THE STRAITS TIMES

They can be useful legacy-planning tools especially if one has vulnerable beneficiaries

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Trusts have long been seen as an investment instrument for the well-heeled, but many people now realise that they can be useful and relevant legacy-planning tools.

While wills are essential, trusts are also important because of our growing wealth - based on the potential value of our estate upon death - and the vulnerable beneficiaries we may have.

Estate planning specialist and director of Legasy Planners, Mr Keon Chee, says his clients are individuals with $1 million or more in wealth at their deaths.

"This would probably include 90 per cent of working Singaporean adults when you count their cash, homes and insurance proceeds," he notes. "I ask such people if they have vulnerable beneficiaries which would include minors, adults who cannot handle money (such as offspring who are young adults), senior citizens (like parents) and persons with special needs."

He adds that if he asked these people if they would give $1 million to such vulnerable beneficiaries in a lump sum, all of them would say no.

"Yet they all do so in the end because most don't even write a will, let alone (set up) a trust," he says.

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There are also people who use trusts to ensure that their wealth is kept within direct family members such as spouses, children and grandchildren but leaving out children's spouses and their in-laws.

Ms Lie Chin Chin, managing director of law firm Characterist, adds that people in high-risk business with exposure to potential creditors can also set up a trust to shield part of their assets.

Mr Lee Chiwi, chief executive of Rockwills International Group, noted that in the past, trusts were generally pitched at rich clients and offered by private banks, but now independent trust firms are offering such services on the back of the population's growing wealth.

The Sunday Times highlights five scenarios where trusts can be relevant to the man in the street.

Parents can set up a trust to assist their children to acquire residential properties for themselves but under certain conditions to be observed by the trustees.

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Standby Trust

In a nutshell, a trust is a legal arrangement that allows an individual to place his assets such as shares, money and property such that an appointed person or trustee can manage and administer them for the benefit of others (beneficiaries).

Legacy-planning specialists recommend the standby trust as an affordable and flexible tool.

"This is a distinctive trust that caters to the client who may decide to transfer some of his significant assets into trust only at a future date," says Mr Lee.

"It is an alternative proposition as the client may have no need to transfer his assets while he is mentally lucid."

A standby trust offers more confidentiality than a trust set up from within a will (known as a testamentary trust) and amendments to the so-called "Letter of wishes" can be made at little cost, adds Legasy Planners' Mr Chee.

Planning tools

WILL

A will is a declaration about the distribution and management of your estate, which includes your assets. It takes effect after your death.

TRUST

A trust serves to protect family assets that might otherwise go to beneficiaries too young to get substantial inheritances, or who are spendthrifts, financially immature or vulnerable.

The ultimate distributions to them should be delayed for a certain time to ensure they get their inheritance when they reach a certain age or maturity.

LASTING POWER OF ATTORNEY (LPA)

An LPA is drawn up to appoint people entrusted to look after you (the donor) at a time when you lose mental capacity. Caregiving has two aspects - personal welfare and property, and financial affairs.

ADVANCE MEDICAL DIRECTIVE (AMD)

An AMD expresses your intention that no extraordinary life-sustaining treatment should be applied if you suffer from a terminal illness and become unconscious or incapable of exercising rational judgment.

NOMINATION OF CENTRAL PROVIDENT FUND SAVINGS

Such savings cannot be distributed through a will. It is prudent to nominate your beneficiaries as the Public Trustee charges a fee for administering un-nominated CPF money.

death - the annual fees kick in. They could be a fixed annual fee reviewable every year or a percentage of the movable assets held in the trust (0.1 per cent to 0.5 per cent).

For immovable assets, the average annual administration fee rate may be based on, say, 5 per cent of the annual gross income of the property, subject to a minimum of $3,000.

Characterist's annual fees for a standby trust start from $8,000 per year and are capped at $15,000 for assets up to $5 million. Fees are separately negotiated for assets above $5 million.

For some families with special-needs members and who cannot afford private trust firms and banks, they can approach the Special Needs Trust Company (SNTC). SNTC is a non-profit trust firm here offering affordable trust services to such families.

For instance, the one-time set-up fee of $1,500 for a trust works out to just $150, after taking into account the 90 per cent subsidy.

Here are five scenarios on how a trust can be relevant.

Choosing a suitable trust firm

Generally, there are two groups of trust companies - either bank-owned or independent.

There are nearly 60 licensed trust companies listed on the Monetary Authority of Singapore's website.

