Important – This fact sheet is not to be sent to solicitors, banks or lay trustees as a statement of the information they are obliged to provide but is intended to be for the guidance of ILM members only

This fact sheet is not intended to cover advice on actions to be taken on the termination of a life interest, but only the general management of cases where the life tenant is still alive.

Introduction

More correctly known in England and Wales as “Interests in remainder”, reversionary interests are sometimes known by charities as “life interests”. This means that the charity’s interest is subject to the interest for life of an individual or a number of individuals; the “remainder”, i.e. whatever is left over on the termination of the life interest, passes to the charity(ies) and, often, other organisations or individuals. The person having the life interest is called the Life tenant (or, in Scotland, Life Renter). The whole arrangement is often referred to as a ‘Will Trust’.

Reversionary interest bequests can include various types of investment comprising a Trust Fund, or a property (or sometimes several properties), or both.

These bequests are also sometimes referred to as “delayed” legacies, because the charity does not have an immediate entitlement to them. The delayed entitlement can sometimes be subject to a right or licence to occupy a property, as opposed to a full life interest.

A surprisingly large number of charities take few steps to investigate the full extent of these often highly valuable bequests. In some cases, a brief letter might be sent to the Trustees or their professional advisers once every few years, mainly to establish that the life tenant is still “enjoying” his or her life interest, or to ensure that contact is not lost over the years. However, by becoming more actively involved in these cases, charities can not only protect the value of their bequest, but, in many cases, enhance its eventual value.

Some charities believe that it is morally wrong to “interfere”. Certainly these cases need to be handled extremely carefully, and with great tact; it is all too easy to antagonise the (often elderly) life tenant. He or she may feel that the charity is harassing them and hoping they will soon die so that the charity can “get their hands on the money”. Certainly, no direct approach should be made to the life tenant, unless the life tenant is also the sole Trustee.

What if the life tenant is the sole Trustee?

This situation can present problems; depending upon the value of the bequest, it needs particularly delicate handling. What will happen to the management of the trust, if, for instance, the life tenant who is also the sole trustee, becomes ill or incapable of handling his or her own affairs? You might want to ask your solicitors to handle this particular situation in order to fend off the adverse p.r. that might accrue from a direct approach.
Building a relationship

If handled carefully, politely and tactfully, and over a period of time, it is possible to build up a good relationship with the Trustees and/or the Life Tenant, and so gain regular information on your reversionary interest – and possibly even a further bequest.

It is currently rumoured (April 2006) that some charity Accountants or Auditors will soon be insisting on a valuation of reversionary cases. I believe that lack of co-operation from some lay trustees or life tenants will mean that you are simply not going to get an accurate valuation in some cases, however carefully they are approached. With care, however, you will obtain at least an approximation of the likely value on a given date, though it should be remembered that this is not necessarily the sum you will receive on the life tenant’s death.

So - become involved and ask for relevant information from the outset of each new reversionary case; then tackle any backlog of “dormant” reversionary cases. In fact, they should be anything but “dormant”!

Firstly, obtain a copy of the will and identify exactly your charity’s interest or entitlement and the effect of any investment or administrative provisions. What powers do the Trustees actually have? Does the Will stipulate that the Trust Funds be invested in a Bank or Building Society Account, despite the fact that this does not provide for capital growth? Even if it does, it may be possible to persuade the Trustees to vary this power if it is in fact also in the interests of the income needs of the life tenant to do so. Does the will give the Trustees power to advance capital to the Life Tenant? If so, your approach needs to be even more carefully handled.

What information should be requested?

Please see the attached sample file front sheet for reversionary interest cases. This covers the principal items of information you should aim to collect. You might find it useful to keep this on each case paper file. If you have a computerised system such as First Class, then it is well worth storing the information electronically as well.

How to set about asking for the information you need

Whilst this is largely a matter for each charity, the best approach is a gradual accumulation of information, written in a series of very polite letters, perhaps even over years. For instance, it is not advisable to demand to know the exact age of the life tenant at the outset of a new case – the life tenant is likely to be a close relative or friend. Make clear to the solicitors or bank that you do not wish them to ask the life tenant for this information if they do not already have it on file.

