

# THE POWER OF TRUSTS

## Frequently Asked Questions

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### 1) WHAT IS A PRIVATE TRUST?

A PRIVATE TRUST is Non-statutory in nature, meaning that it is not under the control of the State jurisdiction. It is created based on your right to contract with another party and comes in the form of a private contract drafted for the benefit of a third party, also known as the beneficiary. Even if you have expatriated and repatriated are sovereign, are a dual citizen or a full citizen, a PRIVATE TRUST is designed for the same person to control AND hold possession of the assets of the Trust.

### 2) WHAT IS THE DIFFERENCE BETWEEN A NONSTATUTORY TRUST & LIVING TRUST?

A **LIVING** Trust is a revocable Trust and can be shut down or closed at any time. It can be operated by the same person who benefits from the Trust structure and it's **STATUTORY**, meaning recorded in the public domain, under the control of the State and able to be accessed by any third party. In a **NONSTATUTORY TRUST**, you can't do that. Generally, there has to be a minimum of three entities. The **CREATOR**, the First Trustee and the Beneficiary. The **NON-STATUTORY TRUST** is set-up by the Settlor and the First Trustee for the benefit of the Beneficiary.

A Living Trusts does not provide protection against lawsuit or government asset seizures, neither does it have any tax saving benefits, since it is revocable and deemed as a "Grantor Trust" under the Internal Revenue Code. The Private Trust is a Non-statutory Trust is irrevocable, meaning it last forever and nothing can shut it down.

Living Trusts are governed by statute law in the state where they are set up. The Non-statutory Trust is a contract and as such is governed by Common Law and protected under the Constitution for the united states of America.

Most Living Trusts do not qualify as contracts for the following reasons:

- a) Usually there are not two different parties. One party is usually the Grantor and the Trustee. Therefore, there is no "contract" between two different parties in the sense of the constitutional meaning. Also, the government generally recognizes husband and wife as one party and not two, so there is no separation.
- b) Living trusts are revocable, thus the Grantor never gives up control over the assets, and the Trust is not considered to be between the parties.

A Non-statutory Trust qualifies as a contract for the following reasons:

- a) There is an offer and acceptance between two or more parties who are of legal age and competent.
- b) There is consideration paid between the parties, including a legal object.

c) There is a termination date if desired, but the Non-statutory Trust can be renewed or drafted to last indefinitely.

### **3) WHAT MAKES THE NONSTATUTORY TRUST SUCH A POWERFUL INSTRUMENT?**

The Non-statutory Trust is a Common Law "identify (lawful person) based on the unlimited right to contract, established in Equity, and not dependent upon statutory jurisdiction. Most states do have a Statute that will recognize a Common Law document.

### **4) ARE THE TRUSTS USABLE IN ANY STATE OR COUNTRY?**

Yes. You can operate under the control of US Common Law. If you wish to establish jurisdiction under any other State, Province or Country, simply change the situs address by modifying the Trust.

### **5) DO I BECOME MORE VULNERABLE IF I OPERATE WITH THEM IN ANOTHER STATE OR COUNTRY FROM WHERE THE TRUSTS SITUS STIPULATES?**

No. The trust jurisdiction is what controls how the Trust is treated.

### **6) WHAT IS THE SITUS?**

The "situs" is the dominating or controlling address that sets the jurisdiction of the Trust. You can change the situs, if you wish the jurisdiction to be set in another State, Country or Territory.

### **7) MAY I CHANGE THE SITUS?**

Yes, you are free to move the situs to any location you choose. You must only document it through appropriate minutes or modification.

### **8) CAN I CHANGE THE MAILING ADDRESS?**

Yes, you can change the mailing address to any address in any state or Country that you prefer. Just do so with the appropriate Minutes. Some people prefer to only change the mailing address and leave the Situs address.

### **9) IS THE TRUST WRITTEN UNDER COMMON LAW OR STATUTE LAW?**

They are written under Common Law with no preference to jurisdiction of Statute Law. There are some Statues mentioned that give it guidelines but no jurisdiction. The Trust specifically mentions that certain Statues are only applicable if they allow the Trust to remain under the jurisdiction of Common Law.

### **10) WHY IS IT ADVANTAGEOUS TO HAVE IT ESTABLISHED IN CERTAIN STATES?**

It makes no difference what state it is established in. Even if your state allegedly does not recognize a Common Law document as being a legitimate form of conducting business, doesn't mean the Trust is invalid.

### **11) CAN THE TRUST OPERATE A BUSINESS?**

Yes, properly written a Non-statutory Trust can operate almost any type of business. If more than one business is desired, there should be a Trust for each business. There is no limit to where a Trust can conduct its business. It can do business in any and all states regardless of its domicile.

## **12) WHAT IS THE MAIN DIFFERENCE BETWEEN THE FAMILY, BANKING AND THE MANAGEMENT VERSIONS OF THE TRUSTS?**

A Banking Trust deals the peculiar banking policies. A Banking Trust allows you to go to your favorite bank and open an account under the Trust name. A Family Trust is for managing your personal assets (Home, car daily purchases, etc...), similar to a Management Trust.

