

Wealth Succession Planning

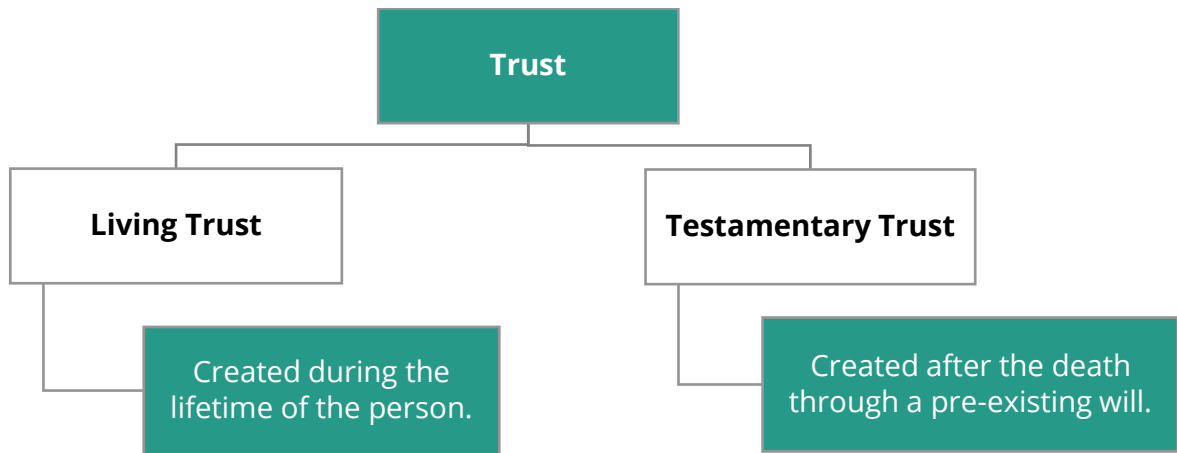
Wealth succession planning¹ is the process of preparing for the transfer of wealth and assets from one generation to the next. It involves legal, financial, and personal aspects that need to be carefully considered and communicated. Wealth succession planning is important for business families because:

- It can help preserve the family legacy and values, as well as the reputation and goodwill of the business.
- It can avoid conflicts and disputes among family members, shareholders, and stakeholders, which can jeopardize the harmony and stability of the business.
- It can minimize the tax liability and maximize the value of the estate, by taking advantage of tax exemptions, deductions, and reliefs.
- It can protect the interests and rights of the beneficiaries, especially the minor or vulnerable ones, by implementing appropriate succession planning tools.

Succession planning tools:

1. **Direct Allocation of Asset and wealth (Traditional):** Split the wealth equally/such other ratio (as decided by the head of the family) among the family members.
2. **Will:** A will outlines the desires of the Testator (creator of the will) regarding the distribution of their property and the care of any descendants or next of kin. Assets specified in the will can be transferred directly to the designated beneficiary or conveyed through a testamentary trust.
3. **Trust:** A trust acts as a legal gateway between the settlor and trustees, allowing the settlor to authorize the trustee to hold property or assets on behalf of a third party, the beneficiary. Trusts can be structured based on their intended objectives, with options including revocable, irrevocable, discretionary, or determinate trusts.

¹ The other aspect of Succession Planning is "Management Succession". It's a complex topic and we are only focusing on wealth succession through this article.



Comparison of Succession Planning Tools:

Particulars	Direct Allocation	Will	Trust
Effective From?	Immediate	Upon death of the Testator	Upon creation of Trust.
When does the distribution takes place?	During lifetime of the Testator.	Upon death of the Testator.	Either during lifetime or post death of the Testator.
Probate ² is required?	Not required	Yes, required.	Not required.
Coverage	All the assets of the Testator.	All the assets of the Testator.	Flexibility to demarcate between Personal asset and the assets held for distribution.
Can the distribution be revoked?	No.	No. This is post death of the Testator and hence, Will cannot be revoked.	Yes, if it's a revocable trust.
Ownership and Management can be segregated?	No.	No.	Yes. Trust provides flexibility.
Privacy	Yes.	Yes.	Yes.
Suitable for?	Nuclear families.	Nuclear families.	Large family business houses.

² Probate is a legal process to check the authenticity of the Will.

Instances where the tool has not worked?	Raymonds Group, Ranbaxy Group, Ambanis etc.,	Highly disputed and multiple jurisprudence.	Bajaj, Tatas etc.,
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Our recommendation: Private Trust

Challenges

During the transfer of wealth to the next generation, family members entangled in separations or legal conflicts, including contentious divorces with substantial alimony claims, face the potential of exposing family assets. This could culminate in the division or settlement of considerable wealth, thereby impacting the financial stability. Unity in the family gets diluted.

Financial insolvency or bankruptcy among children or legal heirs presents challenges to family wealth preservation and the debts incurred could jeopardize the stability and integrity of the family's assets and financial standing.

Furthermore, conflicts may emerge among siblings or heirs regarding **inheritance rights, ownership shares, or control over family assets**, potentially resulting in protracted legal disputes and familial divisions, endangering the efficacy of wealth management and succession plans.

Solution: Families mitigate risks through **estate planning, prenuptial agreements, and trust structures** to safeguard assets and minimize legal liabilities. Among this, the trust stands out as a versatile instrument for safeguarding family assets, preserving wealth, fostering intergenerational harmony, and ensuring the enduring prosperity of family wealth across multiple generations.

Trust Approach:

A private Trust is effective for succession planning as the settlor can see its implementation during his lifetime, enabling corrective action to be taken in a timely manner. Within a trust, conditions can be affixed to gifts, such as upon reaching a designated age or fulfilling the settlor's wishes, and trust can effectively mitigate family disputes over property.

Advantages of creating a Trust:

- Trust eliminates the requirement to transfer legal ownership of the business as it passes down through generations.
- It is an effective method for managing and transferring family assets, it establishes a legal framework for asset succession.
- Business continuity is preserved as there are no ownership related disputes emerging out of a succession event.

- It effectuates transmutation of Possession and provides flexible and easy distribution of income.

In addition to the core components of a trust, such as the trustee and beneficiaries, a trust may onboard a Trust Advisor. The Advisor, typically a trusted individual or professional, provides guidance to the trustee, ensuring family interests are considered. However, the trustee retains ultimate decision-making authority, with oversight from the Settlor in certain instances, depending on the Trust's design.

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