



What is a Trust?

A Trust is a legal arrangement in which one person, known as the “trustor”, gives another person, the “trustee,” the right to hold title to property or assets for the benefit of a third person, called the “beneficiary.” There are several reliefs and exemptions available, which can be utilised to potentially avoid paying Inheritance Tax, even if the total value exceeds £325,000. If the value exceeds the NRB, Inheritance Tax is generally imposed at a rate of 40% on the excess amount.

The importance of making a Will

- Can be used to ensure that assets are passed from one generation to another according to the Trustor's intentions. This is particularly useful in the case of large estates, such as farms, where the Trustor does not wish them to be fragmented.
- Can be a means of saving Inheritance Tax (IHT) or Capital Gains Tax (CGT).
- Ensures the preservation of assets and certifies that children do not inherit assets until they reach a certain age.
- A Trust also allows assets to be preserved in the event of a beneficiary encountering financial or matrimonial difficulties.
- Can help to ensure that all assets within the Trust are not considered in the assessment of nursing home charges.
- Can either be set up during the Trustor's lifetime or in the event of death so long as it is written in their Will.
- The assets within the Trust will be in the Trustee's name, and depending on the type of Trust, they will decide when and what each beneficiary receives. In the case of a lifetime Trust, the Trustor can be one of the Trustees and therefore can continue to influence how the assets in the Trust are dealt with.
- With a Discretionary Trust, beneficiaries do not need to know whether they are actual or potential inheritors. The Trustees decide who will benefit, when and to what extent. However, the Trustor will normally give a separate 'Letter of Wishes' stating how they would like the beneficiaries to benefit, but this will not be binding on the Trustees.
- The beneficiary of a Life Interest Trust, who is known as a Life Tenant, has an automatic right to the income from the Trust. They do not have any right to demand the payment of capital, although the Trustees might have power to transfer capital to them.
- Can be a flexible way of meeting the wishes of the Trustor and providing for beneficiaries. It can respond to changing circumstances and the needs of beneficiaries.
- The Trustees have full control over the decision whether to retain or sell certain assets.
- In some cases, a Trust can potentially be a means of sheltering the assets for a period of up to 125 years.

Here are the most common types of Trust:

Bare Trusts

This type of Trust means the beneficiary has an immediate and absolute right to the property.

The Trustees have no discretion as to how the fund is managed. The beneficiary, if over the age of 17, can require that all the income and capital be transferred to the beneficiary.



Life Interest Trusts

This is where someone is entitled to income from a Trust for life.

The beneficiary is entitled to either enjoy the use of an asset, e.g., a house, or to the income from the assets within the Trust. They do not have a right to demand the payment to them of capital from the Trust. The Trustees will have power to transfer assets to the beneficiary should it be necessary.

If a house is left for life to a surviving spouse in the event of a death, the spouse can reside in that house during their lifetime. It can be sold, and another house can be purchased in its place. In the event of the new house being less expensive than the previous one, the surplus can be invested by the Trustees and the income paid to the spouse.

The Trust would state what would happen to all assets in the event of the beneficiaries' death.

Discretionary Trusts

This is often the most flexible type of Trust and can also be a useful instrument in tax planning.

The Trust names several beneficiaries, any of whom the Trustor may wish to benefit. It might name a surviving spouse, children, grandchildren and their respective spouses, widows or widowers. None of the beneficiaries as such are entitled to ask the Trustees for the payment of income or capital. In this case, the Trustees themselves decide who will benefit, when and to what extent. The Trustor will normally leave a separate 'Letter of Wishes' informing the Trustees of how they wish them to exercise their discretion. None of the discretionary beneficiaries need know that he or she is a beneficiary. The Trustees are responsible for deciding who will benefit.

A Discretionary Trust is therefore an extremely flexible type of Trust. It can be used where the Trustor wishes to benefit a group of individuals but has not yet decided what benefit each should take.

Trusts for disabled beneficiaries

This is a Trust set up for someone who is mentally or physically disabled. We would be happy to supply more information about such Trusts on request.

Contact us

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