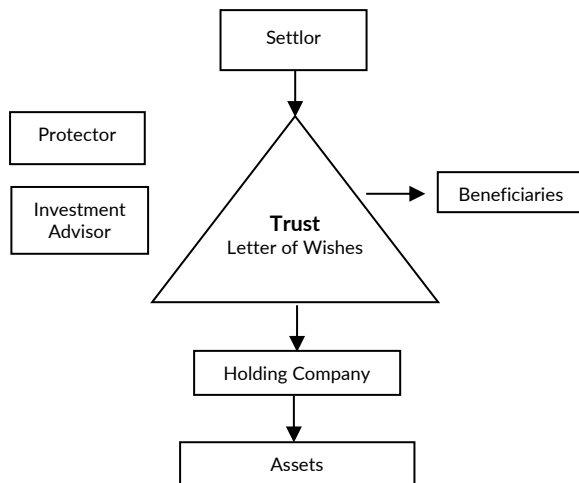


+ TRUSTS



Creation

The Trust is created when the Settlor executes the Trust Deed with the intention of creating a Trust and transfers the initial trust fund to the Trustees.

Nature

Trusts are *common law* instruments, as distinguished from private interest foundations, which are typically *civil law* instruments. Trusts do not have legal personality, whereas private interest foundations typically have legal personality.

Principal Objectives

Trusts are typically established to achieve estate planning, tax planning, and asset protection objectives.

Trusts allow the Settlor to distribute assets according to his/her wishes, and avoid probate, which is the legal process following death to prove heirship (will or intestate succession). Trusts may also confer tax planning advantages, including income tax deferral and relief from wealth tax, subject to the tax laws of the country of tax residence of the Settlor and Beneficiaries. Finally, subject to the governing law of the Trust and fraudulent conveyance rules, as well as the laws of the jurisdiction where the assets are located, Trusts may offer varying degrees of asset protection.

The Settlor

The Settlor is the person who executes the Trust instrument and contributes the assets to the Trust. The Settlor may reserve certain powers over the administration of a Trust, including a beneficial interest, the power to approve distributions, change Beneficiaries, remove the Trustee, manage the Trust assets, revoke the Trust, etc. However, reserving such powers may serve to significantly reduce tax advantages and asset protection advantages.

The Trustee

The Trustee holds legal title to the assets, and is charged with giving effect to wishes of the Settlor, executing the terms of the Trust, and protecting the interests of the Beneficiaries. In a discretionary Trust, the Trustee is given wide discretion over Trust administration, including distributions to Beneficiaries. The Trustee is also obliged to keep proper accounts, etc.

Beneficiaries

The Beneficiaries hold equitable interests in the Trust, and are named in the deed. Beneficiaries may include the Settlor, his/her family members, as well as third parties.

Protector

The typical role of the Protector is to exercise certain powers defined in the Trust instrument, such as appointing and removing the Trustees, and appointing and removing the Investment Advisor, as well as consenting to the exercise of certain Trustee powers and discretions, such as distributions of income and principal, adding and removing Beneficiaries, amending the Trust instrument, etc. The Protector is usually appointed and removed by the Settlor.

Investment Advisor

The Investment Advisor named in the Trust instrument has the responsibility of managing the assets of the Trust. Trust instruments in modern trust jurisdictions grant the Investment Advisor the power to direct the Trustee as to investments, which directions must be followed by the Trustees.

Trust Documents

The Trust instrument is the principal Trust document which contains the terms of the Trust arrangement, including names of the Beneficiaries, powers of the Settlor, the dispositive provisions, as well as the powers and discretions of the Trustee, etc.

The Letter of Wishes (LOW) typically accompanies discretionary Trusts and provides guidance to the Trustee on trust administration and application of the Trust fund. Although the LOW is not legally binding, the Trustee is obliged to consider the LOW when exercising its powers and discretions.

Governing Law

Trust instruments typically contain express governing law clauses which stipulate the law applicable to the Trust, such as the laws of England and Wales, or modern jurisdictions, such as Cayman, Bahamas, South Dakota, etc.

Trust Assets

Trusts can hold almost any type of assets, which are normally held through underlying holding companies, including financial assets, real estate, yachts and aircraft, operating companies, etc.

Notice

CISA is not a legal or tax advisor, this memo is for general information only and is not offered as advice.