

Trusts: a wealth transfer strategy



Wealth
Management

What is a trust?

A trust agreement is a legally binding document, prepared by an attorney, which creates a trust and establishes the rules that control the trust's management. Trusts aren't for everyone, but a trust can offer you a variety of options and flexibility, including control and continuity as well as potential tax savings that help you reach your planning goals.

Why have a trust?

Flexibility — Trusts are drafted to meet your specific needs. Some are designed for minors, some are designed for charities, and some incorporate life insurance. Some trusts can be modified at any time; others cannot. Once you decide what to do with your assets, working with your tax and legal counsel, we can help you select the type of trust that best meets your objectives.

Control and continuity — A trust is a legally binding document and your instructions must be followed to the letter — while you're living, if you become incapacitated and after death.

Potential tax saving — Gift taxes, estate taxes, and generation-skipping transfer taxes — the government has ways to tax your nest egg that you probably haven't thought about. It makes sense to protect your assets any way you can — a properly designed trust can help you do exactly that.

Who's who

Grantor — The person who sets up the trust, funds it with assets and decides who will be its beneficiaries. Also known as trustor or settlor.

Trustee — The person or institution that administers the trust according to the instructions established by the grantor in compliance with applicable state laws. The trustee is responsible for all transactions and account records, including disbursements, principal and income accounting, cost basis, and tax reporting. The selection of a trustee is an important part of the overall estate planning process.

Beneficiary — The individual(s) who or organization(s) that receive benefits from the trust. Beneficiaries are designated by the grantor, and often include spouses, children, grandchildren or charities.

Common types of trusts

Revocable living trust — The simplest type of trust whereby the grantor retains all power during his or her lifetime. Assets are protected in the event of the grantor's incapacity and distributed at death according to the grantor's wishes. Benefits of a revocable trust include avoidance of probate and protection of your financial privacy.

A revocable living trust can hold many types of assets — from your investment portfolio and real estate, to your closely held business. Unlike your will, a

revocable trust is not a matter of public record. If your trust agreement provides for your trust to continue after your death, the assets in the trust escape probate and any ensuing publicity at your death.

Revocable trusts have other estate planning advantages as well. You can use a revocable trust to unify estate assets under one manager and provide continuing asset management for your heirs after you are gone. In your will, you can direct that any assets not held in your revocable trust be "poured over" to the trust at your death. Assets poured over into the trust via your will at your death are subject to probate.

Irrevocable trusts — In this type of trust, the terms cannot be changed or amended, although the trustee usually can be substituted. These trusts may offer tax advantages. For example, assets placed in an irrevocable trust are removed from the grantor's estate, decreasing the value of the estate upon death for federal estate tax purposes.

Marital deduction trust — If you are married, you are allowed an unlimited marital deduction for the value of property transferred to your spouse during life or at death — free of estate and gift taxes. Marital deduction property can transfer through an outright bequest or you can arrange for the use of a trust. Income and principal of the trust may be distributed to the surviving spouse for their lifetime.

Credit shelter trust — This type of trust is a method designed to fully utilize the applicable exclusion amount if death occurs in a year when there is an estate tax. This is the amount of assets each person can transfer to a non-spouse at death without incurring estate tax. If an individual doesn't use their applicable exclusion amount during lifetime or at death, the benefit is gone. The surviving spouse and children can receive income and principal from the trust under certain standards. The trust is typically funded at the death of the first spouse through a provision in the will or revocable trust. A credit shelter trust is also known as a bypass trust (B trust), non-marital trust or family trust.

Charitable Remainder Trust — A charitable remainder trust (CRT) allows the donor, and other family members, to receive an income from the trust for life or a term not to exceed 20 years. Upon the death of the income beneficiaries, the trust is dissolved and charity receives the remaining assets. Another benefit of a CRT is the ability to avoid capital gains tax on the sale of assets within the trust and a potential tax deduction when the trust is created.

Irrevocable life insurance trust (ILIT) — An ILIT requires the grantor to completely relinquish title to the insurance policies. The grantor should not retain any right to control the ILIT. Life insurance proceeds from the policies owned by the ILIT are not included in the insured's estate for tax purposes. The proceeds may provide liquidity to the insured's estate by loaning money to, or buying assets from, the estate, or proceeds can be used when wealth replacement is desired.

Professional trustee services

Estate plans creating trusts can be complicated because of special assets, specific family situations, or by the terms and applicable law. Serving as a trustee entails responsibility and personal liability. Often, using a professional trustee is the best option. The professional or corporate trustee has the experience and the expertise to administer the trust properly. The professional trustee makes objective decisions and is not seen as having favorites within the family. A corporate trustee is highly regulated for your protection. In addition, the professional trustee does not die, become disabled or go on vacation. Talk to your financial advisor today about the benefits of establishing a trust.