

How to Create a Trust & The Benefits Thereof

A Practical Guide for South Africans

Bilnor Staffing Solutions – Financial Wellness Resource

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1. What Is a Trust?

A trust is a legal arrangement where one party (the trustee) holds and manages assets on behalf of another party (the beneficiary). The trust is created by a founder who transfers assets into the trust and outlines how those assets should be managed according to the trust deed.

In South Africa, trusts are commonly used for estate planning, asset protection, tax efficiency, business continuity, and providing for dependants.

2. Types of Trusts in South Africa

1. Living (Inter Vivos) Trust

Created during the founder's lifetime. Assets are transferred while the founder is alive. Useful for families, property protection, and long-term planning.

2. Testamentary Trust

Created through a will and only comes into effect after the founder's death. Often used to protect minor children or dependants.

3. Benefits of Creating a Trust

✓ Asset Protection

Assets held in a trust are separate from your personal estate. This can protect them from personal creditors or business risks, depending on trust structure and governance.

✓ Estate Planning & Reduced Costs

Trust assets do not form part of your personal estate when you die. This can reduce estate duty, executor's fees, and delays in winding up an estate.

✓ Continuity & Long-Term Stability

A trust can exist long after the founder has passed away. This ensures long-term financial security for children, dependants, or a business.

✓ Tax Planning

Trusts can offer tax planning advantages when used correctly, especially for income-splitting among beneficiaries. (Important: Trust tax rules are complex. Always get professional advice.)

✓ Management for Vulnerable Beneficiaries

Trusts protect beneficiaries who are minors, disabled, financially inexperienced, or unable to manage their own affairs.

4. When Should You Consider Creating a Trust?

A trust may be the right solution if you:

- Own multiple properties or want to protect assets from business risk
- Want to ensure your children or dependants are financially secure
- Want to reduce the costs and delays of estate administration
- Want to build generational wealth
- Need structured financial management for vulnerable beneficiaries
- Want a long-term structure for property investing
- Run a family business and want succession planning in place

5. How to Create a Trust in South Africa (Step-by-Step)

Step 1: Define the Purpose of the Trust

Decide why the trust is being created—property protection, assisting dependants, reducing estate costs, investing, etc.

Step 2: Choose a Trust Name

This name will appear on official documents, bank accounts, and legal records.

Step 3: Draft a Trust Deed

This is the trust's "rulebook" and must include:

- The trust's purpose
- Who the beneficiaries are
- Powers and responsibilities of trustees
- How assets must be managed
- How decisions must be made

A trust deed must be drafted by a qualified attorney or specialist.

Step 4: Appoint Trustees

Trustees must act in the best interest of the beneficiaries at all times.

At least one trustee must be independent (not a family member or beneficiary) if the trust will hold property.

Step 5: Register the Trust with the Master of the High Court

Submit the trust deed, trustees' IDs, acceptance forms, and the registration fee.

Once approved, the Master issues Letters of Authority, allowing the trust to operate legally.

Step 6: Transfer Assets Into the Trust

Assets must be formally moved into the trust's name—property, investments, cash, etc.

Step 7: Open a Trust Bank Account

The trust must have its own banking account for transparency and auditing.

Step 8: Maintain Proper Records

Trusts require:

- Annual tax returns
- Trustee meeting minutes
- Financial statements
- Proper governance

6. Important Considerations Before Creating a Trust

• A Trust Must Be Managed Professionally

Trustees must meet regularly, keep minutes, and follow the trust deed strictly.

• You Lose Personal Control Over the Assets

Once assets are in the trust, they belong to the trust—not you. Trustees manage them.

• Costs

Creating and maintaining a trust comes with legal, registration, accounting, and tax costs.

• Tax Rules Are Strict

Trusts are taxed at a higher flat rate, but tax planning can still be beneficial depending on the situation.

7. Summary

A trust is a powerful financial and estate-planning tool in South Africa. When structured correctly, it offers asset protection, tax planning advantages, reduced estate costs, and long-term financial security for your family or investments. Always seek legal and financial advice before creating a trust to ensure it aligns with your goals.