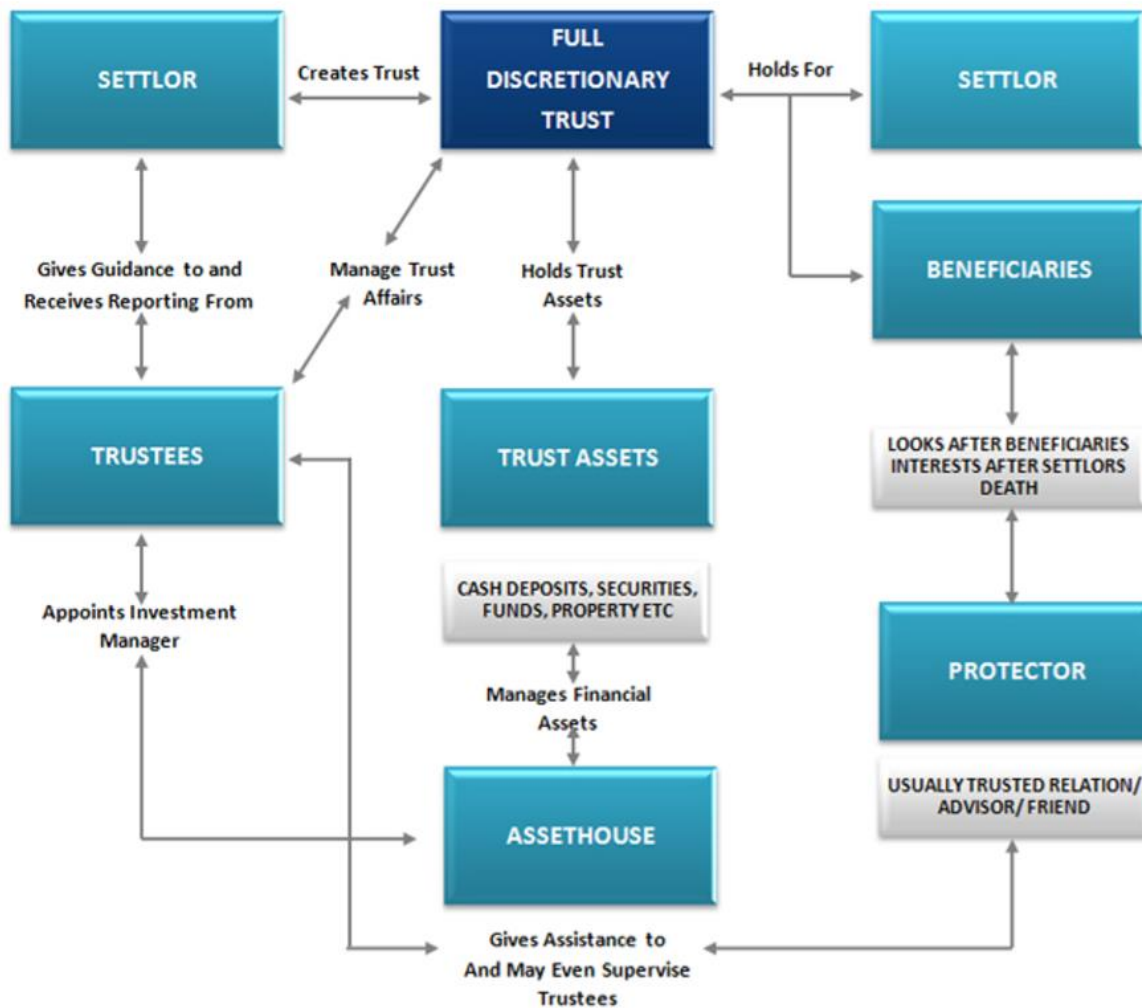


TRUSTS - THE BASIC STRUCTURE



Offshore Trusts are excellent tools and are normally used for wealth protection, estate planning, tax structuring and succession planning purposes.

Reasons for Creating a Trust

There are many potential benefits from establishing a trust, including:

➤ **Increased Confidentiality**

The use of a trust can provide increased confidentiality whereby the existence of the trust and the identity of the settlor, trustee and beneficiaries can be kept private. An additional layer of confidentiality can be achieved by the use of an underlying company.