## **13) HOW CAN I PROTECT MY BUSINESS ASSETS FROM FINANCIAL DISASTER?**

Set up a Non-statutory Trust. Operating in your own name leaves you vulnerable to many liabilities. A frivolous lawsuit alone could wipe-out the best of independent entrepreneurs.

## **14) WHAT IS REQUIRED FOR THE BANKING TRUST TO OPEN AN ACCOUNT?**

Usually you will need an EIN number from IRS to open a bank account for the Trust, you can apply for this number "without prejudice", or merely use your social security number.

## **15) WHAT IF I GET SUED? WHAT HAPPENS TO THE TRUST ASSETS?**

Nothing. Since you don't own the assets placed into the Trust, they cannot be touched by a lawsuit against you. However, you must establish the Trust before you get into legal difficulties.

## **16) CAN CREDITORS OF THE TRUSTEE GET TO TRUST PROPERTY?**

The Non-statutory Trust is never liable for the personal debts of Trustees.

## **17) CAN THE TRUST BE SUED?**

Yes. It is a legal entity all by itself. The only liability the TRUST has is its assets. The idea is to limit how many assets you place into one Trust and to strategically not do business in that Trust.

## **18) CAN THE TRUST SUE OTHERS AS WELL?**

Yes. If someone has wronged the well-being of the TRUST, the TRUST can sue in court for damages it feels are justified.

## **16) WHAT IF I SHOULD GO BANKRUPT?**

As a Trustee, you going bankrupt will have no effect on the assets of the TRUST because you do not own those assets.

## **20) WHAT IF I SHOULD GET A DIVORCE?**

A divorce has no effect on the assets of the Trust. Trust property cannot properly be part of a

property settlement. Non-statutory Trusts can protect assets in a divorce proceeding. Only the party who is listed as a Trustee can access what is in the Trust, no matter what other legal contracts are formed.

## **21) CAN THE TRUST BE USED AS AN ALTERNATIVE TO A PRE-NUPTIAL AGREEMENT?**

Yes. The party that would be interested in protecting their interest would form the TRUST and place their assets into it before committing to marriage. That way, no dispute can arise later because the assets did not belong to the individual the day they were married.

## **22) IF A TRUST IS SO GOOD, WHY DOESN'T EVERYONE USE ONE?**

Private Trusts have been in use for centuries. The super-rich use them all the time to preserve their assets and let them accumulate. Of course they do not advertise their secrets; thus their strategies, for the most part, have remained private and exclusive. Most attorneys will not inform you about Trusts either, because of their lucrative probate business. Despite this effort of suppression, more and more people are becoming aware of Trusts and benefiting from their usage.

## **23) WHERE DOES THE TRUST GET ITS NAME?**

You are free to choose any name you wish. Most people use a name that partially describes what they are doing or they simply use a name of a city or location and add the extension "Holding Trust" or "Management Trust" "Family Trust" etc...

## **24) WHO PLACES ASSETS INTO THE TRUST?**

Initially it is the person who owns the assets called the Exchanger. After the Trust is established by the Creator and First Trustee, anyone can place additional assets into the Trust organization.

## **25) WHO CAN BE THE TRUSTEE?**

Anyone you **trust**. If you have expatriated and repatriated, you can be the First Trustee. If you choose not to be the First Trustee, you may request the First Trustee hire you as the Trust Manager. The daily operational duties are usually delegated to the Trust Manager.

## **26) WHO CAN BE THE CREATOR?**

The Creator should be someone neutral, whether it is a friend, associate or partner. Someone, obviously, that you trust considerably. Even though they won't have any day-to-day duties of maintaining the TRUST, they can provide great initial input. The Creator will be someone that signs the initial settlement papers (the original document) and then steps out of the picture for the most part.

## **27) WHO CAN BE THE BENEFICIARY (IES)?**

It can be anyone or any organization or a combination thereof, as you wish.

## **28) CAN ARTIFICIAL ENTITIES HOLD THE POSITIONS OF CREATOR, TRUSTEE AND/OR BENEFICIARY?**

Yes! Any legal entity such as a Corporation, Charitable Organization, Limited Partnership or even another Trust can hold the position of the Creator, Trustee or Beneficiary. This is done

when a person wishes to create multiple layers of protection by establishing more than one trust.

### **31) WHAT IS A GRANTOR AND DO I NEED ONE FOR THE TRUST?**

You will not be using the title "Grantor" in this TRUST - a grantor is someone that donates assets to a Trust and then still remains in control of them.

### **32) WHAT IS A TRUST CERTIFICATE UNIT AND TCU HOLDER?**

A Trust Certificate is similar to a stock certificate, but represents no beneficial interest or right, but only a future contingent interest in the asset or group of assets of the Trust. Trust Certificate Unit Holders, (the Beneficiaries), have no vote or power over the operation of the Trust, but have the right to receive distributions of money or property from the Trust, when, in the sole discretion of the Trustee, a distribution should be made.

