Benefits of using a trust

Trusts can give you some key advantages in an estate plan. They can allow you to reduce capital gains upon death. They can allow you to defer taxes and split income to reduce taxes. And they can allow you to avoid the costly process of probate. In short, you should probably consider including a trust in your estate planning.

To learn more about Trusts click on one of the following sections:

-Trusts are not just for the wealthy
-What a trust can do for you
-Having a trust in your estate plan
-New tools with great benefits

Trusts are not just for the wealthy

If you're like most people, you probably think of trusts as powerful financial tools used by the ultra-rich. Well, you'd be half-right. They are powerful financial tools, but they're not just for the rich. They're used by all kinds of financially savvy people who know about the benefits they offer.

You don't have to have millions of dollars to take advantage of those benefits. If your estate totals $150,000 to $200,000 or more, the expenses of a trust may be worth your while, if only for the fact that a trust will allow you to avoid probate.

You can set up a simple trust for two or three thousand dollars plus annual trustee and administration fees. Of course, if you have millions, your trust would likely be more complex and would cost more to create and administer.

The goal of this section is simply to make you more aware of trusts and what they can do for you and your estate plan. Keep in mind that trusts can be very complex and that you definitely need the help of a professional to know how a trust would help you in your specific situation.

What a trust can do for you

A trust is a legal entity that you can create to hold various types of assets. Simply put, a trust allows you to give up ownership of assets while you're still alive, without giving up control.

Once you transfer your assets to the trust, the trust becomes their legal owner and the trustee – someone that you appoint – becomes responsible for managing them.

Part of that responsibility is to distribute the income and assets of the trust to the beneficiaries – designated by you – in accordance with the terms of the trust, which are of course created by you.

A trust is similar to a Will in purpose. Both are designed to allow you to transfer assets to your heirs and beneficiaries. But there is a fundamental difference.

With a trust, your assets are transferred to the trust while you're alive. With a Will, your assets are transferred to your estate when you die. With a trust, your assets are controlled by a trustee, with a Will they're controlled by the executor.

The roles of the trustee and executor are similar. They're each appointed by you and each are responsible for managing and distributing your assets to your heirs and beneficiaries.

A trust is a much more powerful legal instrument than an ordinary Will. And although trusts can have many different purposes, it's main advantage over a Will can be simply stated – it will allow you to maximize the benefits of your wealth much better than a Will alone can do.

Having a trust in your estate plan

A trust lets you avoid the public process of probate
A Will is subject to probate. The probate application must list all the assets of the deceased and their value. This list – the terms of your Will – is available to any member of the public who may be interested in knowing and is willing to pay a small fee. This is not the case with a trust.

A trust allows you to avoid probate. If you are concerned about privacy, a trust will ensure that your financial affairs are treated with the highest level of discretion and confidentiality. No information on the creator or beneficiaries of the trust or on the contents of the trust deed is available to anyone, except through legal process.

A trust is more powerful than a Will in ensuring your wishes are carried out
The terms of a Will can be challenged. Any child of the deceased can ask the court to rewrite the will if the child is not satisfied with its provisions. The courts then decide if the deceased has fulfilled his or her moral obligation to the child. And "moral obligation" has nothing to do with the financial need of the child.

Given the increasing tendency of our society toward litigation, more and more Wills are being challenged. A trust can help avoid this.

A trust is a much more powerful legal instrument than an ordinary Will. It will allow you to better control who will inherit your assets and how they will inherit them. It will also allow you to avoid the adverse consequence of forced heirship or succession laws if they should apply.

A trust helps you optimize your estate's tax situation
Creating a trust often makes it possible to defer or reduce taxes. In fact, one of the most common goals of a trust is to ensure that wealth is transferred to one's heirs and beneficiaries in the most tax-efficient manner.

A trust allows you to create unique financial solutions
Because a trust is a highly flexible legal instrument, it will allow you to have financial solutions tailored specifically for you, to meet your unique needs.

New tools with great benefits

Like other trusts, the alter ego trust and joint spousal trust allow you to avoid probate. But these two recently introduced trusts offer unique tax advantages as well.

Normally, when you transfer assets to a trust, our tax law treats those assets as if they had been sold. That means if there had been any increase in the value of those assets since the date they were originally acquired, a tax would have to be paid on that increase.

However, when you transfer assets to an alter ego trust or a joint spousal trust, this does not happen. Although the trust is in fact the new owner of the assets, from an income tax perspective, the transfer of ownership is treated as if it had never happened. So even if there had been an increase in the value of the assets, there would be no tax on that increase.

There are conditions. For one thing, you must be 65 or older to use the alter ego trust or the joint spousal trust.

And in order for the trust to qualify as an alter ego trust, you must be the sole beneficiary during your lifetime. Prior to your death, all income in the trust will be payable to you and you will pay all the tax on that income. As well, you can also access the capital in the trust.

When you die the trust will hold any remaining assets for the benefit of other beneficiaries named in the trust deed. The trust will be able to distribute those assets to those other beneficiaries without the assets having to go through the probate process.

You could also choose to gift the assets to a joint spousal trust. In a joint spousal trust, the initial beneficiaries must be you and your spouse during your respective lifetimes.

On the death of the surviving spouse, the trust would start to hold the trust assets for other persons you name in the trust deed. In particular, your spouse would not be able to change the identity of these ultimate beneficiaries.

Here's an example of how you can use a spousal trust to ensure your assets are distributed exactly how you want. Let's assume a married couple with two children. One spouse dies and the other remarries. If the deceased spouse had simply left their assets to the other spouse in a will, it would be possible for the new spouse to eventually inherit all the assets and the children get nothing.

However, if the deceased spouse had created a joint spousal trust, with the children as beneficiaries, this could not happen. The surviving spouse would receive an income from the trust while alive. Upon their death, the assets of the trust would go to the children.

Please Note: This information has barely scratched the surface of the complex world of trusts. For example, although trusts have been presented here as estate

planning tools, they are used in other ways and for other purposes, especially in tax planning.

If you'd like to know more on how a trust could help your estate's financial situation, or how you might use a trust in your tax planning, click here to find the CPA financial planning professional closest to you.