

Trust Set Up Information Guide

Why Have a Trust

It is strongly argued that 'use' is better than 'ownership' for no other reason than what you place into the Trust you are entitled to use it provided you are a Beneficiary of the Trust. The property is absolutely protected because you no longer have legal title and therefore there is no point for any creditor or other person or entity in suing you as you no longer have 'Legal Ownership'. The property you place into the Trust is owned by the Trustees of the Trust you created. As the Trustees are acting 'As Trustee For' (Name of Trust) they cannot be personally sued in relation to the property you placed into the Trust, and because of the 'Equitable Title' which the Beneficiaries have the Trust cannot be successfully sued. Sounds a bit complex initially but once you understand the arrangement, you'll wonder why most people don't secure their property, real property and assets in such a Trust.

Everything placed into the Trust constitutes a separate fund 'The Trust Fund' and does not form part of the Trustees' own personal estates or the estates of any other person or entity associated with or related to any Trustee. This is well established by common law and has been adopted by the Hague Trust Convention on Trusts (1985) whereby:

'In so far as the law applicable to the Trust requires or provides, such recognition shall imply, in particular – that personal creditors of the Trustee shall have no recourse against the Trust assets.'

You are more qualified for this than you realize. We also provide manuals and training opportunities.

What do I call my Trust

The Trust is not registered anywhere so you don't need to register a business name. Simply choose a name that you would like to use.

A few points to consider:

- We want privacy so nothing that can be connected to you (no family, nickname or pet names, street names etc.)
- We want secrecy so no chest beating and nothing that will suggest there's something to look at here (gold, loaded, winner etc, etc.)
- Think bland. (Purple lizard, gravel, spiritual name, gravel in a foreign language, Horst etc)
- If you have more than one Trust, don't have a similar theme to the names you select.

Statutory Trusts are all named '**The Whatever Trust**'. That makes it easy to find and identify what it is. It suggests that you have some sort of asset you're trying to protect so let's look into this further. A good Trust writer will just use the name. So even if people see it, they won't know if it's a company, person's name, a Trust, or what it is. Even if they search, it's unregistered so they won't find out. Privacy and anonymity.

What are the Roles of the Trust

1. **Settlor** is the person who says they want to create a Trust and put all their assets into it.
2. **Beneficiaries** are the people (or another Trust) that benefit from the assets that the Trust owns.
3. **Executive Manager** is one of the above who has access to the bank account to make everyday payments.
4. **Trustee(s)** whose main role is to ensure the Trust flourishes for the beneficiaries.
5. **Protector** may be appointed at a later date. They make sure the Trustee(s) are doing what they should.

All roles are simple but you cannot play all the roles yourself.

1. The Settlor

The Settlor may become a Beneficiary and/or an Executive Manager. This scenario makes the Trust very strong as you are not the Trustee.

For this Trust the Settlor is the person who owns something of value they wish to place into Trust, let's say a digital asset wallet, like Lobstr. They exchange, or gift, the digital asset wallet over to the Trust and then the position of Settlor is essentially finished.

Now the ex-owner has exchanged the digital asset wallet for Units of beneficial interest so they are now a Beneficiary and no longer a Settlor.

The Trustees write into the Trust (done for you and included in your Trust) that the Beneficiary that was the ex-owner is appointed as the Executive Manager. As the Executive Manager you can witness Trustee signatures (as you are no longer the Settlor).

If the person who owns our example digital asset wallet wants to be a Trustee, then they must appoint a nominee to be the Settlor to create the Trust. There is a learning curve in that scenario and is only recommended for people who have common law Trust experience otherwise they could jeopardize the integrity of the Trust.

The Trust power is in divided title and you need to know how to not cross the line of having both equitable and legal title so as not to jeopardize the Trust. If you not experienced in effective business practices the first option is best for you.

This Trust is based on ethics and morals where we Trust each other more than people we don't know. Even though they're not legally bound to do so the Trustees will always follow the Settlor's wishes.

2. The Beneficiaries

The beneficiaries have the ability to seek the Trustee's approval (especially if they are the Executive Manager) in relation to the use, sale or acquisition of assets as the assets are being held and managed on their behalf.

Beneficiaries can be you, your family, friends, other Trusts, charitable organizations - whomever you would like. Each Trust has 100 units of beneficial interest. You can have as many beneficiaries as you like as each unit can be fractionalized. A certificate is produced for each Beneficiary stating the number of units (or part thereof) that they are allocated. Or you can have one Beneficiary who has all 100 units. So long as it adds to 100 you can be flexible.

Assets or payments from the Trust do not have to be distributed. It's up to the Trustees, however the decision will usually be made in conjunction with the Executive Manager.

How Do I Know How Many Beneficiaries for My Trust?

This is a sticking point for many people. It depends on the intention of the Trust and the size of the Trust Fund. We want to share our good things. There are the children, the grandchildren, siblings and their children, this person, that organization – where do you stop.

Consider that the Trust is Generational.

If you are the only Beneficiary, you would have 100 units, or you and a partner could have 50 units each, or 98 and 2, or any combination so long as it adds to 100 units. One of the first things you do when you receive the Trust is to complete a form that tells the Trustees that when you die you would like your units to go to these people with x number of units each. That is like a Will. That's when the 4 children become Beneficiaries of this Trust. Then those 4 children do the same for their 4 children each and there is now 16 Beneficiaries in 2 generations. It can become unwieldy.

