How a 'trust' structure can facilitate smooth inter-generational transfer of wealth

Maintaining a clear boundary between business and personal wealth helps protect individual assets from potential business liabilities. This is not just a good practice but an important one as a clearly defined ownership structure helps reduce liability, risks and disputes.


There is a growing preference amongst families to opt for a corporate trustee for their family trusts.

Wealth preservation and transfer is as important, if not more, than wealth creation. High networth families worldwide recognise this and take the necessary steps to do so efficiently. This is where trusts come in. Trust structures enable asset protection, smooth inter-generational transfer of wealth, consolidation of assets, minimising disputes among beneficiaries and allowing seamless separation of management and control of businesses.

Key considerations

While every family will want to address issues specific to them and hence require bespoke solutions or structures which suit their requirements, some generic considerations are illustrated below:

- **Segregation of business and personal assets**

Maintaining a clear boundary between business and personal wealth helps protect individual assets from potential business liabilities. This is not just a good practice but an important one as a clearly defined ownership structure helps reduce liability, risks and disputes. It not only preserves family wealth but also simplifies inheritance and reduces potential conflicts post the lifetime of the decedent. Through an efficiently structured trust, families can segregate business and personal assets.

Also read | Why setting up a family trust scores over making a will in estate planning

- **Disruption in business continuity/decision-making due to untimely demise of key member(s)**

The unexpected loss of a key member can lead to decision-making paralysis and operational setbacks. Trusts address this by pre-defining roles and creating the required contingency for ensuring leadership continuity, and providing a structured approach including planning for avoiding any potential crises during such interim/transitional periods.

▪ **Issues related to transfer of assets to family members**

Transferring wealth to family members during one's lifetime often involves complexities and in some cases costs as well. Trusts offer a clear mechanism to facilitate transfers while maintaining alignment with broader family objectives. Families with cross-border assets evaluating trusts have structures which are tax efficient.

▪ **Determining the right 'share' for each family member in business and personal assets**

Deciding how to divide assets fairly requires careful consideration of each member's contributions and needs. Trusts ensure transparency and provide a fair distribution framework, reducing the likelihood of misunderstandings or disagreements.

▪ **Possibility of disputes in the family due to preferential/unequal distribution of assets**

Unequal allocation of assets can lead to resentment and disputes among family members. Trust structures establish impartial guidelines for distribution, helping to maintain family harmony and ensuring all members feel fairly treated.

Inter-generational trusts are becoming increasingly popular. These trusts, in addition to several other benefits, allow flexibility to distribute assets based on specific criteria, such as financial dependence, achieving milestones, active involvement in the family business, etc.

Also read | Can having multiple nominees in bank accounts reduce disputes, unclaimed deposits?

▪ **Planning for estate duty/inheritance tax (if applicable)**

Many countries have estate duty/inheritance tax. Estate duty is a tax levied on an individual's assets/ estate after death. Estate duty/inheritance tax is a source of revenue for governments. In countries where the estate is taxed, efficient estate planning could help reduce the impact of estate duty on the next generations and is an important consideration for families. In India, currently there are no laws which tax an individual's estate after the death. There have, however, in the past been talks around potential re-introduction of estate duty in India.

▪ **Provision for personal uncertainties like failing marriages, creditor claims etc.**

Life is unpredictable, and events like divorces, creditor claims, etc, can strain family wealth. Trusts protect assets from such personal unforeseen uncertainties, provide security for dependents, and ensure careful management of assets in such circumstances.

A growing number of families are integrating provisions for caregivers in their trusts to ensure that dependents with unique needs receive holistic care and financial security.

▪ **Protection of family wealth from unforeseen future business vulnerabilities**

Future business risks, such as market downturns or legal challenges, can jeopardise family wealth. Trusts create a protective barrier for personal assets, ensuring they remain secure and unaffected by external business vulnerabilities.

Types of trust structures

There are two types of trust structures: revocable and irrevocable. Both structures have their pros and cons. Families need to understand the trade-offs and determine which structure is better suited to meet their requirements. While an irrevocable trust helps in ring-fencing assets and planning for inheritance tax/estate duty (wherever applicable), it lacks the flexibility and control that a Settlor in a revocable trust enjoys during his/her lifetime. However, both these types of trusts – revocable and irrevocable – help bypass complex probate processes and work well for families spread across jurisdictions.

Also read | Preparing a will online? Understand the process and its pitfalls

The writer is CEO and Managing Director of Warmond

Disclaimer: *The views expressed by experts on Moneycontrol are their own and not those of the website or its management. Moneycontrol advises users to check with certified experts before taking any investment decisions.*