yearly. The maximum withdrawal payments that you can select are restricted to 10% per year, or 5% per year if the bond's charging structure includes an Establishment Charge.
- The Trustees provide these fixed regular withdrawal payments by taking withdrawals from the bond. You will receive withdrawal payments for the rest of your lifetime, unless the value of the bond reduces to nil.

### Are there any age restrictions?

- The Settlor must be over 50 years of age and under 90 when the Plan comes into force.

### Can I (the Settlor) vary my withdrawal payments under the Discounted Gift Plan?

- No. The level of withdrawal payments paid to you must be fixed at outset and cannot be altered. Any excess payment made to you will constitute a breach of Trust by the Trustees.

### Can I (the Settlor) choose to defer taking my fixed regular withdrawal payments, even if I haven't received a discount?

- No. In order to satisfy the rules of the Trust, you must take your full 'retained rights' (in the form of fixed regular withdrawal payments) each year for the rest of your lifetime, unless the value of the bond reduces to nil.

### What happens if I don't need withdrawal payments in future?

- You would be able to give the withdrawal payments away, but this will have IHT consequences and you should speak to your adviser before doing this. There may be a charge for this.

### What happens when I (the Settlor) die?

- The withdrawal payments that you have been receiving should be stopped by the Trustees.
- In the case of a Single Settlor Plan, any remaining funds are available to the Trustees who may distribute this to the Beneficiaries or continue to hold it invested in the Plan.
- In the case of a Joint Settlor Plan, the specified level of withdrawal payments chosen at outset will continue to be paid out until the death of the survivor, provided the value of the bond has not reduced to nil.
- Where spouses or Civil Partners take out separate Plans, the fixed regular withdrawal payments will stop on the death of the Settlor of each Plan.

### What happens when a Beneficiary dies?

- If an Absolute Trust is used and a Beneficiary dies either while the Settlor is still alive or after they die, their share of the value of the trust assets will form part of the deceased Beneficiary's estate.
- If a Discretionary or Flexible Trust (after 22 March 2006) is used and an 'Additional Beneficiary' (Part D of the Discretionary Trust) or 'Main Beneficiary' (Part F of the Flexible Trust) dies, their share of the value of the trust assets will not form part of their estate for IHT purposes.

## The Trustees

### Who should I appoint as a Trustee?

- You should select one or more people who know you, for example relatives or friends, who are at least 18 years of age. You could also choose a Professional or a Corporate Trustee, who may charge for their services.
- You should note that the Trustees, if using a Discretionary or Flexible Trust, have control over who benefits from the Plan, subject to your specified 'retained rights' and so you should choose your Trustees carefully.
- So that it is easier to administer the Trust, it is sensible to restrict the number of Trustees to a small number, for example, three.

### Is the Settlor a Trustee?

- Yes, you are automatically a Trustee from the outset, unless you elect to opt out on the Trust. You can choose to retire from being a Trustee at any time. Sometimes a new Trustee may have to be appointed before you can retire.
- In the case of a Joint Settlor Plan, you are both automatically Trustees from the outset, unless you elect to opt out on the Trust.

### Why might the Settlor wish to retire from acting as a Trustee?

- If you are in declining health you may not want the involvement and duties of a Trustee. Remember that if you use a Discretionary or Flexible Trust, the Trustees have ultimate control over who receives any benefit from the Plan.

### What are the duties of the Trustees?

- The Trustees are responsible for administering the Plan and taking investment decisions. They should monitor and review the investments and they should normally take professional advice in relation to their investment decisions. The Trustees may be asked to produce evidence of these decisions.
- Trustees are given considerable protection from liability.

### Can the Trustees be changed?

- Yes. During your lifetime you (the Settlor) usually have the power to appoint and/or remove Trustees. After your death this power rests with the surviving Trustees, or in the case of a Joint Settlor Plan, the survivor of you.
- Standard Life has a deed that could be appropriate for this.

### What if the Trustees reside overseas?

- Only UK resident Trustees should be chosen at outset.
- If any of the Trustees later reside abroad, this may affect the tax status of the Trust and its tax liabilities and you should speak to your adviser.

### What if any of the Beneficiaries reside overseas?

- If any of the Beneficiaries live overseas, they may not be able to be lives assured under a Standard Life International bond. You should speak to your adviser about this. There may be a charge for this.

### The Beneficiaries

#### Who are the Beneficiaries?

- Subject to the obligation to pay you (the Settlor) the withdrawal payments specified at outset, the bond is held in either a Discretionary, a Flexible or an Absolute Trust.
- If you use a Discretionary Trust, the class of Beneficiaries is defined by you at outset. The Trustees have final say on who benefits from your Plan, but you can make an 'expression of wish' indicating to the Trustees how you would like them to consider exercising their discretion.
- Standard Life has an 'expression of wish' which might be suitable for your use.
- Under a Flexible Trust, the Trustees can appoint Beneficiaries from a wide class of Beneficiaries as defined in the Trust. At outset you (the Settlor) will specify a 'Main Beneficiary or Beneficiaries' who will benefit if the Trustees do not make any appointment.
- With an Absolute Trust, the Beneficiaries are named when the Plan is set up, and cannot later be changed by the Trustees.
- There may be IHT consequences where payments are made to Beneficiaries. These payments can only be made after your death.

#### Do I need to complete Part D Additional Beneficiaries if I use a Discretionary Trust?

- No, but there may be some instances when you might want to.
- The 'Definitions' (in Section 1) of the Discretionary Trust set out the classes of Beneficiaries. The Trustees can choose to make payments to any of these Beneficiaries. Sometimes, you may want to include Additional Beneficiaries that are not included in these 'Definitions'. For example, you may want to include a family friend or even a charity. You can insert their details in Part D Additional Beneficiaries. This means the Trustees also have the option to make payments to any Beneficiary named in Part D.

#### What happens when a Beneficiary dies before the benefits are paid?

- If you use a Discretionary or a Flexible Trust (after 22 March 2006), the value of the Trust Fund is not treated as part of any Beneficiary's estate for IHT purposes, unless they are given an absolute interest.
- Under an Absolute Trust, as the named Beneficiaries have a right to their appointed share of the Plan, this benefit will become part of their own estate for IHT purposes.

#### Do the Beneficiaries selected need to be adults?

- There is no need for a Beneficiary to be adult.

#### Can I add a 'whom failing' clause?

- No. Our Trusts are not designed to include this clause, but you could make an 'expression of wish' indicating how you would like the Trustees to exercise their discretion.

### Inheritance Tax (IHT)

#### How is the Discounted Gift Plan treated for IHT purposes?

The following points give a basic overview of how the Discounted Gift Plan is treated for IHT purposes. IHT is a complex topic and you should speak to your adviser for a more detailed explanation.

#### Applies to Discretionary and Flexible Trusts only.

- By setting up the Plan you (the Settlor) have made a gift into the Trust. The amount of this gift, less any amount which is exempt, and less any discount, is treated as a chargeable transfer. If this amount, when added to any other chargeable transfers you have made in the previous seven years, exceeds the current nil-rate band (£325,000 in the tax year 2010/11), there will be an immediate liability to IHT on the excess over the nil-rate band, which is charged at the rate of 20%.
- The Trustees may have a further IHT liability on each 10 yearly anniversary of the Trust being set up. The maximum charge is 6% of the value of the fund at this time and in many cases is a lot less than this.
- The charge is based on the value of the Trust Fund less the value of your retained rights, at the 10 yearly anniversary. If this value is less than the available nil-rate band there will be no charge.
- There may also be a charge to IHT when payments are made to the Beneficiaries after the Settlor's death. These are known as 'exit charges'.

#### Applies to Absolute Trusts only

- By setting up the Plan using an Absolute Trust, you (the Settlor) have made a gift into the Trust. The amount of this gift, less any amount which is exempt, and less any discount, is treated as a potentially exempt transfer, which means no periodic or exit charges apply. However, if a Beneficiary dies, their share of the value of the trust assets will form part of that Beneficiary's estate.

#### Applies to Discretionary, Flexible and Absolute Trusts

- If you (the Settlor) die within seven years of setting up the Plan, further IHT may be due on the initial gift you have made into the Trust.
- If you have set up a Joint Discounted Gift Plan, your IHT liabilities will be calculated according to your individual circumstances. Please speak to your adviser for more details.

#### How is the amount of the discount calculated?

- The discount is the value, at the time the Plan is effected, of the fixed regular withdrawal payments you (the Settlor) have requested to be paid to you from the Plan (the 'retained interest').
- This value will depend on your life expectancy, which is in turn determined by your age, sex and state of health.
- The value of the gift you have made to the Plan for IHT purposes is then determined by deducting the amount of any discount from the initial investment.
- It is possible that no discount is available due to your age or health.

