

Charitable Trust

The arrangement by which real or [Personal Property](#) given by one person is held by another to be used for the benefit of a class of persons or the general public.

The law favors charitable trusts, sometimes called public trusts, by according them certain privileges, such as an advantageous tax status. Before a court will enforce a charitable trust, however, it must examine the charity and evaluate its social benefits. The court cannot rely on the view of the settlor, the one who establishes the trust, that the trust is charitable.

In order to be valid, a charitable trust must fulfill certain requirements. The settlor must intend to create this type of trust. There must be a trustee to administer the trust, which must consist of some res or trust property. The charitable purpose must be expressly designated. A definite class of persons comprised of indefinite beneficiaries within it must actually receive the benefit. The requirements of intention, the trustee, and the res are the same in a charitable trust as they are in any other trust.

Charitable Purposes

A charitable purpose is one designed to benefit, ameliorate, or uplift mankind mentally, morally, or physically. The relief of poverty, the improvement of government, and the advancement of religion, education, and health are some examples of charitable purposes. Trusts to prevent cruelty to animals, to erect a monument in honor of a famous historical figure, and to beautify a designated village are charitable purposes aimed, respectively, at fostering kindness to animals, patriotism, and community well-being.

The definition of charitable purposes is derived from an old [English Law](#), the Statute of Charitable Uses, but has been expanded throughout the years as new public needs developed.

Beneficiaries

The class to be benefited in a charitable trust must be a definite segment of the public. It must be large enough so that the community in general is affected by, and interested in, the enforcement of the trust, yet it cannot encompass the entire human race. Within the class, however, the specific persons to benefit from the trust must be indefinite. A trust "for the benefit of the orphans of American veterans of the Vietnam conflict" is charitable. The orphans of such veterans constitute a definite class. The indefinite persons within the class are the ones who are ultimately chosen by the trustee to be paid the benefits. The class is large enough so that the community is interested in the enforcement of the trust. A trust for named persons or a trust for profit cannot be a charitable trust. A trust "to construct and maintain a hospital" might be charitable, even though the hospital charges the patients who are treated, provided that any profits realized are used solely to continue the charitable services rendered and are not paid to private persons.

A trust that serves both charitable and non-charitable purposes will fail if the two are inseparable. For example, suppose a settlor bequeaths \$500,000 to a trustee "to hold in trust for the benefit of all the schools in a particular town." The settlor's daughter is the residuary legatee of the estate, who will inherit the remainder of the estate after the testamentary dispositions are satisfied. Some of the schools in the town are public and charitable institutions and some are private and operated for profit. The settlor has not apportioned the \$500,000 between the public schools and the private schools. The valid part—to be given to public schools and charitable institutions—cannot be separated from the invalid part—the disposition to private or profit making institutions; therefore, the trust fails as a charitable trust. The trustee holds the \$500,000 in a [Resulting Trust](#) for the settlor's daughter, since the settlor's disposition cannot be valid as a charitable trust because there is no indefinite beneficiary.

If a trust has both charitable and noncharitable purposes and if the maximum amount to be used for noncharitable purposes can be determined, the trust fails only with respect to that amount pertaining to noncharitable purposes, which will be held in a resulting trust by the trustee for the settlor's statutory heir or residuary legatee. The remainder is a valid charitable trust.

As a general rule, a charitable trust can be eternal, unlike a private trust, which must comply with the [Rule against Perpetuities](#), a principle limiting the duration of a trust. With respect to a private trust, the designated beneficiary is the proper person to enforce the trust, but in a charitable trust, the state attorney general is the one to enforce it. The settlor, his or her heirs or personal representatives, the members of the general public, and possible beneficiaries cannot maintain a lawsuit for the enforcement of the trust.

Charitable trusts yield substantial tax benefits to donors, whether in the form of [Income Tax](#) deductions, tax shelters, or reduced inheritance taxes. Typically under *charitable remainder trusts*, immediate income tax deductions can also be matched with avoidance of capital gains taxes if the donor funds the trust using certain types of assets. The *charitable lead trust*, which is often used in estate planning, commonly benefits heirs. After its duration, the principal assets return to the donor's heirs subject to reduced gift and estate tax