FINANCE
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Advice to complement your Lifestyle

AN OVERVIEW OF TRUSTS

Protecting assets to pass on to others.

If you're passing on your money, property or investments – to a relative, a friend or an organisation – you want to ensure it goes to the right person or cause and is used as you wish.

As a legal agreement over how your assets will be managed, a trust can offer a level of certainty that you don't have when you transfer assets directly.

For example, let's say you want to give your grandchild money to help towards their future savings. If you transfer it directly to them, there's a risk they will spend the money irresponsibly before they're old enough to know better – but if you give it to another relative you can't be sure how they will choose to use it.

Putting the money into a trust offers more protection, and potentially more control over how the money is spent.

Trusts can be used in this way to pass money on to someone who's too young to make their own financial decisions, but they could also be used to give assets to someone who's otherwise unable to handle their affairs, perhaps because of a disability or mental health condition.

You can also use trusts as part of your estate planning strategy to pass on assets to your family, or as a protected pot of money that you will eventually benefit from, such as paying for future medical needs or social care.

In any of these scenarios, it's important to understand the types of trust available, and how they can fit into your financial plans.

HOW DO TRUSTS WORK?

When, as the **settlor**, you put assets into a trust, they cease to be your possessions.

Instead, your appointed **trustee** is the legal owner of those assets. They are in charge of managing the trust, including deciding how to invest or use the assets, and paying any tax.

The **beneficiary** benefits from the trust, receiving the income it generates, the capital held in trust, or both.

Trusts can hold cash, investments and physical assets such as property. These assets can generate income and appreciate in value, and be distributed by the trustees.

SETTING UP A TRUST

In order to set up a trust, you need to draw up a legal document called a trust deed. This must be worded precisely to avoid mistakes and ensure your assets are used in the right way, so it's important to enlist the services of a legal professional.

The deed should define the trust property, identify beneficiaries, appoint trustees and tell them how to manage and issue assets.

Many people appoint family members or close friends as trustees – either way, they should be people who are capable and willing to take on the responsibility of managing the trust, as well as dealing with tax, HMRC registration and reporting duties.

WHAT KINDS OF TRUST ARE THERE?

Bare trusts

Bare trusts are a relatively simple type of trust, and are often set up to pass on assets to young people, such as children or grandchildren, so they can access them later in life.

They're held in the name of the trustee, but the beneficiary has a right to all the capital and income once they're 18 or over in England and Wales, or 16 or over in Scotland.

Interest-in-possession trusts

With an interest-in-possession trust, one class of beneficiary, known as the 'life tenant', is entitled to any income that arises from the trust, but not necessarily to what's in the trust itself.

The assets of the trust pass to another class of beneficiary, known as the 'remainderman', on the death of the life tenant or after a prescribed period of time.

This is commonly used to provide income for a surviving spouse, before eventually passing the assets on to children.

Discretionary trusts

If you want to give trustees more control over the way the trust income or capital is used, consider a discretionary trust.

Discretionary trusts allow trustees to make certain decisions about what's paid out from the trust, who it's paid to and how often, as well as any conditions the payments come with.

These are sometimes set up for people who are not capable of making financial decisions themselves.

Other types of trust

Accumulation trusts allow trustees to amass income within the trust, and add it to the capital. They can also pay it out.

Settlor-interested trusts are those where the settlor or their partner benefits from the trust.

Non-resident trusts can be set up where the trustees are not resident in the UK for tax purposes. However, these come with particularly complicated tax rules.

Mixed trusts combine more than one type of trust. This can mean different tax rules apply to different parts of the trust.

USING A TRUST FOR ESTATE PLANNING

Trusts can be a helpful tool as part of estate planning, because of the control and protection they offer when passing on wealth, and because they may come with tax advantages.

When an asset is held in trust, it's usually not considered part of your estate for inheritance tax purposes.

But that's subject to several conditions and different rules also apply to different trusts.

For example, bare trusts are generally exempt from inheritance tax as long as the transfer is made more than seven years before the settlor dies. However, making certain transfers to and from interest-in-possession trusts can incur inheritance tax charges.

There are other tax rules for trusts set up by a will, and trusts for bereaved minors or disabled beneficiaries.

This can get complicated, and it's important to seek professional advice when setting up any kind of trust so you don't get caught out by unexpected tax rules.

USING A TRUST TO FUND LONG-TERM CARE

You might also decide to set up a trust as a way of funding any future long-term care needs, making yourself a beneficiary.

Government funding for long-term care is means-tested, and trusts may affect whether you receive funding. The amount that's considered by your local council in your financial assessment will depend on the terms of the trust.

If you are entitled to the capital in the trust, your local council will treat this as capital you own. If you're only entitled to the income from it, as in an interest-in-possession trust, the council will only take that income into account.

If you are the beneficiary of a discretionary trust, the financial assessment will only consider the payments you receive.

However, there are also rules in place to prevent people from deliberately transferring assets to avoid care fees.

If a trust is set up just a couple of months before someone is set to go into long-term care, this may be considered 'deliberate deprivation of assets', so those assets would still be considered as part of the estate.

As with any other part of financial planning, it's best to think about areas like long-term care as early as possible, so you can plan effectively rather than making last-minute changes.

We can help you to set up a trust.

IMPORTANT INFORMATION

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

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