THE ROLE AND IMPORTANCE OF FAMILY TRUST IN FAMILY BUSINESS

“Generating, managing and enhancing wealth are all equally important”

The dictionary meaning of TRUST:

- The belief that somebody is good, honest sincere etc.
- A legal arrangement by which a person or organization looks after money and property for somebody else

In short, it means the confidence placed in another to do the cause to be done by the person who is placing unconditional confidence in the other.

The concept of FAMILY TRUST sticks to the above-mentioned principles.

Let’s understand the Family Trust in details.

WHAT IS A FAMILY TRUST?

A Family Trust is a trust vehicle or mechanism which has been well thought, planned, structured and set up for the benefit of the family members. The Family Trust can even help to customize the provisions for the family or specifically for a family member.

The provisions for the beneficiaries, through the Family Trust, can be during your lifetime or even after your death.

As per common terms, when talking about estate planning, a Family Trust, is simply a trust that benefits the family members or the individual who is setting up the trust.

“Plan the future of the beneficiaries for whom who you have toiled hard throughout your life”
WHO ALL ARE INVOLVED IN A FAMILY TRUST:

Three parties are involved in a Family Trust:

- **Grantor**: The person who makes the trust and transfers the assets into the trust
- **Trustee**: The person who manages the transferred assets on behalf of the beneficiaries
- **Beneficiaries**: The individuals(s) who receive financial benefits from the trust

The Family Trust comprises of just the family members as beneficiaries. Family members may be spouses, children, grandchildren, siblings, and those who have been chosen to be the beneficiaries.

WHAT IS A REVOCABLE TRUST?

The Revocable trust allows the Settlor to change the trust’s terms at any given point of time. If required, the revocable trust may also be completely terminated.

The advantages of the Revocable trust are:

- Retaining control on the assets which have been transferred to the trust
- After the demise of the settlor, the trust assets need not go through the probate process. The distribution of the assets can be done immediately as per the terms of the trust

The most commonly used revocable trust in estate planning is the Living trust, which is set up and implemented during the life time of the settlor.

The living trust gives total control on the transferred assets. People appoint themselves as the trustee. In the event of incapacitation, there is an option to appoint a successor trustee to take control of the management of the trust.
WHAT IS AN IRREVOCABLE TRUST?

The irrevocable trust is unchangeable.

The key advantages of the Irrevocable trust are:

- An Irrevocable trust provides great protection from the creditors
- Tax burden on the estate can be minimized to a large extent by setting up an irrevocable trust
- Irrevocable trust with a specific purpose can also be set up for providing aid to the beneficiaries e.g. Medical aid

HOW TO SET UP A FAMILY TRUST?

Setting up a Family Trust is quite simple.

The basic steps to set up a Family Trust are:

- Decide the type of trust which suits the family and the family business
- Draft the trust document – The family business consultants can advise the terms and conditions to be mentioned depending upon the type of trust to be formed
- Plan and draft the trust document
- Appoint a trustee who will manage and administer the trust as per terms outlined
- Finally transfer the assets into the trust

The details of the terms in the Family Trust depend upon the needs of the family members and type of the trust chosen.
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WHAT DOES A FAMILY TRUST DO?

The Family Trust ensures that the assets are managed on behalf of the beneficiaries and as per the terms and conditions mentioned in the trust deed. A Family Trust can also be set up for a child or any family member who needs specialized medical care for long term. Transferring assets in such a trust can exclude them from Medicaid eligibility guidelines.

Family Trusts are very important in estate planning, to avoid probate. Probate is a legal process which involves the court system. The probate executor is responsible to collect and liquidate the assets, pay off the creditors and distribute the balance assets, if any, to the heirs as per the terms and conditions mentioned in the will or as inheritance laws of the state. Probate processes are time consuming, expensive and part of the public records. Assets which have been transferred to the Family Trust cannot be subject to probate.

