



WRIGLEYS
— SOLICITORS —

Trusts

Protecting and passing on assets

This note covers the questions that our solicitors are often asked about trusts and helps to explain the jargon associated with trusts.

Frequently Asked Questions

What is a trust?

A trust is a legal relationship. In a trust, one or more persons (the trustees) hold assets or property for the benefit of one or more other persons (the beneficiaries).

What are the advantages of a trust?

A trust can help to protect and pass on assets over a period of time, and is an alternative to making an outright gift. Outright gifts are vulnerable if the beneficiary divorces, remarries, becomes bankrupt, loses mental capacity or dies.

Are there any financial advantages of a trust?

Trusts can be used as part of a wider tax planning strategy and can also help to protect a person's entitlement to state funding or other benefits.

What are the disadvantages of a trust?

Trusts can be complex and the tax treatment of trusts can be very confusing for non-professionals. The tax rules affecting trusts change on a regular basis.

How much does it cost to set up a trust?

This will vary depending on a number of factors, such as the type of trust, the trust assets, and the amount of legal and tax advice required. We will always discuss likely costs with you and can often agree a fixed fee.

Wrigleys can advise you on all four stages of a trust's lifecycle

Formation

Trusts are usually set up under a formal trust deed, but may also be contained in a Will and come into effect only on death. Some trusts can arise without written evidence.

The contents of the trust deed are agreed by the person setting up the trust, and the initial trustees. The beneficiaries do not need to sign the trust deed.

Usually HMRC will need to be informed of the existence of the trust, but it is otherwise generally a confidential arrangement.

Transfer of assets

Land must be transferred by a formal deed or conveyance.

Shares must be transferred by a stock transfer form.

Insurance policies are often put in trust by a deed of assignment.

Other assets, including cash, may be transferred simply by the asset being delivered to the trustee.

The transfer of assets to the trustees will often have tax consequences.

Ending a trust

The trust can be ended by the trustees, or on the happening of a certain event which is usually specified in the trust documents. The trust assets will then be transferred out of the trust to the beneficiaries who are entitled to them.

Administration of the trust

Once the assets are in the hands of the trustees, they are responsible for their safe-keeping and must ensure that they are only used for the benefit of the trust beneficiaries.

The trustees may need to take investment and other professional advice to ensure that the trust is run properly and within the law.

The trustees may need to keep accounts and submit annual and other tax returns to HMRC.



Who should I appoint as trustees?

When deciding on appropriate trustees, bear in mind that trustees have legal responsibilities and can be held personally liable for losses to the trust. You can appoint a family member, a friend, a professional person, or even yourself, as a trustee. We normally recommend that you appoint at least two or three trustees.

What are the duties of a trustee?

The overriding duty is to act in the best interests of the beneficiaries of the trust. Trustees must safeguard the trust assets and act within the powers given to them under the trust deed. They must also comply with the general law. Trustees usually enter into contracts on a personal basis, so they must ensure that they comply with the terms of such agreements or otherwise the trustees risk personal liability.

Can I be a beneficiary?

There is nothing to stop you benefiting from your own trust if the trust deed allows this, but if the trust is being set up as part of a tax planning strategy it may not be effective.

How does a trust end?

A trust may end because a period of time specified in the trust deed (the trust period) has expired, or because a specific beneficiary dies, or because the trustees decide to bring it to an end. Most of these events will have tax consequences.

Next steps

Please contact us if you would like to discuss setting up a trust. We are happy to talk to you on a no obligation basis.

Jargon Explained

Bare Trust:

A simple form of trust where assets are held by the trustees for the beneficiaries outright. Often used where assets are held for the benefit of a child under the age of 18, or for a vulnerable person who is unable to manage their financial affairs.

Beneficiary:

The person entitled to benefit from the capital or income of the trust. The benefit may be fixed or it may be at the discretion of the trustees.

Charitable Trust:

A trust established for exclusively charitable purposes and for the public benefit. Such trusts are subject to special regulation by the Charity Commission and carry generous tax exemptions.

Disability Trust:

A trust set up for a beneficiary who qualifies as disabled under specific tax legislation. Benefits from advantageous tax treatment, provided the trust assets are only used for the benefit of the disabled person during their lifetime.

Discretionary Trust:

A trust giving the trustees wide powers over which beneficiaries should benefit and when. These trusts are very flexible but are subject to a special tax regime.

Life Interest Trust:

A trust giving one or more of the beneficiaries the right to receive the income of the trust as of right. May give the beneficiary some other fixed rights, for example the right to reside in a trust property.

Offshore Trust:

A trust that is set up or run outside England and Wales, or where all the trustees are non-residents for tax purposes.

Personal Injury Trust:

A trust set up to receive personal injury compensation and protect the injured person's entitlement to means-tested benefits.

Pilot Trust:

A trust set up with a nominal sum, with the intention that further assets should be added later, often by Will.

Relevant Property:

Certain trusts are subject to special inheritance tax charges on "relevant property" held within the trust. The trustees have a legal obligation to report certain events triggering these charges to HMRC and pay tax from the trust fund.

Settlor:

Usually the person who sets up the trust, but for tax purposes the term also covers anyone who contributes cash, property or other assets, directly or indirectly, to the trust or otherwise increases the value of the trust fund.

Settlement:

Another technical name for a trust, usually one set up in lifetime.

Trustees:

The person or persons with responsibility for managing the trust and ensuring that the trust assets are used only in accordance with the trust deed and for the benefit of the beneficiaries.

Trust Deed:

The legal document containing the rules by which the trustees must run the trust. Some trusts can exist without a written trust deed.

Will Trust:

A trust contained in a Will that comes into effect on the death of the person who wrote the Will.

What our clients say:

“Your professionalism, efficiency and sensitivity have been much appreciated by me and my daughter.”

“What we thought when we walked into your office as a daunting task, with your input, has proved to be a much less complicated process.”

How will you work with me?

We aim to ensure that the same solicitor advises you from start to finish.

You will be able to contact that solicitor directly by phone, email or meet with him or her if you prefer.

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