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Supporting structures

Trusts - A Basic Guide



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WHAT ARE TRUSTS?

Trusts are an Anglo Saxon concept, but their origins are unclear. Some people believe that they originated at the time of the crusades when crusaders had to leave property with friends to look after during their absence.

A trust is created when someone (often referred to as the settlor) gives property to someone else (the trustee) to look after. The property itself is often referred to as the trust fund. The people who will benefit from the trust fund are the beneficiaries. The “trust” is the relationship between the trustee and the beneficiaries. NB while there are some similarities between a trust and a contract, a trust is not a contract, nor is it a company or any other type of incorporated entity.

The trustee will generally have a high level of control over the trust fund. Even so, the trustee will normally be guided by a letter of wishes from the settlor. This is not a binding document and can be updated at any stage without the need for any particular formalities.

Also, it is possible to leave some control with the settlor or give it to a third party (often referred to as the protector). These arrangements are sometimes referred to as reserved power trusts (or RPTs) and are dealt with in a separate note.

What are trusts used for?

As discussed above, trusts are designed to hold and manage property. For example, wealthy individuals are often concerned about leaving too much wealth directly to their children. Instead of leaving their assets to pass by will, they could put the assets in a trust and ask the trustee to manage the assets for the benefit of the children. This could enable the trustee to distribute income only up to a certain age and then pay out capital as and when he thought appropriate. Trusts can also be particularly helpful where it is desired to continue to manage a family business without it having to be broken up on the death of the founder.

There may be tax advantages (depending on the situation of the settlor and beneficiaries) and some protection against creditors (whether business creditors or divorcing spouses for example). Further, it is sometimes possible to use trusts in commercial transactions.

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How can I create a trust?

For further details please contact either Fred Milner or Glenn Mellor at




















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