



ESTATE PLANNING TOOLS

TESTAMENTARY TRUST

A Testator can in his Will create a testamentary Trust. A Testamentary Trust is a situation where provision is placed in the will that appoints a trustee to manage the assets of the deceased. The Will determines the Estate or specific assets to be managed and administered by the Trustees of the Trust for the benefit of the beneficiaries as stipulated by the Testator.

The Trust provisions are contained in the Will, which include the powers and duties of the Trustees, the disposition of assets among the beneficiaries, termination as well as conditions precedents and subsequent amongst other issues. The main difference between a Testamentary Trust and Living Trust is that unlike a Living Trust, which takes effect while the Settlor is alive, a Testamentary Trust takes effect upon Death and is subject to Probate.

A testamentary Trust is created within and by your Will but does not take effect until after your death. A testamentary Trust may be created using specific assets, a portion of your Estate or the remaining part of your Estate after you might have shared assets to your chosen beneficiaries.

WHAT IS A TESTAMENTARY DISCRETIONARY TRUST?

A testamentary discretionary Trust is that which becomes effective upon your death and gives the Trustee the discretionary power to manage and distribute the capital and income of the Trust to the named beneficiaries in your Will. In other words, the Trustee is given a free hand to appropriate Trust assets to named beneficiaries in your Will.

WHAT ARE THE ADVANTAGES OF A TESTAMENTARY DISCRETIONARY

Flexibility for beneficiaries — This type of testamentary Trust allows the Trustee to have a free hand in distributing the capital and income to your named beneficiary at any time and in any proportion.

Protection of assets — A testamentary discretionary Trust protects the Trust assets from legal proceedings that may arise against beneficiaries as they are not the legal owners of the Trust asset. In other words, such Trust assets Will not be subject to satisfy whatever obligation is owed by the beneficiary to a third party. A testamentary Trust separates inherited assets from personal assets of the beneficiaries.

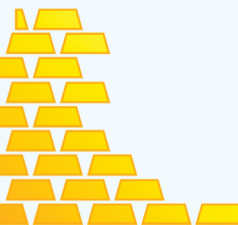
WHY SHOULD YOU CONSIDER TESTAMENTARY LIFE INTEREST TRUST?

A Trust has an ownership structure whereby the assets of the Trust are held by an individual or Legal Entity known as a Trustee for the benefit of a third party called the beneficiary.

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A testamentary life interest Trust is created to ensure that a beneficiary of your choosing receives support from your Estate for the duration of the life of the beneficiary until his/her death, thereafter the remainder interest Will be distributed according to your instructions in the Will.

This implies that the Trustee Will oversee the Trust asset on behalf of the beneficiary during his/her lifetime and such beneficiary Will be catered for from the proceeds of the Trust asset as per the instructions in your Will. This type of Trust allows you to support a particular beneficiary after your death for a given period, usually for the lifetime of such beneficiary. This can be used for example for the benefit of your spouse during his/her lifetime after which the asset Will pass unto your children after your spouse's death.



If you need further clarifications on this, please reach out to us
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