

global wealth structuring » TRUSTS



You want to protect your wealth and ensure that your assets will be passed on to whom you choose under the conditions you specify. A trust can give you this control while guarding against disputes, minimizing your taxes and protecting your privacy.

What Is a Trust?

A trust is a legal arrangement in which you (the Settlor, Donor or Grantor) transfer legal title to your property to an individual or institution, known as the Trustee. The Trustee holds and administers the property on terms that you specify for your own benefit, the benefit of others named by you or both, all of whom are known as the Beneficiaries.

Trust law imposes a rigorous fiduciary duty upon the Trustee. It requires the Trustee to act in the best interests of the Beneficiaries, to never use the trust funds for self-benefit and to invest the trust funds prudently. By law, Beneficiaries have a proprietary interest in the trust assets and can petition the courts to enforce the trust deed. Common-law courts around the world consistently have upheld trust law in favor of Beneficiaries; compliance is firmly grounded in the legal precedents of 700 years of case law.

Why Use a Trust?

Trusts are an effective wealth-management tool. They are used most commonly for estate planning and to protect assets during and after one's lifetime. Trusts generally enjoy a favorable tax treatment, which can minimize tax payments. Privacy is another important benefit.

Inheritance planning. In a trust agreement, you specify who receives the assets, when and under what conditions. Importantly, assets in a trust generally are not subject to forced heirship laws that dictate who receives your assets and in what proportion.

A clear inheritance plan outlined in a trust also can help your heirs avoid family disputes and can reduce the risk of legal conflicts arising from divorce or remarriage. And, unlike with a will, Beneficiaries of a trust can receive their inheritance without the legal delays, expense or publicity of probate or other succession procedures.

Wealth protection. Trusts offer the peace of mind of knowing that your assets are protected. By holding your property in a trust, as opposed to holding it directly, you can safeguard your assets in many ways.

- *Protection if you become disabled.* If you are incapacitated, the Trustee will manage and distribute your assets according to your needs and the instructions you have provided.
- *Professional management of assets.* A trust can provide for the long-term care of minor or disabled children or other family members who are unable to manage wealth. A trust also can guard against the loss or squandering of assets by heirs who might fall under the undesirable influences of others.

- *Protection from legal challenges.* Personal assets legitimately placed in a trust can be legally protected from challenges from personal creditors, taxes, business partners or discontented family members.
- *Emergency provisions.* Trusts can include emergency provisions that protect your assets from the risk of repatriation or expropriation during local political unrest. The Trustee can be empowered to make decisions about trust assets on your behalf should you become unable to communicate during a war, invasion or other emergency.

Tax minimization. Assets owned outside your home country may be subject to a range of local and foreign taxes: income tax, wealth tax, capital-gains tax, estate tax and gift-transfer tax. The favorable tax treatment enjoyed by a trust can minimize these taxes, thereby preventing a substantial reduction in inheritable assets and ensuring that your heirs receive the maximum benefit.

Your citizenship or country of residence, as well as the country in which your assets are located, affect your tax burden. US stocks, for example, are subject to US estate taxes, even if the stockholders are neither citizens nor residents of the US.

Another important consideration is the citizenship and residency of your heirs. If your heirs are US citizens or residents, for example, they will be subject to US taxes on their worldwide income and gains. Their global assets also will be subject to US gift and estate taxes, which are among the highest in the world with marginal rates up to 47%.

The Evolution of Trust Law

In the Middle Ages, large landowners, anticipating long absences from home, often transferred legal title of their property to close friends, family members or the church to administer on their behalf during their absence. Unfortunately, this arrangement became prone to abuse upon the death of the original owner and often left rightful heirs disinherited with no legal claim to the property.

The English Court reaction to such abuses evolved into a body of law that protects the rights of heirs as Beneficiaries of the property held in trust for them. The law also defines and enforces the Trustee's fiduciary responsibility to the Beneficiaries.

For people who plan to move to a high-tax jurisdiction, trusts can be useful in a pre-immigration strategy. Under the UK tax system, for example, UK resident non-domiciled individuals can protect their non-UK assets by transferring them to a trust. In Canada, new immigrants can use an "immigration trust" to effectively shelter income from Canadian taxes for up to five years.

If you are living outside your country of domicile, your estate plan will need to address the tax issues of both your home country and your new country of residence. A carefully structured wealth plan, including a trust, can mitigate some of the issues.

Financial Privacy. Trusts offer greater financial privacy to you and your heirs because trust agreements are not publicly recorded and the Trustee holds legal title to the trust property. Your Beneficiaries can receive their inheritance without public disclosure. The added level of privacy provided by a trust may be particularly important when personal security risks pose a threat to wealthy individuals and their families.

How Do Trusts Work?

The Trustee typically will hold the trust assets for your benefit during your lifetime and for the benefit of the trust Beneficiaries after your lifetime, until the assets are ultimately distributed as defined in your trust agreement.

But trusts can adapt to changing circumstances. If you wish, your trust can remain flexible to address significant changes in your life or in the lives of your Beneficiaries.

You can also elect to retain investment powers, appoint an investment manager or empower the Trustee to make investment decisions. Depending upon the circumstances, you also may borrow against the trust or direct that it be pledged. In some types of trusts, you can empower others to change the trust's provisions, Beneficiaries, Trustee or to revoke the trust after your lifetime.

There are two types of trusts:

- *Revocable trusts* allow you to retain broad powers, including the right to amend or terminate the trust, change the Beneficiaries and direct withdrawals.
- *Irrevocable trusts* may allow you to eliminate or defer certain taxes or give you greater protection from potential risks in exchange for less control over the assets.

Trusts can enable the centralization of assets that are diverse in nature and location and can simplify financial record-keeping. Trust assets can include financial assets with Citi or other financial institutions, such as cash, marketable securities, life-insurance policies, shares of financial-asset holding companies, select real estate and, in some cases, fine art and other assets.

You will receive concise financial statements once a year, including a consolidated income statement and balance sheet for your trust.

Finding the Right Strategy

We leverage Citi's extensive global resources to create innovative wealth-management strategies that will consider your needs and protect your wealth for generations.

Your Global Wealth Structuring Consultant can provide more information about trusts and the full range of services we offer.

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