# Guide to Asset Preservation and Trusts

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# Welcome to Succession Wealth

**Plan for the future, plan for success.**

Succession Wealth is a national financial advice firm, which delivers independent advice to clients throughout the UK.

When you choose to work with us, our Wealth Planners will provide an exceptional personal service tailored to your unique financial needs and aspirations.

We consider supporting you on your wealth journey to be a privilege. The relationships we build last longer than a lifetime, and we are proud to advise across generations.

This guide has been created to provide a high-level overview of Trusts and their use for asset preservation.

It includes the following:

- The need for asset preservation
- Asset preservation strategies
- What is a Trust?
- Why establish a Trust?
- Types of Trust
- Taxation of Trusts
- Disadvantages of Trusts
- Registering a Trust

# The need for asset preservation

Throughout your lifetime, you work hard to build your wealth. The aim of asset preservation is to help you protect and preserve that wealth.

Everyone comes to asset preservation planning with a unique set of concerns, needs and objectives.

Your motivation may be a desire to provide for family members and enable the smooth transfer of assets to younger generations, or it may be prompted by a desire to guard against threats to your own financial wellbeing, whether they come from fraud, tax, the cost of later life care or a relationship breakdown.

## Asset preservation strategies

The preservation of wealth is a very different discipline from the creation of wealth.

An asset preservation strategy is multilayered and will vary for everyone, but may include:

- Building an investment strategy
- Determining attitude to risk
- Establishing adequate protection policies
- Estate Planning
- Use of Trusts

In this document we specifically look at the use of Trusts for asset preservation.

## What is a Trust?

A Trust is a legal arrangement which is used to help people manage, control and pass on assets such as money, investments, land or buildings.

There are three parties to a Trust:

- The 'Settlor' - the person who puts the assets into a Trust and decides how the assets in a Trust should be used - usually as set out in the 'Trust deed'.

- The 'Trustee' - the person who manages the Trust. Trustees are the legal owners of the assets held in Trust and they manage them on a day-to-day basis according to the Settlor's wishes. They are responsible for paying any tax due and deciding how to invest or use the Trust's assets. They will be required by law to operate in the best interests of the Beneficiaries, ensuring that the Trust's assets are appropriately managed and protected from harm.

- The 'Beneficiary' - the person/people who benefit from the Trust. Beneficiaries receive their benefit as per the terms of the Trust deed – for example they may receive income, capital or both from the Trust.

# Why establish a Trust?

People establish Trusts for many different reasons however it is usually to achieve one of the following objectives.

- To provide more control over your assets – a Trust allows you to decide how and when your assets will be distributed and to whom.
- To protect your loved ones, for example if someone is too young or incapacitated to manage their own affairs.
- To ensure a beneficiary does not receive their inheritance until certain life milestones are reached, such as on graduation or marriage.
- To pass on assets while you are still alive.
- To pass on assets when you die (via a 'Will Trust').
- To reduce the size of your estate to help minimise or mitigate an Inheritance Tax (IHT) burden. When someone puts an asset into Trust, such as property, they no longer own that property personally. Therefore, the value of the asset may not count towards their IHT bill when they die.
- To avoid probate delays. When a person dies, any IHT due on their estate and any probate fees that apply must be paid before probate is granted and before their assets are distributed in line with their Will. However, the Will's executors cannot access estate assets until probate is granted. That means the money for probate fees and IHT must be found from elsewhere. As a Trust is separate from your estate, Trustees can immediately access any money held in it with no need to wait for probate. That money can then be used to pay IHT and probate fees.

# Types of Trust

There are many different types of Trust, depending on how the Settler wants to control their assets, including:

- **Bare Trusts –** these are the simplest form of Trust and are often used to pass assets on to young people. Trustees look after the assets until the Beneficiary is old enough to do so, however, the Beneficiary has the right to all of the capital and income of the Trust at any time if they're 18 or over in England and Wales, or 16 or over in Scotland.
- **Interest in Possession Trusts –** where the Trustee must pass on all Trust income to the beneficiary as it arises (less any expenses).
- **Discretionary Trusts –** where the Trustees can make certain decisions about how to use the Trust income, and sometimes the capital – often used for Beneficiaries who are not capable or responsible enough to deal with money themselves.
- **Split Trusts –** these are often used for family protection policies which have both critical/terminal illness benefits in addition to life cover and give the settlor/life assured the right to receive any critical illness or terminal illness benefit should it be paid out while the life cover element remains in Trust.
- **Accumulation Trusts –** where the Trustees can accumulate income within the Trust and add it to the Trust's capital. They may also be able to pay income out, as with discretionary Trusts.
- **Mixed Trusts –** a combination of more than one type of Trust. The different parts of the Trust are treated according to the tax rules that apply to each part.
- **Settlor-Interested Trusts –** where the Settlor or their spouse or civil partner benefits from the Trust.

## Taxation of Trusts

Each type of Trust is taxed differently but may be liable for Income Tax, IHT, and Capital Gains Tax (CGT) at various points during its lifecycle.

The rules surrounding Trusts, and their taxation, are extremely complex. Due to this complexity it is important to seek regulated, professional financial advice before attempting to use a Trust for tax purposes.

## Disadvantages of Trusts

One of the major disadvantages of Trusts is that they can be irreversible, and the Settlor may lose control over assets that are put into Trust.

They can be costly to set up, depending on their scope and complexity.

Trustees are legally responsible for managing the Trust and the responsibilities placed on them can be complex and onerous. They need to pay tax on any income earned by the assets held in the Trust and as such are obliged to understand tax laws and to file tax returns correctly.

## Registering a Trust

Registration was previously only required for certain Trusts that became liable to UK tax. However, now most UK Trusts must be registered whether liable for tax for not. To check the full list of excluded Trusts visit the gov.uk website.

## Contact Us

Trusts form an important part of any asset preservation strategy; however their creation and use can be extremely complex. It is wise to seek regulated, professional financial advice before taking action.

To discuss this area in more detail or to review any aspect of your financial planning strategy with one of our Wealth Planners, please get in touch:

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