

Are trusts just for the mega-rich?

THIS IS THE SECOND ARTICLE OF A SERIES IN WHICH I AM EXPLORING WHAT MOST PEOPLE UNDERSTAND ABOUT TRUSTS AND WHETHER THEY BELIEVE THAT ONLY THE MEGA-RICH CAN USE AND AFFORD THEM. ALTHOUGH TRUSTS WERE FIRST USED DURING THE CRUSADES AND WERE MOST PROBABLY FOR THE VERY AFFLUENT IN THOSE TIMES, IN THE INTERVENING NINE HUNDRED YEARS, THE CONCEPT HAS EVOLVED TO A POINT WHERE THEY NOW HAVE A MUCH WIDER APPLICATION.



AJAY MAHAN

t: 01543 483 706

MANAGING DIRECTOR
CORNERSTONE WILLS
& TRUSTS LIMITED

AT TOUCH BASE WE ARE DELIGHTED TO INTRODUCE OUR NEW BUSINESS CONSULTANT AND FINANCIAL PLANNER AJAY MAHAN WHO WILL BE PROVIDING YOU WITH REGULAR ADVICE ON FINANCE AND INVESTMENT.

Q How widely are trusts used?

A It is important not to forget that the first principle of a trust is to protect wealth, primarily for the family. Therefore, any source of personal wealth can be placed into a trust. This is not limited to simply cash or other investments – it can be property, death benefit pension and life assurance proceeds.

Q Sounds complicated – would I need to get some advice?

A I would say it is essential, since in the right situation, the benefits to your family are considerable. You will want to avoid making any errors in how the trust is set up, which could result in not fully achieving what you had intended, or worse still, producing a result that was not intended at all.

Q Sounds scary – so it is not as simple as transferring all my wealth to my family using a trust?

A Correct. Firstly, a trust deed is a legal document that has to be drafted in a particular manner to avoid any legal misinterpretation. Secondly, Her Majesty's Revenue and Customs (HMRC) need to be satisfied that the trust set up is not breaching any tax regulations. Over the years, there have been many refinements to trusts and their uses and much of this is down to legislation and the particular approach taken by HMRC.

Q How do I ensure that I don't get on the wrong side of the taxman?

A Simple – before doing anything, get advice from a specialist in this area.

Q That looks like it could be expensive?

A It does not have to be. Ask for details of the costs before any work is started and match those against the wealth benefits to your family over the longer term. This could also include substantial tax benefits. Carried out correctly, your family will be the winners, and that has to make the cost very worthwhile.

Q It looks as if I shall be engaging experts to tell me what to do – surely there has to be something I can do too?

A There is. Remember what I said previously, about the knights who went on the Crusades? They had to find someone who would look after their lands and castles while they were away.

Q So is that what I would have to do?

A Yes. You have to choose the trustees of your trust. They will then ensure that the assets you place into the trust are invested and managed in accordance with the terms of your trust.

Q That sounds like a responsible job – can I be a trustee for my own trust?

A If you make a trust while you are alive, you would expect to be one of the trustees.

Q One of – so how many trustees do I have to appoint?

A If the trustees are individuals, then you will need at least one other trustee in addition to yourself. That is the law! You need to think very carefully about who you chose. Obviously, the individual should be someone you trust and who you get along with. You will have to make a number of important decisions as →

trustees and you must agree upon these before what is decided can be put into action.

Q Is there anything else I should know?

A Trustees have to be over eighteen years of age and preferably a little younger than you. It helps if you live quite close to one another as, on occasions, you will have to sign documentation. In some instances, you might have to meet annually and maintain a record of that meeting.

Q Do I have to do all this before deciding who benefits from my trust?

A This is a fundamental part of the process and obviously your motivation will be to preserve wealth for your family, whether living or not yet born.

Q Not even born – how long can a trust go on for?

A Up to eighty years.

Q Does this mean I will not be around to see who receives the benefit of my trust?

A Simply because a trust can have an eighty-year life, it does not mean that it has to last for that period. For one type of trust, the trustees can bring the trust to an end by distributing the funds to the beneficiaries.

Q So there are a number of different types of trust to choose from?

A There are now only two main types of trust. However, there are many variations to these two types, dependent upon what you wish to achieve.

Q Who are these potential beneficiaries, and how do they benefit?

A First and foremost, it could be your spouse or partner who survives, or it could be your children and then their children, either born or unborn. Finally, it could be any other person that the trustees decide upon.

Q Let me get this straight – why did you say 'could'?

A With this sort of trust, the trustees choose who benefits, by how much, and in what manner.

Q Is that why the choice of trustee(s) is so important – as they can do what they like?

A Not quite, since your trust will contain clauses that will provide them with a framework within which they can operate. You too can guide them, by leaving with your trust a letter saying how you would like to see the trust funds distributed. However, the trustees are not obliged to take any notice of your letter, but hopefully they will be sympathetic to your wishes. Every action the trustees take will be at their discretion.

Q Every action?

A Within the terms of the trust itself. Trustees do not have to treat all of your beneficiaries equally and can decide whether to pay any beneficiary out of income or capital or make a loan to them. Making a loan to a beneficiary could save the borrower's estate from some inheritance tax.

Q It was all going so well and then you had to talk about tax again. I suppose the taxman is going to be very interested in having a good share of my trust fund?

A As I stated earlier, if you are keen to preserve your wealth for your family, then the key to getting started using trusts is to obtain some advice from a specialist. They can evaluate your financial situation, guide you through the process to make you aware of your obligations as one of the trustees and assist you and your family to plan to minimise the tax consequences in order to leave more wealth with your family. #b