# Testamentary Trust

**What is a Testamentary Trust?**

The implementation of a testamentary trust in your estate plan allows you to set up a method of managing the income and capital of your estate for the benefit of minors and beneficiaries, ensuring that your assets and wealth are protected in the future.

A testamentary trust will come into operation after the willmaker's death, generally when the executor of your estate first transfers assets into the testamentary trust.

**Why you need a Testamentary Trust?**

Depending on your particular circumstances, there are many benefits or reasons why you would implement a testamentary trust in your estate plan.

Some of the main benefits for the implementation of a testamentary trust are that:

- It allows executors and trustee to make decisions to invest the estate for the benefit of beneficiaries (particularly those under the age of 18 years) and to split the income earned between nominated beneficiaries to achieve a reduction in the total amount of tax paid from the distribution of income earned from the estate.

- It protects assets from erosion due to possible family breakdown, potential insolvency of a beneficiary, or other matters where a creditor may make a claim against the beneficiary's assets.

- It provides more protection than an absolute gift to a beneficiary and allows a testator to control the future use and application of the assets.

- It provides flexibility allowing for the allocation of income in a way to attract tax minimisation opportunities in the amount of $18,200.00 per minor beneficiary.

- It provides greater control over trust assets with allowing for multiple testamentary trusts to be created for separate control over individual inheritances.

- It provides protection to vulnerable beneficiaries with a severe disability or special needs, such as spendthrift habits as trustees may apply income to provide for a beneficiary's maintenance, benefit, advancement in life and general wellbeing.

**Which Testamentary Trust should I implement?**

Depending on your circumstances and the affairs of your intended beneficiaries, there are different types of testamentary trusts which you may wish to implement in your estate plan for example:

- **Principal Property Trust**, which allows you to consider protecting your main residence in trust for the benefit of your spouse and children through a right of occupancy or life interest to ensure that your spouse and children have a place to reside and to protect the family home.

- **Investment Portfolio Trust** which allows you the ability to ensure that your investment portfolio is held and maintained in trust to secure and protect your wealth and to maximise the taxation status of the investment portfolio proceeds for your beneficiaries, creating intergenerational wealth.

- **Educational Trust**, which ensures that funds are set aside for their care and maintenance in including payment of educational, medical, dental and living expenses to ensure that your guardians are not financially burdened and your child is financially protected in the future.
- **Special Disability Trusts**, allows you to provide for the current and future care of a family member with a severe disability, ensuring that it will not affect their entitlement to continuing to receive social security support entitlements.
- **Superannuation and Life Insurance Proceeds Trusts**, which allows you to direct your superannuation interests into your estate, allowing your executors and trustees with the ability to maintain flexibility and retain a level of distribution to respective dependents and non-dependents and taking advantage of minimizing the total tax payable upon.
- **Protective Trusts,** which allow you to place your assets into trust and outline provisions to ensure that beneficiaries who you believe need to be protected, need guidance and professional advice or have gambling, spending or drug issues can be protected.
- **Capital Preservation Trust**, which allows you to ensure that if a beneficiary is unable to manage their own financial affairs. A capital preservation trust will preserve assets for a beneficiary of a future generation.
- **Income Streaming Trust**, which allows you to set up trusts to control how income generate from capital or liquid assets are provided to your beneficiaries.

It is important to obtain the right advice to ensure that the testamentary trusts are specifically drafted and tailored considering your estate assets and your intended beneficiaries. Standard provisions in your Will may result in your estate being subject to considerable tax and risk of dissipation.

**Why Us?**
As a leading asset protection firm in Australia, our team has a wealth of knowledge and experience to assist you with developing an estate plan that is comprehensive, well-considered and right for you.

We are dedicated to providing you with financial and personal certainty by delivering a tailored estate plan that is comprehensive yet flexible enough to meet all your needs and wishes.

Contact us today to take the first step towards achieving peace of mind for you and your loved ones.

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