may either use the income to maintain the beneficiary or retain the income generated in the trust.

Taxation

During the period in which the income is retained in the trust (accumulation period), both the trustee and the beneficiaries are subject to taxation (as in the case of a *discretionary trust*).

If the oldest beneficiary is over a certain age – usually 25 – and the accumulation period is not over yet, the trust is treated like a *mixed trust* for tax purposes.

When the accumulation phase has ended, the applicable tax rules depend on what is going to happen with the trust. If the trust is to be dissolved and the trust assets are to be transferred to the beneficiaries, the trustees may have to pay *capital gains tax* on the profits earned as of that date.

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10.6. Tax Pool

The managers or trustees of *discretionary trusts* or *accumulation and maintenance trusts* must make sure that the taxes have been paid before they distribute income to the beneficiaries.

The tax pool is composed of taxes that have been paid by the trustee at the rate required (trust or dividend-trust rate) and of taxes paid at the standard rate applicable to the first GBP 500 of income. The tax credits, such as for dividends, are not included in the tax pool. When the trustees distribute income to the beneficiaries, the tax pool is reduced by the amount of the tax credit on this portion of income.

If the taxes in the pool do not completely cover the tax credit for the beneficiaries, the trustee must come up with the remainder himself.

10.7. Mixed Trust

Most trust forms may also be combined, such as, for example, an *interest in possession trust* with a *discretionary trust* or an *accumulation and maintenance trust*. These trusts are then called *mixed trusts*.

Trustees as well as beneficiaries in a *mixed trust* always pay the tax rates stipulated for the respective portion of income.

Some other forms of mixed trusts exist: In the *settlor-interested* trust, the *settlor* keeps some particular rights, for instance as to the income generated. In *non-resident trusts*, all or some of the trustees do not live in the UK. The *special trusts* are founded for charitable purposes as well as for pension funds, investment funds or employee provision funds.

10.8. Trusts and Capital Gains

Trustees are subject to taxation for all profits that exceed a specific tax-exempt amount; the applicable tax rate depends on the form of the trust. The beneficiaries do not make any payments to the tax authorities with respect to the trust profits, but cannot claim any tax refund on payments made by the trustees either.

Annual tax exemption for trusts is half the amount of the exemption granted to an individual. Only under certain conditions, for example when a trust serves to benefit a disabled person, the trustee is subject to the same tax exemption as an individual.

If a settlor has several trusts, the annual tax exemption is correspondingly limited, proportionally based on the number of settlements formed since 6 June 1978 and which are still in existence.