#### How will I know the amount of the discount applying to me?

- Once your Plan has been underwritten, we will send you a certificate informing you of the amount of discount we consider appropriate. We cannot guarantee that HM Revenue & Customs (HMRC) will accept our valuation of the discount, and HM Revenue & Customs (HMRC) can revise the discount.
- In order for us to underwrite your Plan we may need to obtain further medical information from your doctor. Standard Life will pay for this.
- If you selected the no underwriting option, no discount certificate will be issued. This means Standard Life will not hold any information which may assist you or, after your death, your Executors in any negotiations.

### Who is responsible for paying any IHT (e.g. as a result of setting up the Plan)?

- Either the Trustees or you, as the Settlor, may pay any IHT due. If you, as the Settlor pay any of this tax, this could affect the tax status of the Plan. Please speak to your adviser for a more detailed explanation. There may be a charge for this.

### Will the IHT gift with reservation rules apply to the Discounted Gift Plan?

- No. With this type of Trust you create two separate sets of rights.
- Your right to fixed regular withdrawal payments (the retained rights) remains part of your estate, but usually ceases to have any value on your death. The (inheritance tax) gift with reservation rules therefore do not apply to these rights.

## Pre-Owned Asset Tax

### Is the Plan subject to pre-owned asset tax?

- HM Revenue & Customs (HMRC) has produced a Guidance Note which advises that this type of arrangement is outside the scope of this tax.

## Capital Gains Tax

### Will the Plan be subject to capital gains tax?

- Trustees will not usually be subject to capital gains tax on bonds.

## Income Tax

### When might an income tax liability arise?

- There will be no charge to income tax unless a chargeable gain arises.
- A chargeable gain may arise if the Trustees make withdrawals from the bond which exceed a yearly allowance. This is 5% of the initial payment and can be taken each year. Any unused allowance can be carried forward indefinitely. The allowance runs out when 100% of the original payment has been withdrawn.
- A chargeable gain may also arise if the Trustees encash the bond or if it is terminated by the death of the life assured (or the last surviving life assured). On final termination any previous withdrawals will be taken into account, as will any previous chargeable gains.
- If the bond is taken out jointly, you will each be assessed independently on your share of any gain.
- You have the right to recover the tax you pay from the Trustees. If you do not do so, the amount you are entitled to reclaim from the Trustees may still be included in your estate for IHT purposes. Please speak to your adviser for more detail. There may be a charge for this.
- If the bond is surrendered after the tax year of your death, or after you move abroad, an income tax charge could arise for the Trustees.

### Who is liable to tax on a chargeable gain?

- Only when the trustees incur a chargeable event, such as a surrender, or part surrender in excess of the cumulative 5% allowance, may a chargeable gain arise.
- The liability for chargeable gains made by trustees will depend upon whether you (the settlor) are still alive and the type of trust chosen. Chargeable gains arising during your lifetime, or within the tax year of your death, will be assessed upon you if you are a UK resident in the year of assessment.
- You will be subject to income tax on the entire chargeable gain at the savings rate of 0% (if you have unused personal allowance), 10%, 20% or 40%. Where the gain takes you into higher rate tax, top slicing can be used to reduce (or eliminate) the higher rate liability. Time apportionment relief cannot be utilised to reduce any chargeable gains made on a Standard Life International Bond held within a discretionary trust. On 6 April 2010, a new additional rate of tax of 50% for individuals with income in excess of £150,000 was introduced. Additional rate tax payers will have a liability of 50% on offshore bond gains. Where you are assessed, you have the right to reclaim from the trustees any tax payable. Failure to reclaim the tax from the trustees will result in the amount remaining within your estate for IHT. If you do not wish to reclaim the tax from your trustees you should notify the trustees of your intentions which could result in a chargeable lifetime transfer.
- Chargeable gains made by the trustees after the tax year of your death will generally be taxed upon the trustees at the special trust rate with no top slicing relief available.
- From 6 April 2010, the special trust rate increased from 40% to 50%. However, trusts have a standard rate band of up to £1,000. Income, including offshore bond gains, that falls within this band is only taxed at 20%

### Applies to Absolute Trusts only

- Any chargeable gain is normally assessed on the Beneficiary.