If the Trust Fund is large enough you may also consider creating a separate Trust for each child so they can build for their children separately.

Can Beneficiaries Be Added and Subtracted Over Time?

Yes, they can. Full details are in the Trust Deed. Forms are also provided for you to:

- designate who may receive your Beneficial Units when you die,
- distribute all of your Beneficial Units while still living,
- distribute some of your Beneficial Units and retain some also.

Removal of Beneficiaries is outlined in the Trustee powers and usually occurs when a Beneficiary is jeopardizing the trust integrity through nefarious or harmful behaviours. This area also covers what happens in the event of divorce.

Paying Beneficiaries

Unlike statutory trusts, in relation to paying Beneficiaries, your trust is able to: pay nothing at all; pay only some Beneficiaries; pay in the proportion of the units that have been allocated to each Beneficiary as per their Certificates of Beneficial Interest; exclude a Beneficiary from payment for say, they are in bankruptcy proceedings, being chased for debts, gambling - this protects the trust fund from being depleted.

Your trust is also able to make payments to non-Beneficiaries. For example: paying for someone's education, health expenses, mortgage, make donations to charities and humanitarian projects, etc.

What About a Humanitarian/Charitable Trust

Beneficiaries are different in this trust. Usually there is one or two beneficiaries who are usually more like guardians of the trust as a family line to ensure that the intention of the trust is being met. It could be a 50/50 unit holding to a spouse, adult child, etc. Even though they may never receive anything from this trust, they are cared for in other trusts. Each of those Beneficiary(s) completes a 'Transfer of Beneficial Units to Designated Heirs' which is kept with the Trust Deed to ensure continuity of the Humanitarian/Charitable Trust Fund.

The reason for not listing 20 or 50 projects or charities is that, if the job is successfully completed and you need to move on, then the Trust is not committed to paying them as a Beneficiary for no particular reason. It is, of course, your decision.

3. The Executive Manager

The Executive Manager has 'practical control' of the assets of the Trust. They are a signatory on the Trusts accounts and can pay all the day-to-day expenses of the Trust. They are able to employ people and do all the things that you would normally do in the general running of a property, car, business, foundation etc.

Full details of what the Executive Manager is able to do are specified in your Trust deed.

4. The Trustee(s)

You will need to have one Trustee who is not blood or marriage related as your 1st Trustee. This makes your Trust very strong and ensures an arms-length position between you and the control of the assets for your protection. It's preferred this is a Trusted friend who has a knowledge of your family and works with compassion. You can also hire a Trustee. They will bring experience to the table. They may be stricter on distributions. Currently anyone who is licenced (lawyer, accountant etc) cannot be a Trustee as they cannot apply fiduciary care as their allegiance is to the people who licence them, if they want to retain their licence.

If you have two or more beneficiaries then a Beneficiary who is not the Executive Manager can be the 2nd Trustee.

Most banks will allow for only one Trustee to sign. This means that, if your other Beneficiary is your spouse/partner/child (adult child) then they can be the 2nd Trustee and be a signatory on the account and you as the Executive Manager can be the other signatory. That means that the 1st Trustee will not have access to your accounts or know how much you have in them.

If you have only one Beneficiary then the 2nd Trustee can be related.

If you or your Trustees can write a minute to say the Trust is going to purchase this house at this address, print it, sign it and put it with your other Trust documents, you're in good hands. The operation of the Trust is truly that simple.

A Trustee only needs to ask two questions before they sign anything:

1. "Is it lawful?", and
2. "Is it in the best interest of the beneficiaries?".

The Trustee has no personal liability for Trust actions.

The Trust deed provides all the details of the role of the Trustee and examples of minutes for your use.

5. The Protector

You don't need a Protector at the moment, and probably not ever if you have complete Trust in your Trustees. It's optional.

If you do appoint one though they will need to know all about the property and assets of the Trust to ensure there is no Trustee misconduct.

We've never encountered the situation of a Protector or the Settlor having to terminate a Trustees position.

The Premier Trust

That is really all you need to set up your Trust. You'll receive a full Trustee Training Manual and all the documents you and your Trustees will need throughout the years to operate a successful Trust.

The Premier Trust can do absolutely everything from purchasing assets to making charitable donations. Depending on your 'risk' tolerance though, it may be prudent to take a leaf out of the book of the worlds immensely wealthy. They use these Trusts and have accumulated literally thousands of them over the generations. We do offer the ability to diversify.

We do highly recommend, however, that you never place a vehicle, vessel or aircraft into a Trust with anything else. These can have accidents and you don't want your other assets to be held up during an investigation.

Specialized Trusts – Sub Trusts

If you have a large Trust Fund then risk and money management are a consideration through diversifying assets. If you are contemplating a Trust for: purchasing a home to live in; residential or commercial lease properties; a car, boat, plane, helicopter; or for running a business or a Humanitarian/Charitable Trust; then different set up forms are required.

More detail is required for these Trusts to set the intention and complete the associated contracts and agreements over and above the Trust Deed. Please email sagaciousassetprotection@protonmail.com to request the desired form.

Thank you.