Cornford-Scott
LAWYERS
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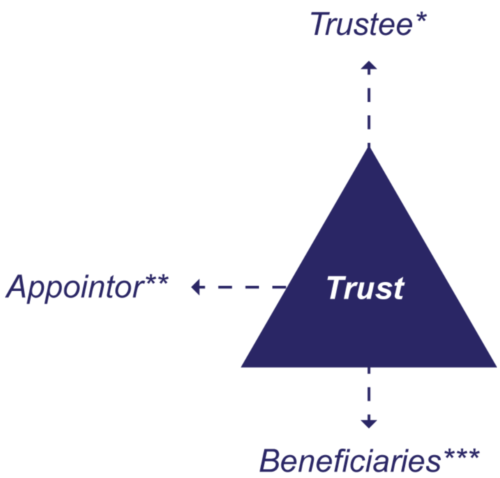
WHAT IS A TESTAMENTARY TRUST



* **Trustee**
The Trustee manages the assets of the trust,what distributions are made to beneficiaries and when the trust is wound up.

** **Appointor**
The Appointor has the power to change the Trustee at any time.

*** **Beneficiaries**
These are the people who are entitled to share in the assets and income of the Trust. However, the Trustee has the discretion to determine what, if any, benefit each of the beneficiaries receives and the timing of those distributions.

A Testamentary Trust is established under a person's Will. This means the Trust does not come into existence until after the death of the Will-maker. The structure of a Testamentary Trust is similar to that of a Family or Discretionary Trust. However, the precise terms of the Testamentary Trust can be tailored to suit the Will-maker's wishes and/or the needs of the intended Beneficiaries.

For example, a Testamentary Trust is generally structured so that the Trustee has absolute discretion to distribute the income and capital of the Trust at any time and to any one or more of the Beneficiaries as the Trustee may determine. However, it is also possible to restrict access to assets in certain circumstances, for example where the intended Beneficiary has an illness or addiction or is otherwise unable to properly manage significant sums of money.

BENEFITS OF TESTAMENTARY TRUST - PROTECTION

Assets held in the Trust are not owned by the Beneficiaries. Accordingly, the Trust provides some protection for those assets against third parties who may seek to have a claim against a Beneficiary. This can be an important asset protection strategy for a surviving spouse or children who have a high-risk occupation or profile.

Depending on the structure of the Testamentary Trust (and particularly who is in control of it), a Testamentary Trust can also provide some protection for the assets held in it against claims by a former spouse or partner of a Beneficiary in a matrimonial property settlement following divorce or separation.

The Trustee can also manage the Trust assets for a Beneficiary who is unable to properly manage their assets personally, to provide protection and to ensure the future financial security of that Beneficiary.

A Testamentary Trust can be structured in a way so as to provide benefits for a surviving spouse, whilst safeguarding capital assets for the future benefit of children.

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WHAT IS A TESTAMENTARY TRUST *CONTINUED*

TAXATION BENEFITS

Infant beneficiaries are taxed at normal marginal rates under a Testamentary Trust, which means the Trust can offer tax advantages for young families. Currently, this means approximately $20,000 can be distributed to or for each Beneficiary free of tax in each financial year. Essentially, this allows for living and education expenses of minor children to be paid out of pre-tax income.

With a range of potential Beneficiaries, the Trustee of a Testamentary Trust will also generally have discretion to split income amongst the potential Beneficiaries in each financial year. This could result in significant yearly tax savings.

By way of simple example, taking an inheritance through a Testamentary Trust could allow a high-income earning Beneficiary to share the income earned on their inheritance with other family members, rather than it being automatically attributed to their own personal assessable income.

For example, income could instead be shared as follows:

EXAMPLE PERSON	POTENTIAL ADVANTAGES
Spouse of Intended Beneficiary	If non-working or on a lower income, up to $20,000 distributed tax free and balance taxed at a lower personal margin tax rate.
Child 1	Up to $20,000 pre-tax income, applied for living and educational expenses.
Child 2	Up to $20,000 pre-tax income, applied for living and educational expenses.

For more information do not hesitate to contact the office.

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