Start with the information you feel to be most important first, and gradually build up from there. When first notified of your reversionary entitlement, explain why you will be asking for certain items of information, for example, a copy of the will and the estate accounts, and make it clear that you will not be asking from mercenary considerations, but because, as a publicly-accountable charity, you are obliged to keep accurate records. A letter sent to
Trustees – especially lay Trustees – requesting a long list of information is only likely to antagonise them.

Right to Trust Accounts

Although The Trustee Act 2000 states that Trustees must be “ready with accounts”, in practice, many Trustees, even professional ones, no longer produce annual accounts routinely. As one of the beneficiaries, you do have the right to call for accounts, but if the Trustees fail to produce these, your only recourse may be through the courts. In practice, it may not be worth your pursuing this right for financial or personal reasons; certainly not if you have been provided with details of the composition of the Trust Fund and are happy that this provides for a reasonable element of capital growth and that any property within the Trust is properly maintained and insured.

What happens if the Trust Property is falling into disrepair and there are no funds to pay for repairs or maintenance?

Much depends on whose responsibility the repair and maintenance of the property is (again, look at the will). If the responsibility is that of the life tenant, but he or she has slender means and there are no other funds available, then a charity can use its funds to pay for repairs to a reasonable extent. This is in order to ensure that the value of the charity’s ultimate entitlement is not diminished over the years.

Once you have obtained all the information, how often should these cases be reviewed?

This is again up to each charity. Some review every five years, a few annually. It is the writer’s view that approximately once every three years is about right, unless there are special circumstances.

Technical problems and points of law

These are outside the ambit of this fact sheet and if in doubt, you should refer these to your own solicitors. However, remember that it is often a good idea to contact your co-charity remaindermen, as it is possible that they will have encountered the problem before.

And finally …..

Do remember to copy your co-charity beneficiaries in to information you receive. Not only is this to the benefit of all, but it will also avoid antagonising the Trustees with too many queries of the same type. You might even consider asking one of the charities to “lead” in obtaining information for all, and to carry out regular reviews, but please remember that they are not obliged to do so, and staff changes may mean that the case is overlooked in future years.

As ILM members may be aware, the Chancellor of the Exchequer proposed some fairly wide-sweeping changes to the taxation of trusts in the Spring 2006 Budget. Whilst it is not currently thought that these will change any of the advice given above, ILM will review this fact sheet once the Finance Act has become law.
This material has been prepared for the benefit of members of ILM. The information contained in this fact sheet does not necessarily stand on its own and no responsibility for loss occasioned by any person acting or not acting as a result of this material is accepted by the Wilsons, by Legacy Link, by ILM or any of their respective employees.

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**SAMPLE REVERSIONARY INTEREST FILE FRONT SHEET**

**DETAILS OF REVERSIONARY INTEREST**

Name of Testator/Testatrix:

Date of Death: Date of Will (& Codicils):

Share of estate:

Co-remaindermen:

Trustees:

Solicitors/Bank:

Life Tenant(s): Age of Life Tenants (if known)

**DETAILS OF PROPERTY (if any):**

Registered/Unregistered: Freehold/Leasehold:

Value of Property: on (date):

Location/security of Deeds

Responsibility for insurance and sum assured/index-linked?

Responsibility for Maintenance and when last checked?
ILM Factsheet
Management of reversionary interest legacies to charities

Does Life Tenant reside at property?  Does anyone live with him/her?

**TRUST FUND:**

Value on (date):  Amount:

Comprised of (summary, e.g. stocks and shares, Bank accounts, properties etc)

Investment provisions in the will:

Unless the will provides otherwise, does the Trust Fund provide for a reasonable element of capital growth? What is the investment policy of the Trustees?

**OTHER RELEVANT INFORMATION:**

DATE REVIEWED: NEXT REVIEW DUE: