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Part 8 of 15

Family Trusts

Separating Ownership from Control

The wealth you build today
may benefit generations you never meet.

Family Trusts – Separating Ownership from Control

When people hear the word "trust," they often think of something only used by the very wealthy.

In reality, trusts are one of the most powerful estate planning tools available and, when used correctly, can play an important role in protecting assets, preserving family wealth, and facilitating the transfer of wealth between generations.

However, trusts are also one of the most misunderstood areas of financial planning.

Many people establish trusts without fully understanding their purpose, while others dismiss them entirely because they believe they are only suitable for the wealthy.

The truth lies somewhere in between.

A trust is not a magic solution to every estate planning problem, but when used appropriately, it can provide significant long-term benefits.

What Is a Trust?

A trust is a separate legal arrangement that allows assets to be held and administered for the benefit of nominated beneficiaries.

A trust typically involves three parties:

Founder

The person who establishes the trust.

Trustees

The individuals responsible for managing and administering the trust assets.

Beneficiaries

The individuals who ultimately benefit from the trust assets.

One of the most important concepts to understand is that once assets have been properly transferred to a trust, they are no longer owned by the founder personally.

The trust becomes the owner of those assets.

Separating Ownership from Control

Perhaps the greatest advantage of a trust is its ability to separate ownership from control.

For example:

An individual may transfer assets into a trust.

The trust becomes the legal owner of those assets.

However, through their role as trustee, that individual may continue to participate in the management and administration of those assets.

This creates opportunities for long-term succession planning and wealth preservation.

It is one of the reasons trusts have become such valuable estate planning tools.

Why Trusts Are Used in Estate Planning

Trusts are generally not created to save tax.

Rather, they are established to achieve broader estate planning objectives.

Common objectives include:

- Protecting family wealth
- Preserving assets across generations
- Managing succession
- Protecting vulnerable beneficiaries
- Creating continuity after death
- Reducing future estate growth

When properly structured and administered, a trust can continue operating long after the founder has passed away.

The Estate Duty Advantage

One of the primary estate planning benefits of a trust is that assets held by the trust generally do not form part of the founder's deceased estate.

This can be significant.

Consider an individual who owns:

- Investment properties
- Share portfolios
- Business interests

If these assets continue to appreciate in value while owned personally, that growth may increase future Estate Duty exposure.

However, if assets are transferred to a trust and future growth occurs within the trust, that growth may no longer accumulate within the individual's estate.

Over time, this can significantly reduce the growth of the personal estate.

Protecting Assets for Future Generations

Many parents and grandparents want to ensure that family wealth benefits future generations.

A trust can assist by providing a framework for:

- Managing investments
- Protecting assets
- Distributing income
- Funding education
- Preserving wealth

Rather than assets passing directly to beneficiaries and potentially being dissipated, a trust allows assets to be managed according to predetermined objectives.

Trusts and Minor Children

One of the most common uses of trusts is protecting inheritances intended for minor children.

Without appropriate planning, young beneficiaries may receive assets before they have the financial maturity to manage them responsibly.

A trust can provide:

- Professional administration
- Ongoing management
- Controlled distributions
- Long-term protection

This can be particularly important where significant assets are involved.

Trusts and Family Businesses

Trusts are frequently used alongside family businesses.

A common structure may involve:

- A family trust owning shares in a company.
- The company owning business assets.
- Trustees overseeing long-term succession planning.

This approach can help facilitate intergenerational wealth transfer while maintaining continuity and control.

Many successful family enterprises utilise trust structures as part of their succession planning strategy.

Understanding Section 7C

In recent years, Section 7C of the Income Tax Act has become an important consideration when trusts are used.

In simple terms, Section 7C was introduced to prevent individuals from transferring wealth to trusts through interest-free or low-interest loans without tax consequences.

Where a loan is advanced to a trust at less than the official rate of interest, the foregone interest may be treated as a donation and could have tax implications.

This does not mean trusts should be avoided.

It simply means they must be structured and administered correctly.

Professional advice is essential.

Trusts Are Not a Tax Avoidance Tool

One of the biggest misconceptions surrounding trusts is that they exist solely to avoid tax.

Modern trust legislation and tax rules have significantly reduced opportunities for aggressive tax planning.

Today, the primary benefits of trusts relate to:

- Estate planning
- Asset protection
- Succession planning
- Wealth preservation

Trusts should be established for legitimate estate planning reasons rather than purely for perceived tax advantages.

Responsibilities of Trustees

A trust is not a "set and forget" arrangement.

Trustees have legal responsibilities and must:

- Act independently
- Keep proper records
- Hold trustee meetings
- Pass resolutions
- Maintain accounting records
- Comply with tax legislation

Failure to administer a trust correctly can undermine many of the intended benefits.

A trust must operate as a genuine legal structure and not merely as an extension of the founder's personal affairs.

When Is a Trust Appropriate?

A trust may be worth considering where:

- Significant assets exist.
- Estate Duty exposure is increasing.
- Wealth preservation is important.
- Family succession planning is required.
- Minor children need protection.
- A family business is involved.

However, trusts are not appropriate for everyone.

The costs, administration requirements, and ongoing responsibilities should always be weighed against the potential benefits.

The Bigger Picture

A trust should never be viewed in isolation.

It should form part of a broader estate planning strategy that considers:

- Wills
- Estate liquidity
- Tax planning
- Business succession
- Family companies
- Retirement planning

When properly integrated, a trust can become a powerful vehicle for preserving family wealth across multiple generations.

Final Thoughts

A trust is one of the most versatile estate planning tools available.

Its greatest strength lies in its ability to separate ownership from control, preserve wealth, facilitate succession planning, and provide continuity for future generations.

However, trusts are not a universal solution.

They require careful planning, proper administration, and ongoing professional guidance.

The objective is not simply to move assets into a trust.

The objective is to create a structure that protects family wealth and supports the long-term financial goals of future generations.

In the next article, we will explore another powerful estate planning structure often used alongside trusts:

Part 9: Family Companies – A Powerful Estate Planning and Wealth Preservation Tool

This article introduces the trust concept at a practical level without becoming overly technical. Part 9 is where you can begin introducing the structure you often use in practice:

Family Trust owns the shares in a Family Company, and the Family Company owns the assets.

That article will naturally lead into Part 10, where you bring the two structures together and explain why many successful families use a combination of trusts and companies to preserve and transfer wealth efficiently.

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