➤ **Succession Planning**

A trust provides the settlor with the ability to direct who shall benefit from the trust fund, to what extent and when or at what age that benefit will arise.

- **Safeguarding the Interests of Minors or Vulnerable Members of the Family.**
Assets can be placed in trust for the benefits of minors or other vulnerable dependents, keeping them separate from the settlor's other interests.
- **Protection from Foreign Succession Laws**
A trust can protect the assets from forced heirship restrictions in foreign countries upon the death of an individual.
- **Protection against Creditor Claims.**
A properly established trust will protect assets from personal claims against the settlor or his estate.
- **Protection from Political or Social Unrest**
Foreign governments cannot seize assets held in trust in a country which is outside their jurisdiction.
- **Avoidance of Probate**
Eliminates the delays and costs of estate administration. Assets held in trust do not form part of the estate of a settlor when he or she dies. Consequently, the trustees are able to use them for the benefit of the trust beneficiaries without going through complex legal procedures.
- **Pre-emptive Tax Avoidance.**
Prior to arrival in a new country or return to one's own country, a suitably worded trust deed can protect assets which are outside the country of destination.
- **Family Wealth Protection**
A trust can be used to keep family assets from improvident heirs, fortune hunters marrying into the family and inept heirs who may dissipate the family wealth.
- **Tax Planning**
Depending on the individual's country of residence it may be possible to reduce the impact of various taxes (i.e. estate taxes, donations taxes, capital gains taxes, gift taxes, income taxes and wealth taxes, etc.).

Trust Definitions

The following terms are specifically related to the areas of trustee and other fiduciary services.

- **Beneficiaries**
Generally the beneficiaries will be the settlor and his family but could also include a charitable beneficiary or others.
- **Estate Planning**
Trusts can provide a viable solution for those seeking the flexible devolution of wealth. In certain circumstances, trusts assist with restrictive inheritance laws which might otherwise prevail.
- **Governing Law**
The trustee's powers and responsibilities are set out in the trust deed as agreed with

the settlor. In addition, the law which governs the trust may impose further duties and obligations on the trustee.

➤ **Jurisdiction**

A trust may be relocated if circumstances require a change of jurisdiction. Some jurisdictions provide that trusts established under their laws will not be set aside under the forced heirship provisions of another country.

➤ **Letter of Wishes**

In administering a discretionary trust, the trustees ask for guidance from the settlor, usually in the form of a letter of wishes addressed to the trust company. However this letter does not form part of the trust deed and is not legally binding on the trustee.

➤ **Probate**

Trusts eliminate time-consuming and often expensive formalities to obtain probate and ensure the release of assets on death, particularly when such assets are located in many countries. Another advantage that trusts have over other probate arrangements is that they allow uninterrupted management of the assets.

➤ **Protector**

Clients may choose to appoint a protector to their trust. The role of the protector is to assist and sometimes supervise the trustee. These powers are set out in the trust deed. The protector is normally a relative, an advisor or a close family friend of the settlor.

➤ **Settlor**

The settlor is the person who establishes the trust by transferring assets to the trustee to hold under the terms of the trust deed.

➤ **Sovereign Risk**

A trust can be an effective defence against the consequences of political or social unrest following war or other major change in a country. If political instability or uncertain future prospects damage personal wealth, trusts may be a reassuring solution.

➤ **Taxation**

Trusts can assist in maximising tax efficiency, reducing and controlling the impact of personal taxes.

➤ **Trustee**

The trustee is the body corporate (can be a physical person) who holds the legal title of all the assets forming part of the trust. The trustee's duties are to safeguard and manage the capital of the trust according to terms of the trust – which will be defined in a deed of trust between the settlor and the trustee - and of the law.

➤ **Trust Deed**

The trust deed is a document which sets out the powers and duties of the trustee and defines the beneficiaries and the trust assets. The deed may contain specific provisions as to beneficiaries' entitlements or it may leave this to the trustee's discretion, in which case the trust is called a discretionary trust.