

## What is a UK Discretionary Trust?

A Trust is an arrangement whereby assets are set aside by a Settlor and passed to a trustee with directions that it is to be used for the benefit of a group of beneficiaries. The trust deed, which is signed at the start of the relationship, sets out the legal basis upon and within which the trustee must operate. They are principally used for asset protection, succession planning, pay school fees, look after the affairs of a minor or when someone is incapacitated, to pass on assets whilst still alive or after death such as a 'will trust'.

**There are several types of UK Trusts, some of which are listed below;**

**Interest in Possession Trust** - All income is to be distributed to the named beneficiaries as they arise. An Interest in Possession trust may state that a beneficiary will receive all income during their lifetime and after their death state who would then benefit.

**Accumulated Trust** - Income is accumulated and added to the capital fund. Usually the income may also be distributed to the beneficiaries.

**Settlor Interested Trust** - The settlor or his spouse will also benefit from the trust. Can also be an Interest in Possession, Accumulated or Discretionary Trust.

**Discretionary Trust** - Discretionary Trusts are the most widely used as they are highly flexible and this makes them an attractive option for clients worldwide. The trustees operate the trust funds under the trust deed, but at their discretion. They provide a method for protection and distribution of personal, family and institutional assets and are widely used by personal and corporate clients.

**Non-Resident Trusts** - The trustees will not be resident in the UK. They are of particular use for non-domiciled settlors and therefore International clients. Further information on these trusts can be obtained from our sister company in Guernsey.

**Process of a typical Discretionary Trust** - Assets placed into a trust are registered into the name of the trustees who become the legal owners of them. The trustees are responsible for the administration of the trust and the assets placed within it, always bearing in mind that they have a duty to act in the best interest of the beneficiaries. Generally the trust deed will provide the trustee with discretion over the investment and distribution of the funds, and wide powers of investments allowing the trustee a high degree of flexibility in their investment choices.

It should be noted however that the terms of the trust deed may be drafted to limit the trustees discretions (for example there may be situations where the trustees are required to benefit specific beneficiaries at specific times, or the trust deed may require the trustees to hold certain assets types).

It is common practice for settlors to provide trustees with non-binding letters of wishes. The purpose of such a letter is to provide the trustee with a background to the beneficiaries' circumstances, and to set out their thoughts plans and feelings for the future use and distribution of the trust funds.

Note that UK Trusts are subject to UK taxes and varying rates depending on the type of trust. In general for a discretionary trust income tax is charged on the first £1,000 of income at 7.5% for dividends and 20% for other income. For income over £1,000, dividends at 38.1% and other income at 45%. CGT is charged on placing or adding assets to the trust and also on exit. A yearly CGT allowance for beneficiaries receiving capital distributions is available at £6,000 per person.

## Tax Advice/Fees

Full tax and structuring advice must be obtained for the establishment of a UK Trust. Imperium work with a number of leading advisory firms to assist with this advice and drafting of the trust deed.

The fees associated with setting up a UK Trust would start at £2,000 including the collection of due diligence. On an ongoing basis annual trustee fees would depend on the complexity of the trust, activity and assets. Please note that third party tax, legal and listing advice would be charged in addition to Imperium's fees.

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