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What is a Trust?

Overview

Trusts originated in England centuries ago and have been used in the United States since pre-Colonial times. A trust is a legal arrangement where one person or couple (called the trustor, grantor, or settlor) creates and subsequently transfers property into the trust by delivering the assets to another (called the trustee) to hold and manage the property for the benefit of another (usually called beneficiaries). This is a very basic description of a legal fiduciary relationship that is further described according to your state statute under trust and estate law.

There are many different kinds of trusts to consider depending on the goal(s) of the one creating the trust and the purpose that trust is meant to fulfill. Available trust formats can range from a revocable living trust that is created for your own assets and care during your life, or you can add provisions for a testamentary trust in your will that would only be created upon your death. Some may desire to create irrevocable trusts for gifting purposes. This can include Charitable Trusts, and when applicable, a Special Needs Trust could even be set up to care for a child or grandchild to help preserve access to other governmental benefits.

Additional trust solutions are available for those with even more complex estate planning. For those interested, D.A. Davidson Trust Company is able to help you consider which type of trusts may be appropriate for your given situation in coordination with your attorney.

Various Elements of a Trust

Trustor

Creator of the trust who hires an attorney to customize document to fit his/her situation and anticipated assets, and who legally signs trust agreement or will

Trust Document: Separate Agreement or Provided in Will

Document that creates trust, designates trustee and gives related powers and authority to trustee to serve in fiduciary capacity, and spells out how trust funds should be managed and may or will be used for beneficiaries

Trustee

Individual or entity named to serve as fiduciary on behalf of trustor; has control of trust assets with the responsibility to enforce provisions

Trust Fund

Holds, invests, and distributes assets

Beneficiaries

Receive distributions of income and principal according to the trust provisions

What are the Trustee's Duties?

The primary responsibilities of the trustee are to manage and protect the assets in the trust for the best interests of the beneficiaries. The management and protection responsibilities include proper investment of assets, collection of income, maintenance of accurate books and records, coordinating preparation and filing of tax returns and other reports, and payment of income and trust property to the beneficiaries in accordance with the terms of the trust agreement.



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What does it cost to create a Trust?

You will want to contact your attorney (or call a few estate planning attorneys if you don't already have one) to get an estimate of the legal fees as attorneys typically charge an hourly fee.

How much does a corporate trustee charge?

Typically a corporate trustee's annual fees are based on a very small percentage of the trust's assets under management, although a few states do set a fixed amount for trustee compensation. D.A. Davidson Trust Company's trustee fees are very competitive. If D.A. Davidson Trust Company is named to serve in a future capacity, our fees would only apply once we started serving in that capacity. (The more prudent question may be to ask yourself how much it could potentially cost NOT to use a corporate trustee.)

Who should you talk to about creating a Trust?

The trust officers at D.A. Davidson Trust Company are professionally certified and welcome the opportunity to speak with you. We also suggest that you discuss a trust with your D.A. Davidson financial advisor.

Trusts to Consider

Revocable Living Trust

- Avoid probate, retain control of the assets during your life, and protect assets and yourself if you become disabled

Irrevocable Living Trust

- Avoid probate, give up control of certain assets to reduce your taxable estate, and provide creditor protection

Lifetime Trust

- Leave assets to beneficiary in trust to assure professional management, protect assets from creditors and ex-spouses, and reduce estate taxes on beneficiary's death

Grantor Retained Annuity Trust (GRAT)

- Can be used to transfer assets at reduced estate and gift tax cost

Qualified personal residence trust (house GRIT)

- Can be used to transfer a residence (or values of residence) at reduced estate and gift tax cost

Credit shelter trust or bypass trust

- Provide for maximum use of the unified credit in the estate of both spouses

QTIP Trust (qualified terminable interest trust)

- Provide income from trust assets to your spouse for life and qualify for the marital deduction, but upon your spouse's death, retain control over who will receive assets

Charitable Remainder Trust

- Maximize use of appreciated assets, provide income to you or other family members, and then gift assets to charity to receive a current income tax charitable deduction



Charitable Lead Trust

- Provide income to charity and ultimately can be used to transfer trust assets to children or grandchildren at a greatly reduced gift and estate tax cost

Irrevocable Life Insurance Trust

- Leave insurance proceeds to beneficiaries gift and estate tax free

Generation-skipping Trust

- Leave assets to your grandchildren while taking advantage of the \$11.4 million exemption for 2019 from the generation-skipping tax. GST is the same figure as the Estate exemption.

Asset Protection Trust

- Maximize protection of assets from potential creditors while retaining benefits and control, using foreign jurisdictions

Defective Grantor Trusts

- Used to increase gifted assets to younger generation without additional gift taxes

Minor Trusts

- To allow gifts to qualify for the \$15,000/\$30,000 annual gift tax exclusion

D.A. Davidson Trust Company is not a tax advisor. Before setting up a trust, always consult an accountant or tax attorney about the specific tax consequences for your situation. To speak with one of our representatives, contact any of our branch office locations.