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What You Need to Know About Setting up a Trust



When it comes to providing for your children, grandchildren, and other loved ones, you have many different options available. However, a Trust may be the most practical and financially prudent method. While Trusts are commonly associated with the ultra-rich, more and more people (including many who consider themselves “middle class”) are utilizing Trusts today. Here’s what you need to know.



What is a Trust?

The dictionary definition of a trust is: “a fund consisting of assets belonging to a trust, held by the trustees for the beneficiaries,” or “a special type of legal entity that holds property for the benefit of another person, group, or organization.”

In simpler terms, a Trust is a legal entity to which a person transfers property, to be managed by a trustee, for the benefit of a third party; usually family members.





Who is in control of a Trust?

When someone chooses to set up a Trust, three people (or groups of people) are involved.

Grantor/Trustor: The grantor is the person who transfers his or her assets to the Trust and establishes the terms of the property's management and disposition.

Beneficiary: The Trust is established for the beneficiary. The Trust and assets therein should be used to benefit the beneficiary.

Trustee: The trustee is the person (or group of advisors) tasked with overseeing and managing the Trust. The trustee must follow certain laws and the original Trust document.





Should you set up a Trust?

People decide to set up Trusts for a variety of reasons or circumstances. If you meet any of the following criteria, you should consider utilizing a Trust:

1. Are you worried that your heirs won't be financially responsible with the money and/or assets you leave behind?
2. Do you have a loved one with a disability for whom you would like to provide?
3. Do you have a significant amount of life insurance or wealth (\$10 million or more)?
4. Would you like to leave a large portion of your wealth to a charity when you die?
5. Do you have children or other heirs, and is your spouse likely to remarry when you die?
6. Would you like to leave your assets to your heirs without the necessity of probate?
7. Would you like to leave the majority of your assets to your grandchildren?
8. Do you worry that your family members or loved ones will argue over your assets or refuse to follow your wishes regarding your assets after you die?
9. Do you own a business or other asset that you don't trust your heirs to manage financially once you're gone?
10. Would you like to ensure that your heirs use their inheritance for certain purposes, such as education expenses?



There are many different types of Trusts available, and you can set the rules and guidelines yourself. In addition, there are some tax advantages to utilizing a Trust. If any of the items above are concerns for your situation, a Trust may help solve the issue, ensuring your assets are used as you wish after your death.

What are the drawbacks of a Trust?

While there are many advantages to using a Trust, there are also a few drawbacks.

Loss of control: While you have control over the setup of the Trust, once it is established, unless it is revocable the trustee manages the fund. Many grantors don't like the loss of control of their own assets.

Fees: Trusts may be expensive to establish and maintain. There are costs associated with setup and maintenance by the trustee.

"Spoiled" beneficiaries: Many people worry that a Trust will essentially "spoil" their heirs, who will become accustomed to having regular income without any effort on their own part. Of course, the terms of the Trust dictate how much and when income is made available to the beneficiaries.



What types of Trusts are available?

If you choose to set up a Trust, you have many options available. These include the following:

Family/Marital Trust. This type of Trust is used by married couples concerned about estate taxes. The assets in the fund may be given to heirs without any estate tax. There are tax limitations on this type of trust, which vary from year to year.

Special Needs Trusts. Special Needs Trusts are used to help financially support a beneficiary who is unable (either mentally or physically) to handle his or her own finances.

Spendthrift Trusts. Many grantors worry that their heirs won't be able to control themselves if given a large lump sum of money. Instead, they set up a Spendthrift Trust, which distributes the money to the beneficiaries based on the guidelines provided by the grantor. These Trusts are often used for a single purpose, such as education or living expenses only. They also commonly have age restrictions. For example, a beneficiary may only have access to the Trust once they reach the age of 25.

Life Insurance Trusts. Because life insurance death benefits are subject to estate taxes, many people opt to utilize a Life Insurance Trust instead. In this situation, the Trust itself is the beneficiary of the death benefit. Your heirs are the beneficiaries of the trust, giving them access to the funds. You can also set limitations for this type of Trust, just as you would with the Spendthrift Trust.

Charitable Remainder Trusts. There are tax advantages when you donate money to a charity. If you're planning to donate assets after your death or wish to utilize the tax benefits of a donation, you can set up a Charitable Remainder Trust and use the donation as a tax deduction. The charity will be the beneficiary of the Trust.

QTIP Trusts. If you are married and have children, you might consider setting up a QTIP Trust for your children. If you were to die and your spouse remarried, your spouse's new spouse would be the primary beneficiary for all of his or her assets, including the ones he or she inherited from you. In this situation, should your spouse die as well, your children might receive no inheritance at all. A QTIP Trust helps you avoid this situation. You can name your children as the beneficiaries, ensuring they receive an inheritance.



Revocable/Living Trusts. With a Living Trust, your assets are placed into the Trust while you are alive, then utilized for your benefit until your death. At that point, the assets are distributed to your heirs without the necessity of probate.

Generation-Skipping Trusts. These Trusts are generally used by those with the greatest wealth. They are used to provide multiple generations with an inheritance that isn't subject to the estate tax. These assets are sometimes protected from creditors, as well.

As you can see, there are different types of Trusts available for different situations. Oftentimes, a grantor may elect to use more than one type of trust if they wish to achieve more than one goal.



How to set up a Trust

If you wish to set up a Trust, you may elect to do it yourself using an online service. However, because there are many financial considerations and laws to consider when making decisions regarding a Trust fund, it is best to hire a professional to assist throughout the process.

1. The first step is to determine the objective and beneficiary (or beneficiaries) of your Trust. For example, if you wish to provide for your disabled niece, that is the goal of the fund, and your niece would be the beneficiary.
2. Next, you should determine the rules regarding your Trust and select an appropriate trustee. For example, how would you like the Trust to be handled? How should the money be distributed?
3. Finally, and often overlooked, you should legally transfer assets to the Trust. You can fund the Trust with any assets you choose, including cash, stocks, bonds, real estate, and other assets.





What are some alternatives to a Trust?

If you don't wish to set up a Trust, there are a few other options to transfer property to your heirs. The most popular options include:

Will: A will is a legal document that outlines exactly how you wish your assets to be distributed among your heirs. Your will should include an executor for your estate, as well as instructions regarding the arrangements for all your property. This may include the placement of your children with another guardian, provisions for your pets, instructions for your burial, etc. Transferred assets will usually be subject to probate.

Transfer On Death: Owning property in joint names with right of survivorship, or with a transfer on death (TOD) designation will automatically transfer ownership and avoid probate.



Conclusion

If you feel that a Trust may be best for your situation, please contact our office for assistance getting started. A trustworthy professional can answer any questions you may have regarding your estate and financial planning.



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