### **33) WHO CAN AND CANNOT, BE A TRUST CERTIFICATE UNIT HOLDER?**

Protector, Trustee or any officer thereof cannot be TCU Holder Anyone else or any organization you desire can be TCU Holder: (Yes, a Trust can be a TCU holder.)

### **34) IS THERE A NEED FOR A WILL IF EVERYTHING IS IN A TRUST?**

Not really. The Trust Organization is all an estate needs to direct the proper distribution of profit assets. There is no probate, no inheritance tax, and no gift tax, no tax period. The TRUST is all an estate needs to direct the proper distribution of profit and assets. You've already transferred ownership of your assets to the TRUST. Now, it's just a matter of who controls those assets. The one thing you want to keep current is the SUCCESSOR-TRUSTEE that will take over the control of the assets upon YOUR death. The Trust will remain intact and undisturbed but control will pass to someone else that YOU designate NOW, at the time of setting up the Trust. You may desire a "Pour-over will."

### **35) HOW DO MY HEIRS TAKE OVER UPON MY DEATH?**

If your heirs are the beneficiary of the TRUST, there is no change needed. The Successor-Trustee takes over the control of the assets and they conduct business as usual. If you want your heirs to CONTROL the assets like you did before your death, you need to make sure their names are established as 'Successor Trustee' in the appropriate Minutes. That way, in the event of your death, they automatically take over your position as First Trustee. Remember, a Trustee cannot also be a Beneficiary.

### **36) IS THIS CONSIDERED MY TRUST?**

No, it is NOT your Trust. You may be in control of the TRUST assets, if you are the First Trustee but it is not your Trust. It is not the Beneficiaries' Trust either. You have to be VERY CAREFUL with the wording you choose when dealing with a Trust because there are many people trying to trip you up, mainly the IRS. They may ask questions as to who owns the Trust. NO ONE OWNS THE TRUST. The Trust is a separate entity set up for the benefit of the Beneficiaries who do not have a vested interest in the assets yet. The Private Trust is a separate "lawful person." That's like saying, you own your Daughter or Son or another person.

### **37) DO I STILL OWN THE ASSETS IN THE TRUST?**

No. You (the Exchanger) will have transferred ownership of the assets to the TRUST, which may be "controlled" by you. Your "use" of the assets (i.e. cars, house, etc.) can be considered as part of your duties as Manager or as First Trustee.

### **38) DOES THE TRUST PAY FOR MY PERSONAL THINGS?**

No. The Trust is established to take care of the Beneficiaries. You control Trust assets for the benefit of them. You cannot pay for things for yourself, such as food, clothing and entertainment, with Trust assets.

### **39) DOES THE TRUST NEED AN EIN?**

Generally, if the Trust is not conducting any business, the answer is no. Otherwise, you may need an EIN for business purposes. A Banking or Management Trust would be the ones requiring an EIN Number.

### **40) HOW DO I KEEP MINUTES FOR THE TRUST?**

You keep minutes just like you do for any other organization. You document any transaction that takes place, i.e. selling an automobile, buying a piece of real estate, opening a business, etc. You don't have to detail every aspect of each day's activity when running a business. Just the major decisions that are made with assets, debts, etc. Did you apply for a loan, buy new equipment, etc?

### **41) CAN I FORM MORE THAN ONE TRUST?**

Yes, you may form as many Trusts as you need. You may not, however, use your Trust as a model to copy for someone else, or resell this information, or gain from its use, directly or indirectly, by other parties.

### **42) HOW DO I TRANSFER OWNERSHIP OF AUTOMOBILES AND HOUSES TO THE TRUST?**

Automobiles are a little different in each State. But you transfer title to a Trust just as you would to another person. Homes and other real properties are transferred by deed.

### **43) HOW DO I LIST MY INSURANCE FOR THE CARS AND HOUSE?**

As long as the items are owned by the TRUST, the insurance company will list the Trust as the policy holder. There is nothing mysterious about what you are doing. It is only unfamiliar to you at the moment. You have to start thinking of this TRUST as a living and breathing entity. It is very real and has almost as many rights as you do. Just pretend it's a living being and you'll understand it is role more easily.

### **45) DOESN'T THE IRS ATTACK TRUSTS?**

The Internal revenue Service is a collection agency for the Federal Reserve Bank, and the International Bankers. As a collection agency, it attempts to collect as much as possible from so called taxpayers. The IRS has codes to adhere to explain how to minimize tax liability. There is nothing immoral or illegal about paying as little in tax as the law allows you to pay. Judge Learned Hand, had this to say, in the case of Helvering v Gregory, 69F.2d 809: "Anyone may arrange his affairs so that his taxes shall be as low as possible; he is not bound to choose that

pattern which best pays the treasury. There is not even a patriotic duty to increase one's taxes." Over and over again the Courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible. Everyone does it, rich and poor alike and all do right, for nobody owes any public duty to pay more than the law demands.

**46) WILL A NONSTATUTORY TRUST HELP PROTECT MY FAMILY FROM FINANCIAL DISASTER?**

Yes it can. Timely action, before you have a problem is the most important ingredient for successful asset protection planning.