

# » estate planning

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## Inter vivos trusts

Distributing some of your assets during your lifetime, rather than through your will, presents some challenges, including the possible loss of control over those assets. An inter vivos trust (created during your lifetime) may provide the solution. It allows you to retain effective control over assets that are held for the benefit of your chosen beneficiaries.

### How trusts work

A trust is created when an individual (the settlor) transfers assets to a trustee who administers these assets on behalf of beneficiaries. With a family inter vivos trust, the beneficiaries are usually your children, and the trustee could be your spouse, a trusted relative, or professional advisor.

Trusts are flexible documents, useful in a variety of estate planning situations. The following are some of the most common uses:

- **To care for a disabled dependant**

Funding for the child's future is assured, and the preferred beneficiary election can be made.

This allows income in the trust to be taxed in a beneficiary's hands without the income being distributed from the trust, resulting in larger accumulations. This election can be made only if the beneficiary would normally be eligible to claim the disability tax credit.

- **To provide an income for a 'spendthrift' dependant**

A trust can be an ideal vehicle for distributing small amounts of income and capital to an individual who may not manage a large amount well. Income from the trust is distributed to the beneficiary only under conditions you dictate. You could consider an arm's-length corporate trustee to administer the financial arrangements to your child.

- **To freeze the value of recreational property**

If you own a second property that you plan to leave to your children, consider transferring ownership of it now to your children to avoid a hefty future tax bill on accumulated capital gains.

To retain control over the property, you could use a trust. The terms of the trust would guarantee you access to the property at your discretion.

The disadvantage to this strategy is that you are deemed to have disposed of the property at the time of the transfer. Half of any capital gain that results must be considered income for tax purposes.

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If you sell the property to the trust and take back a note payable for the full amount, a portion of the tax could be deferred for up to five years.

## Ongoing tax implications

Before you set up any kind of trust, it's important to be aware of the tax issues involved. The trust is considered a separate taxable individual, meaning that it must file annual tax returns.

Any income earned in an inter vivos trust and not distributed to beneficiaries is taxed at the maximum rate in your province. Income that is distributed to adult beneficiaries is taxed in their hands.

Investment income retains its character; only half of a capital gain is subject to tax, and the dividend tax credit on Canadian dividends is available.

Let's get together soon to determine if your family would benefit from utilizing a trust. Give me a call, I'm here to help.

At DundeeWealth, we believe that having a financial plan forms the foundation necessary to grow, protect and transfer wealth from one generation to the next. We are committed to provide information on a variety of financial planning topics so our clients are able to make informed decisions.

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