An Introduction to Trusts

Portfolio Trust
Portfolio Trust Advanced
Portfolio Trust Advanced Plus
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A Trust is widely used and well established way of protecting and enhancing a family’s wealth. Trusts also facilitate the safe and efficient passage of such wealth to the chosen beneficial class, which typically includes future generations of the family.

The origin of the modern trust is Anglo-Saxon, originating under medieval English law, they have long been associated with the protection of assets.

During the absence from England on crusades, a knight would transfer ownership of his property and personal belongings to a “trusted person” so that he knew if he was killed his wife and children would inherit the estate.

Types of Trusts

There are many different types of trusts, however, the Discretionary Trust is commonly the most effective and is the most widely used for international financial and estate planning.

The Parties to a Trust

A Trust enables the transfer of legal ownership of assets from one person to another for the benefit of nominated beneficiaries. The parties to a trust are as follows:

• The SETTLOR is the person who donates the assets to the Trust (there can be joint settlors).
• The BENEFICIARIES are the persons entitled to benefit from the trust.
• The Settlor can also be a Beneficiary.
• The TRUSTEES are the appointed legal owners of the assets within the Trust and they have the responsibility of administering the Trust and assets in accordance with the terms of the TRUST DEED and prevailing trust law.

The Trustees

The Trustees legally own the assets within the Trust however, they have no beneficial interest. The Trustees’ responsibilities are as follows:

• The assets must only be used for the benefit of the Beneficiaries.
• The Trustees are only entitled to receive agreed trustee fees; they are not able to make a profit for themselves out of the assets.
• The assets are not available to the Trustees’ own creditors.
• The Trustees must act in the best interests of the Beneficiaries.

The Settlor typically provides the Trustee with a “LETTER OF WISHES” regarding their desired wishes on how they would like the Trustees to execute their discretion with regard to the Trust Fund and distribution of the trust assets. The wishes contained will cover both the period during the Settlors’ lifetime and also after death. A letter of wishes is not a legal document (unlike the Trust Deed or a will and Testament) and can be reviewed and amended from time to time. The Letter of Wishes does not form part of the Trust Deed.

Efficient Estate Administration & Succession – Avoiding Delays and Cost

The assets held in a Trust should not form part of the estate of the Settlor when he or she dies.

Therefore, the Trustees are able to administer and utilise the assets for the benefit of the nominated Beneficiaries without going through the typically lengthy and expensive procedures associated with assets left under a will.
Forced Heirship Provision
Assets held under a Guernsey or Jersey or Isle of Man Trust are legally owned by the Trustee and shall not form part of the estate of the Settlor. It is often therefore possible to avoid problems with forced heirship provisions which the Settlor would have been subject to in his country of residence or domicile.

Tax Planning
Trusts can help to mitigate or avoid income and capital gains tax of the Settlor and the Beneficiaries during their lifetimes.

Protection from Estate Taxes
Trusts can facilitate the reduction or avoidance of inheritance tax or estate duties on the death of the Settlor.

Cross Boarder Financial Planning
An appropriate Trust established prior to arrival in a new country, or return to the home country, can provide estate planning opportunities and asset protection.

Protection of Assets from Seizure and/or Unreasonable Claims
- Foreign governments should not be able to confiscate assets held in a Trust in a country which is outside their jurisdiction unless there is proof of criminal activity.
- Trusts can protect assets from unreasonable provision claims from family and dependants.
- Trusts can protect assets against unsuitable relationship and/or specific individuals. Specified persons and/or classes of person can be excluded from benefiting from a Trust.

Anonymity
Guernsey, Jersey and Isle of Man trust deeds are not publicly registered and therefore this can assist in providing anonymity.

International Consolidation
Trusts can legally own the majority of asset types and therefore facilitate the consolidation, ease of administration and reporting of a family’s worldwide assets.

Protecting the Interests of Minors or Vulnerable Family Members
Specific provisions can be made within a Trust to look after the interests of Beneficiaries who require special care and to keep the assets for such Beneficiaries separate from other assets within the Trust. Such provisions may include maintenance, education and healthcare.

Protection Against Claims from Creditors
An appropriately established Trust can enhance protection of assets from creditor claims against the Settlor or his/her estate, although a Trust cannot be established with the intention of defrauding creditors.

Call to Action
To learn more about Trusts and Financial Planning contact your professional advisor.