

Your guide to making a trust

How can we help you?

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Your guide to making a Trust

A Trust is a legal vehicle for transferring your assets to individuals or a company, also known as Trustees – who then become legal owners of those assets. HK Law can help you to create a Trust and look after your assets.

Why make a Trust?

Trusts originated in England several centuries ago and have been used by families ever since. They can be created in England or offshore for the benefit of families or charities. The Finance Act 2006 fundamentally changed the Inheritance Tax rules for Trusts, but tax effective strategies remain. As you will read later, tax does not have to be the only reason to make a Trust.

A Trust is the formal transfer of assets to a small group of people or to a Trust Company. Both are known as the Trustees. Those Trustees hold the assets for the benefit of the beneficiaries. If you set up a Trust in your lifetime this is done by a Trust Deed and is often referred to as a Settlement. If you create a Trust in your Will to take effect after your death then this is usually known as a Will Trust. The unique character of a Trust is that the Trustees are the legal owners but the beneficiaries are the beneficial owners.

The benefits of making a Trust

- › To regulate ownership of the assets, for example providing for children or other family members
- › Tax planning
- › Protecting assets from government interference or the possible bankruptcy of a beneficiary
- › Flexibility in distributing assets or income in a way that can be determined in later years
- › To provide for charities
- › To protect assets from future matrimonial claims

Taxation

If you create a Trust in your lifetime this can reduce your own wealth and thus reduce the potential Inheritance Tax bill on your death. A Charitable Trust will be free from all forms of taxation. However the Finance Act 2006 curtailed the tax free status of some Lifetime Trusts created after 22 March 2006.

Family Reasons

You might want to create a Trust to hold assets for your children or grandchildren until they are older and wiser. You may wish to be sure that your children will inherit but still provide income for your spouse. You might want to provide capital for the continuing care of an elderly relative but in such a way that the capital is preserved. You may wish to help with a future property purchase.

Types of Trust

Most Trusts fall into one of two main categories:

- › **Immediate post death interests**
Where the income must be given to a specific beneficiary by right (these types of Trust must be created by Will).
- › **Discretionary or Relevant Property Trusts**
There are several varieties of these but broadly speaking the assets (capital and income) are distributed at the Trustees' discretion.

HK Law can advise you on whether a Trust is appropriate for your circumstances, the likely costs of creating one and the tax consequences.



Trusts are a specialist subject and require specialist expertise.

We also have a specialist Trust Department to help and advise you if you are a Trustee of an existing Trust. They can help with management of a Trust in whole or in part. They have the facility to make income tax returns direct to HMRC electronically.

Currently Trustees have more time to deliver electronic tax returns. We have this facility to take the time pressure off your shoulders.



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Private Clients

A personal approach to legal advice

Trust is the most important aspect when it comes to legal matters.

We believe it is essential that we take time not only to review your legal issue, but also get to know you. From business to personal affairs, a complete understanding of your circumstances and objectives is the starting point. Once we can see the bigger picture, we can focus on the detail.

Talk to us about:

- › Arbitration
- › Buying and selling your home
- › Care Is Our Concern
- › Children
- › Cohabitation
- › Consumer law
- › Contested Will and estate claims
- › Debt recovery
- › Divorce and financial advice
- › Domestic violence
- › Inheritance tax advice
- › Landlord and tenant
- › Lasting Powers of Attorney
- › Litigation
- › Living Wills
- › Personal injury
- › Prenuptial agreement
- › Tax and succession
- › Trusts
- › Wills and probate



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For more detailed advice on your guide making a trust and how it can affect you and your personal circumstances, please contact your nearest HK Law office.

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