

Why make a trust?

What is a trust?

A trust is an arrangement under which a person (the settlor) transfers cash or other assets to a small group of people (the trustees) of which the settlor may be one, to deal with and hold for the benefit of one or more beneficiaries.

Trusts can be used as a tax efficient and flexible way to pass cash or other assets to your family or other beneficiaries including young children or even those not yet born, whom you would like to help, both during your lifetime and after your death.

What are the benefits of creating a trust?

The mitigation of tax liabilities on death is one of the principal reasons for setting up a trust. Giving your assets to a trust during your lifetime can reduce your own estate and exposure to inheritance tax, in order to preserve family wealth for future generations. Trusts can also be very helpful in reducing capital gains tax liabilities.

The transfer of assets to a trust can crystallise any taxation relief then available which might no longer apply if circumstances change in the future.

Other reasons for setting up a trust are to protect your assets, provide for the family in the future, for example by funding education for grandchildren, and to prevent assets leaving the family altogether.

By the use of a trust, assets can be held for the benefit of the beneficiaries but without giving them full control immediately.

It is also possible to set up a charitable trust to benefit whatever good causes you specify.

How do I set up a trust?

A trust set up during your lifetime to take immediate effect is usually evidenced by the completion of a trust deed.

Under the deed the trustees are appointed. They should be people who will manage the assets effectively, so as to safeguard and/or invest them in order to provide the maximum possible benefit to your beneficiaries in the future.

You would then transfer the assets that you would wish to be held in the trust to the trustees.

If the trust is not to come into effect until after your death, provision to set the trust up can be made in your Will.

Types of trust

The type of trust that will be suitable will depend on what it is intended to achieve, the situation of the beneficiaries and the tax consequences. Descriptions of the two major types of trust are set out overleaf although there are several variations that can be used to achieve your requirements.

- **Life interest trusts**

In a Life Interest Trust a beneficiary known as the life tenant will have an absolute entitlement to income produced as it arises or to occupy a property held in the trust. Once the life tenant dies, the trust deed will specify who benefits from the trust assets.

The trustees need to maintain a balance between the benefit the life tenant currently enjoys from the trust and the interest of the other beneficiaries who will become entitled in the future.

- **Discretionary trusts**

Under a Discretionary Trust, guidelines can be provided by the settlor as to which beneficiaries should benefit, when and in what amount. The actual decision is left to the trustees so that they can take account of circumstances that may change in the future.

Discretionary Trusts may also be useful for trusts to be used for charitable purposes or to benefit young children and vulnerable beneficiaries.

For further information please get in touch with **Eamonn Daly** on 01789 206142, **Louise Igoe** on 01789 206156 (Stratford office) or **Natalie Smith** on 01242 229086 (Cheltenham office) or your usual Ladders contact.

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