



PETS AVOID GROB FOR COUPLE GIFTING CHILDREN A BOOM TOWN FLAT

Property-rich Helen and John can reduce a potential future IHT bill for their twins by gifting one of their homes to their children using a potentially exempt transfer

THE PRESCRIPTION



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John's friend is right, the gift with reservation of benefit (Grob) rules generally prevent the couple from giving the family home to their children and continuing to live there while also mitigating IHT.

At its worst, the property would not leave the donor's estate and would therefore be subject to IHT at 40% on death, while the gift triggers an immediate CGT charge. This is particularly problematic where main residence relief does not apply.

So where does that leave the couple?

Two options to weigh up

Option one is to remortgage to release equity that can be gifted to the children immediately. These gifts would be potentially exempt transfers (PETs). Providing the donor survives seven years from the time the gift is made, it would no longer be taxable on their death.

The drawbacks of this approach are that banks are generally reluctant to offer mortgages to retirees, and equity release schemes can be expensive.

Option two is to gift the London home to the children via a PET. There is a chance this could be done in a way that avoids the CGT charge or being caught by the Grob rules.

Assuming the couple never intend to sell the Surrey estate during their lifetimes, electing it to be treated as their main residence is a waste of time because it would benefit from CGT relief on their deaths anyway.

An election could have been made over the London property, but it would have had to be done within two years of acquiring the interest in the second (Surrey) property. So CGT can only be avoided if they made the correct election

in time.



Provided Helen and John pay market rent for their use of the London property, there would be no Grob

To plan around a Grob does not require as much foresight. Provided Helen and John pay market rent for their use of the London property (until they cease using it or until death), there would be no Grob.

Advantages of gifting via a PET

The advantages of option two are:

- potentially no IHT on passing the property to the next generation;
- no CGT, if an election has been correctly made;
- Helen and John could continue to use the property and would also be paying income to their children (to further diminish their estates);
- it would be the children's main residence until they moved out;
- the children would be able to use the property as additional security to help purchase their own properties.

A gift of a share in the property to each of the twins could have similar results without the need for Helen and John to pay rent.

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