Your wealth and how to 'trust' it

The Straits Times 07/05/2017

By: Lorna Tan (Invest Editor/Senior Correspondent)

Trusts can serve a variety of needs, including making provisions for special needs kids and preserving one's assets

Most people know that making a will is an essential step towards distributing our wealth to our loved ones when we are no longer around, but an increasing number of us are realising that it is no longer enough.

There are other steps you can take as well, including a Lasting Power of Attorney, which is effective when you are still alive but may have lost your mental faculties, or an Advance Medical Directive that kicks in if terminal illness strikes.

Some people might even want to set up a trust for a variety of reasons, such as making provisions for their special needs children.

Mr Henny Liow, chief trust officer at DBS Private Bank, says not every family needs a trust; it depends on the circumstances and needs.

For example, a trust may be appropriate if a person "wants to avoid probate formalities and freezing of his assets after his lifetime, provide for vulnerable dependants after his lifetime, protect the family's wealth from creditors and spendthrift heirs, pay for medical and other emergencies in the event of his disability, benefit charities and other social causes

What is a trust? In her book, Instant Legal Protection For Your Family, Ms Lie Chin Chin, managing director of local law firm Characterist, explains that a trust is a legal arrangement where an individual (settlor) places assets into a trust for the appointed trustee to manage and administer for the benefit of others (beneficiaries), such as family members, friends or charitable bodies.

The assets can include property, cash, investment portfolios, shares, family businesses and jewellery.

Ms Lie says that the trust document will contain specific instructions for the trustee to manage, protect and distribute the assets and income. It will also set out the trustee's duties and responsibilities.

The trustee has a statutory obligation to act in the best interest of the beneficiaries. A protector can be appointed by the settlor to safeguard the trust and prevent a trustee from abusing his powers, adds Ms Lie.

What are the main reasons for setting up a trust? Trusts serve a variety of purposes and are typically used for wealth accumulation and asset protection.

Ms Chin outlines five reasons why a trust will be useful:

1. PROTECTION FROM CREDITORS

For a person who is exposed to debt risks due to investments or businesses, a trust can protect his personal assets from creditors. Since the trustee becomes the legal title holder of the trust assets, creditor access to the assets may be limited to the settlor's beneficial share.

2. WEALTH MANAGEMENT

A person who wants to distribute assets to his dependants who are incapable of managing their own finances or wealth can use a trust to control the distribution.

3. PRESERVATION

A person who does not want his assets to be dissipated can use a trust to consolidate them for continuity of administration and preservation of growth potential. The settlor can also use a trust to preserve assets for future generations, even for beneficiaries who do not yet exist when the trust is formed.

4. FAMILY UNITY

If you want to preserve and enhance relationships within families or to prevent disputes over the inheritance of your assets, you can use a trust to promote family togetherness or shield assets from becoming the object of disputes.

5. TAX EFFECTIVENESS

A person who wants to protect his assets from being depleted by income tax can use a trust to channel asset income or profits to family members on lower income tax brackets, thereby subjecting that income or profits to lower tax rates. Similarly, a trust can be used to protect assets from capital gains or death taxes that may be applicable in other jurisdictions.

CASE 1: Mr and Mrs Michael Chong (not their real names) had successful careers and have accumulated substantial assets over the years. They have two children, aged 22 and 24, with special needs and who are incapable of caring for themselves or managing their inheritance. The couple are clients of local law firm Characterist.

Ms Lie Chin Chin, the firm's managing director, said: "Mr and Mrs Chong finally enjoyed peace of mind when they formed a inter vivos trust to care for their children beyond their own deaths and for the lives of the children." They appointed three people as joint trustees over a substantial pool of assets. The trustees could utilise money for the monthly care and support of the children, capped at $2,500 per child. The cap increases by 4 per cent each year to keep up with inflation. The trustees could also utilise funds for the children's medical needs at their discretion.

Mr and Mrs Chong directed their trustees not to sell the family home for as long as any of the children are alive. Upon both children's death, the trustees are to donate all remaining assets to a designated charity. For accountability, the trust accounts are to be audited by chartered accountants.

CASE 2: Mr Damien Sim (not his real name) rose from poverty to become the owner of a successful business and a substantial portfolio of properties.

He formed a testamentary family trust through his will for the preservation of family unity and to provide for multiple generations after him, said Ms Lie.

The trust requires his children to work together and dis-entitles any beneficiary who contests it. It sets aside money for family gatherings, permits discretionary allocation of income for educational and living needs, while requiring the assets to be preserved for decades to ensure future generations are provided for.

Case 3: A Singapore family has children who are extremely successful in their respective careers but have little interest in managing the wealth their parents built up.

The parents established a trust with DBS Private Bank with a specific distribution plan to take care of the well-being of their children and future grandchildren, while leaving the management of the assets in the hands of a professional investment manager.

Duties of trustee:

1. *Obtain, maintain and keep up-to-date information on controllers of trust*
2. *Maintain and keep up-to-date accounting records relating to trust*
3. *Disclosure to party in prescribed transaction that is acting for trust*