Teachers
Financial Planning

Investment UPDATE

Trusts and financial planning

This article focuses on trusts, their benefits and the different kinds available to those who want to manage their assets for the benefits of others.

As financial advisers, a lot of our time is spent helping clients plan for their future. As no-one who deals in money and finances can ever decisively determine what the future holds, a lot of our clients are interested in how best to ensure their hard-earned assets end up with their loved ones.

Trusts used to be the preserve of the aristocracy: people who had huge ancestral piles to pass on to future generations. Now trusts are a financial planning tool that allows people to hand over the management of their assets to a professional who holds it for the benefit of a third party.

So what exactly is a trust and what kinds are available?

What is a trust?

A trust is a legal arrangement which allows for the transfer of property or assets to a middle man, who then holds it for the benefit of a third party.

There are 3 distinct legal personas that come together when a trust is set up:

1. **the settlor** is the individual who owns the assets in question and wants to place them in the trust
2. **the trustee** is the person or organisation that manages the assets placed into the trust by the settlor
3. **the beneficiary** is the person who is going to benefit from the trust when they receive the assets or income from the assets.

Examples of the most popular types of assets that are placed into trusts include money, insurance policies, land and property. The settlor initiates the relationship between the 3 individuals by making a declaration of trust, which can be an "expression of wishes" or a more formal deed, which establishes who they want the trustee or trustees to be, what the assets of the trust are, and who the beneficiaries of the trust are.

The trustee can also be anyone (as long as they are an adult) that the settlor chooses, from friends and family to financial advisers and professional trustees, even the beneficiary themselves, although this could present a conflict of interest. It is also quite common for a settlor to act as the trustee themselves.

Get in touch with us today to talk about your assets.

Why set up a trust?

The introductory information may at first make you think that a trust is a particularly complicated way of doing what a valid will could do, but there are a few important differences. Firstly, trusts are not solely related to death and are often used and set up outside of wills. Secondly, the beneficiaries can receive their assets immediately after the trust term or purpose ends (usually with the death of the settlor or when the beneficiary reaches a certain age) without the long probate process. Thirdly, trusts are private and unlike wills, the ongoing management of a trust does not generate a public record.

Trusts also allow the settlor to:

- transfer assets in a tax-efficient way
- protect children who are too young to handle their own affairs
- protect people who can't handle their affairs because they do not have the capacity to do so
- allow income and capital to be used in a planned, protected way
- protect their estate, particularly with regards to inheritance tax planning.

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It is important to understand that at the heart of the trust process is the transfer of the legal ownership of an asset and the subsequent changes this will make to the control, usage and taxation of said asset. It may not be worth it for some people to set up a trust but for others it can make a significant difference.

We can help you decide on the right course of action.

What types of trusts are available?

In a perfect world there would be 1 type of trust that covered all eventualities. Sadly, this isn't the case. As you'll see, there are a number of different types of trust, each with its own set of rules and tax liabilities.

Discretionary trusts

How it works: The trustees are the legal owners of the assets and are responsible for administering the trust. They can use their discretion, within the range of powers set out in the trust deed, about how to use the trust's income or how to distribute the capital.

Useful for: Trustees have a degree of flexibility to use the assets in a way that will benefit each beneficiary the most. Examples include paying for school fees when children are young, or a deposit for a house when they are older or paying for care for a sibling that needs more support than others.

Accumulation and maintenance trusts

How it works: The trustees are allowed to accumulate income within the trust and add it to the trust capital, or can use their discretion to make maintenance payments to a beneficiary.

Useful for: Keeping capital and growth intact until a beneficiary comes of age or otherwise becomes legally entitled to the trust assets, or for paying for maintenance costs (e.g. education) for a child until they come of age.

Interest in possession trusts

How it works: The trustees pass on the income from the trust to the beneficiary as it arises for the beneficiary's lifetime, but not the capital, which passes to another named individual known as the 'remainderman'.

Useful for: Providing a lifetime income for a beneficiary whilst keeping the assets out of their estate.

Bare trusts

How it works: Assets in a bare trust, sometimes called a simple trust, are held in the name of a trustee. However, the beneficiary has the right to all of the capital and income of the trust at any time if they're 18 or over (in England and Wales), or 16 or over (in Scotland).

Useful for: Keeping assets and income safe until children or grandchildren reach the above ages. In some circumstances they can also be used to reduce inheritance tax for the full amount, as long as the person making the transfer survives for 7 years after making the transfer.

Other types of trust include:

- settlor-interested trusts
- mixed trusts
- parental trusts for children
- non-resident trusts
- trusts for vulnerable people.

Lifetime trusts

While most trusts can be set up while the settlor is still alive, there is another type which is specially designed for those who want to make use of their assets while they are alive.

These lifetime trusts, also known as property protection trusts or asset protection trusts, are designed to allow you to gift your home to the trust, so you effectively don't own it anymore, which takes it out of your estate, but you remain living in it.

However, it is possible that this type of trust can be viewed by local authorities as deliberate deprivation of assets (reducing assets in order to lower the amount a person will be charged for care and support), and they may refuse the fund care home fees as a result.

Contact us today to talk about trusts.

Have you got life insurance?

Anyone who has life insurance should consider getting their policy 'written in trust'.

The benefit of this is twofold: any payout is paid directly to beneficiaries, rather than included in the estate, which may affect the tax due, and secondly, the payout won't normally have to go through probate, so your beneficiaries won't have to wait so long before they receive the money.

Trusts and financial planning

The laws around trusts can be complex, so it is essential to set up the right one properly for it to be effective. With changes in legislation, it's important to review any trusts that have been set up in the past to make sure they are still within the law and that they continue to look after your future.

We can help you make sure that your assets end up with the people that you want them to.

Get in touch to talk about your finances.

Important Notice

The way in which tax charges (or tax relief, as appropriate) are applied depends upon individual circumstances and may be subject to change in the future.

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