TRUSTS – THE GOOD, THE BAD AND THE UGLY

This issue of Estate Planning Essentials is the first in a series of three on Trusts. In this issue we consider some of the benefits of using a Trust.

Five good reasons for using a Trust:

<u>Reason 1 – Donations Tax Exemption</u>
Individuals are allowed to donate up to R100 000 per tax year (R200 000 for couples) without incurring any liability for donations tax. Using a Trust as a vehicle to hold these donations offers further opportunities to reduce the value of an estate for estate duty purposes while still having access to the funds as a trust beneficiary.

Donations to a Trust effectively mean that growth occurs outside of the estate. After five years, the investor can access the funds which the Trust has invested in an Endowment or Sinking Fund Policy. Any outstanding loans become a debt in the estate, which is deductible for estate duty purposes.

Let's consider an example:

Mr & Mrs Smith donate R200 000 p.a. for a period of 10 years to a family trust. Assuming the fund grows at 10%, the fund value will be R3 200 000 at the end of the 10 year period.

Annual donations	R200 000
Total donations (10 years)	R2 000 000
Capital at "retirement"	R3 200 000
GCF withdrawals (i.e. loans taken)	R320 000 p.a. R3 200 000
Estate reduction	R3 200 000
Estate duty saving (on investment)	R640 000
Estate duty saving (on loan debt)	R640 000
Total estate duty saving	R1 280 000

<u>Reason 2 – Using the R3.5m Abatement concession</u>
Bequeathing an amount of R3.5m to a Trust – testamentary or inter vivos – where the surviving spouse is a discretionary beneficiary of that Trust, creates an opportunity to:

- make full use of the s4A Abatement allowed in the estate of the first-dying
- remove R3.5m plus the growth thereon from the survivor's estate – an estate duty saving of up to R700 000, and
- provide for the surviving spouse via the Trust.

<u>Reason 3 – Retirement Planning</u>
A trust provides a vehicle for building a protected retirement nest-egg. Provided the trust is not a "sham", your investment will be protected on insolvency - like other retirement funds but unlike other retirement funds, it will also be protected on divorce.

You can also select your retirement age. At retirement, the Trust may make capital withdrawals from the investment and pay the money to the investor as one of the beneficiaries of the Trust. One of the advantages of living off capital is that it does not add to the investor's income tax burden. Tax-free withdrawals from the Trust won't increase your marginal rate, thereby reducing the tax burden on your pension / annuity income.

Reason 4 – The Investment Advantage

By making use of a Trust (investing in an Endowment or Sinking Fund Policy), as opposed to holding the investment in one's own name, the investor avoids estate duty and executor's fees. This means that your investment is potentially 23.99% better off than the same investment held in your personal estate.

Reason 5 – The Added Advantages

- Protection on insolvency
- Protection on divorce
- Selection of beneficiaries
- The interests of minor children can be protected in an inter vivos Trust. In this way it is possible to avoid having their inheritance being paid into the Master's Guardians' Fund.
- Disability benefits. Trustees are able to look after disabled beneficiaries.

Next month's issue of Estate Planning Essentials will discuss the perceived negative tax implications of Trusts.

Seminar

Glacier Fiduciary Services will be hosting a seminar on Trusts during July. Sessions will be held in the major centres and more information will be communicated closer to the time.

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