

TRUST ME...

Is it still worthwhile using a trust?

By Schalk Reyneke from CAP Chartered Accountants

I'm sure you've often had a discussion about trusts with your clients. The fact is that clients will get input from sources which might contradict what you advise. It is difficult for clients to ignore this outside advice, especially if it is coming from 'credible' sources around the braai after a few beers, or from the estate agent -cum- bond originator-turned financial planner and tax adviser.

Let's look at the benefits relating to trusts and the factors that prevent people from accepting these benefits.

The benefits of utilising a trust:

1. This is the best structure available to take care of your client's children if something happens to your client. If they plan to form a trust by way of their will, your clients would be better off forming the trust now and deriving all the other benefits too.
2. Individuals can donate R100 000 per year to the trust that will be exempt from donations tax. A couple could thus donate R200 000 per year to the trust, reduce their personal estate and increase the value of the trust.
3. If any funds need to be borrowed from the trust, this will reflect as a liability which can be deducted for estate duty purposes.
4. Assets held by the trust are protected from insolvency. This is critical for clients involved in business who are exposed to numerous risks.
5. Any value accumulated in the trust is excluded from an individual's estate. Thus they can save 23.99% on the value of the estate in excess of R3.5 million, taking into consideration that most life insurance policies would form part of the R3.5 million already.

6. If an amount of R3.5 million is bequeathed to the trust as opposed to the spouse, this will reduce the estate duty upon death of the spouse by R700 000!

If these benefits are so obvious, why doesn't everybody make use of trusts?

Wrong perceptions are mostly to blame. They include the following:

1. Transfer costs on buying property will be higher. The maximum difference in transfer costs is R55 000, which is negligible compared with 23.99% costs on the full value if the property is part of the estate.
2. They will not get the primary residence exemption for Capital Gains Tax. The maximum benefit they can get is 20% on the R1.5 million rebate, compared with 23.99% costs on the full value of the property.
3. Administrative costs are high. For a basic trust holding business interests and a property, the total costs for preparation of financial statements and tax returns would probably be between R2 500 and R5 500, depending on the amount of activity. The estate duty saving annually on the donation of one individual is already R23 999 and R47 998 for a couple, in today's terms. The amount donated would be worth substantially more at time of death.

Your service should include helping your clients decide about the utilisation of trusts. Make sure they base their decisions on real facts, rather than perceptions.



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