



12 REASONS FOR TRUSTS

A *trust* is a device which creates a fiduciary relationship with respect to *assets*, typically separating the responsibility for management of the assets held in Trust from the beneficial ownership of those assets.

1) *Avoiding forced heirship rules*

Long-term residents may be reluctant to take up a Domicile of Choice in Portugal due to the Forced Heirship rules. Forced heirship is a form of succession whereby the estate of a deceased is separated into (1) an indefeasible portion - the forced estate - passing to the deceased's next-of-kin and (2) a discretionary portion, or free estate, to be freely disposed of by a Will. Forced heirship is generally a feature of civil-law legal systems, such as Portugal, which do not recognize total freedom of testation.

2) *Taking advantage of “territoriality”*

In the rules of Succession, Portuguese Law limits its scope to assets held within Portugal. The part of the estate that remains abroad is thereby excluded by statute. Internationally, Portugal is one of two countries in the world applying the principles of territoriality, the other being Hong Kong.

3) *Avoiding probate delays*

Avoiding probate can mean substantial savings in time, legal fees and paperwork. A trust allows your descendants to bypass this process and gain access to the assets and property more quickly. This is particularly important if funds are needed to legal fees and other day-to-day expenses that the family will need if the main breadwinner were to die. A further benefit of using a trust is increased privacy. A will is a public document (i.e., anyone can go to the probate court and review the contents of a will). However, a trust remains private.



4) ***Asset protection***

A trust can protect both business and personal assets from most creditors' claims. A trust works because it splits ownership of trust assets; the trustee has equity ownership and the beneficiaries have beneficial ownership.

5) ***Life policies in Trust***

Writing a policy into trust not only provides funds without probate delays, these funds will be outside of the deceased's estate for Inheritance Tax purposes and available for immediate disposal if required.

6) ***Security against contested wills***

A trust gives greater protection than a will against legal action from anyone who is unhappy with the distribution of assets and decides to challenge it. While not foolproof, as there will be times when trusts are open to challenge, it is more difficult to do than challenge a will.

7) ***Flexibility***

Trusts can give power to the trustees to exercise discretion, over a long period of time, as to how capital and income is to be distributed. This power can continue long after the sellers have died.

8) ***Charitable Gifts***

Trusts are an ideal way to provide funds to charity or suitable good causes. These trusts can continue well beyond the life of the charitable donor.

9) ***Gifts to minors***

A trust is an ideal way to protect gifts to minors and for the trustees to look after the capital until the children are at an age to look after their own financial affairs.



10) ***Providing for others in need***

It is not only minors that do not have the capacity to make financial decisions and such a trust could well ensure the financial well-being of those that are incapacitated, particularly should they outlive other family members

11) ***Inheritance Tax Planning***

For UK domiciled clients, there are a wealth of financial planning opportunities available to offset the effects of IHT. Key to a lot of this planning is the use of trusts

12) ***Integrated with a Domicile of Choice strategy***

One of the ways to implement a Domicile of Choice strategy is to eliminate probate in the UK. This means divesting oneself of all British assets. Using Non-Trading Companies held by a Trust avoids direct ownership and the probate link.

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