Mr Henny Liow, chief trust officer at DBS Private Bank, advises that the person setting up a trust should note that the instrument is usually a long-term structure intended to last well beyond his lifetime. In addition, the trustee's duty (called fiduciary duty) is an onerous one. "The trustee is going to hold title to trust assets and in some cases will be called on to take care of vulnerable or young beneficiaries who may not know their legal rights," he notes. So the person must choose a trustee he is confident will fulfil these requirements.

may want the boutique advisory services of the independent trust firm that administers not only financial assets but also non-financial ones such as real estate and private companies: "Where clients require holistic estate planning services such as in will making, estate administration, corporate administration or even services like drawing up the Lasting Power of Attorney or Advance Medical Directive, the offering is more likely available at the independent trust companies."

Before setting up a trust, you should also think hard about what you want to achieve.

Ms Lie says: "They should consider which portion of their assets should be in the trust. They should consider whether to set up one or more trusts for different purposes and different beneficiaries."

1. ENSURING MAINTENANCE OF YOUNG CHILDREN

(testamentary trust) upon her death.

He says Ms Low requires a trust to distribute her money over a period of time upon her death because her estate would have over $1 million from her insurance plans and other assets. She has two young beneficiaries.

Ms Low has the option of stating a fixed amount be given to her children every month. However, she preferred for the trustees to decide how much money the children would require depending on their life stage, until they become adults.

2. SHIELDING ASSETS FROM DIVISION UPON YOUR DIVORCE

Ms Anna Ang (not her real name), 43, feels insecure with her husband's frequent business travels. She worries if her marriage ends in divorce she could at most get a portion of the matrimonial assets but their only child, aged 16, would get nothing.

aside in the trust for the child will never be subject to division in a divorce. This protection cannot be secured by a will, which can be revoked any time.

3. SHIELDING ASSETS SHOULD YOUR CHILDREN DIVORCE

A standby trust can be useful for those who want to give assets to a child with the assurance that the gift will not become a divisible matrimonial asset if the child eventually marries and then divorces.

Mr and Mrs Robert Lim (not their real names) wanted to help their children set up homes in their lifetime but did not want their savings to benefit unintended third parties. They set up a portfolio of assets on trust so the children can benefit from the income. The trust can be set up so that these assets will never be part of the children's matrimonial assets, says Ms Lie. For instance, the trust documents may state the assets are meant only for the parents' children and grandchildren, but not in-laws.

4. AVOIDING POTENTIAL CLAIMS MADE AGAINST BENEFICIARIES

Mrs Agnes Tan (not her real name) and her husband had two children. Mrs Tan worked as a senior manager in the corporate world while her husband was self-employed.

Mrs Tan's investments were worth more than $2 million and she also owned two condominium units in her name. The couple made their wills naming each other as the main beneficiary of their respective estates.

Two years later, she was advised by Rockwills to create a standby trust for her family members. She made a new will that gifted her residuary estate to the standby trust. Her husband and two children were the beneficiaries.

She subsequently died. At the point of her death, Mr Tan was an undischarged bankrupt as his business had failed. Fortunately, her estate "poured over" to the standby trust under the terms of her latest will, which prevailed over the previous one.

bequeathed to her husband. Under the bankruptcy law, that would have left Mrs Tan's estate exposed to his creditors to satisfy his debts.

ST ILLUSTRATIONS: ADAM LEE

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Rockwills' Mr Lee notes that when young people start their careers, their incomes may be insufficient to acquire big-ticket items like a property.

Marriages may also be postponed or they delay starting families. At the same time, parents do not simply want to give a free handout to young adult children.

Parents can set up a trust to assist their children to acquire residential properties for themselves but under certain conditions to be observed by the trustees.

A standby trust can be set up with a loan (with interest or interest-free) from the trust funds.

The loan will be required to be secured upon pre-determined terms and conditions such as on the security of the property.

By doing so, the trustees will have a charge over the property, which effectively means that if the beneficiary decides to sell it at some stage, the proceeds will go towards redeeming the trust charge first.

One requirement is that the amount of the loan cannot exceed two-thirds of the value of the property.

The beneficiary either pays the balance or obtains a bank loan. When the beneficiary is at a certain age, say 35, the trustees could have the power to determine if the loan needs to be paid back.

This sort of estate planning means the parents' inheritance to their children gives them a head start in their lives but is controlled until such time when the young beneficiary becomes of age and is financially more mature.

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