Family Trusts are the best way to insulate the assets from creditors. They minimize taxes once the trust grantor passes away. Family Trusts are a great vehicle for minimizing the tax burden of the high-net-worth individuals and families.

IMPORTANCE OF SETTING UP A FAMILY TRUST FOR A FAMILY BUSINESS

The family and the family business both can realize multiple benefits by setting up a Family Trust. The main advantages of setting up a Family Trust are:

- Flexibility in appointing the Trustee for managing, maintaining and holding the assets of the trust for the benefit of the beneficiaries
- Freedom of passing on the assets to the beneficiaries through control over the trust through the trust deed
- Minimizing family conflicts by protecting the interests of the family members through management, investments and asset distribution among beneficiaries
- As the settlor does not have any control on the assets, they are safeguarded from the creditors
- Beneficiaries are also safeguarded in case of legal actions against the settlor

“Document the trust factor to make family businesses last for generations”
HOW CAN A FAMILY TRUST HELP IN SUCCESSION PLANNING?

Succession Planning is the most important task for any CEO managing a family business. The family businesses face the challenges of family togetherness, succession planning, distribution of dividends, wealth management on a continual basis. The CEO has to find the right solutions for creating the business legacy and business continuity over the generations.

Succession planning of the business and the estate need to be done prudently.

The Family Trust serves as a great binding agent between the family members who would otherwise have their own self-interests.

Family Trusts are a very effective and convenient tool for managing the assets, finances, investments in securities, distribution of earnings to the beneficiaries, and succession planning.

The Family Trust is totally independent of the settlor and beneficiaries and therefore has great flexibility in managing the assets and creating wealth.

The Family Trust can be used as a mechanism for addressing the specific needs of the family, such as education, marriage expenses, health etc.

IMPORTANCE OF TAX STRUCTURES IN SUCCESSION PLANNING

The trust structures help in succession planning by addressing all the current and future needs of the family members by laying out the terms and conditions in the trust deed.

The tax structures reduce the tax burden on the estate, take care of the key family expenses and help in enhancing wealth.

As a well-planned trust deed does not leave any areas for conflict or bias, it stands accepted with ease.

CONCLUSION

To conclude the Family Trust is a very effective mechanism to safeguard, maintain and maximize the family wealth.

The setting up of a living gives a great freedom to work on the terms and conditions to be put up in the trust.

The Family Trust is the key to ensuring the continuity of family businesses for generations and creating a strong family legacy.

The Family Trust gives the family a high probability of being self-contained for generations.

The Trust is a great mechanism for succession and estate planning and simultaneously enabling value creation.
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FAMILY BUSINESS COACHES

Mr. Nilesh Arora and Dr. Gunjan Arora, founded ADDVALUE in 1999. Both are very passionate and focused on Family Business Coaching and Personal Life Coaching for members in the family business.

NILESH ARORA – BUSINESS COACH:

Nilesh Arora is BTech. (Mech), IIM – Ahmedabad Alumnus, Certified Corporate Director, Certified Management Consultant having more than 20 years of global experience in the field of Strategic Management, Family Business Management, Operational Excellence and Business Excellence.

As a Global Family Business Coach and Executive Advisor to many Family Owned Businesses (FOB’s) he has assisted more than 100 families and 250 organizations to date across Africa, Middle East & Asia (AMEA) in manufacturing as well as service sector, enhancing their revenues and equity value.

Specialities: Family Business Advisory, Succession Planning, Entrepreneurship, Business Coaching, and Business Excellence

Dr. GUNJAN ARORA – LIFE COACH:

Dr. Gunjan Arora is BSc - Human Relations (Gold Medallist), MSc Psychological Counselling, MS – Psychotherapy, PhD Counselling, Certified NLP Master Practitioner, and Certified Advanced Life Coach.

As a Life Coach, she has counselled and mentored several CEOs, business families and the next generation in aligning self, family, ownership and the business.

Specialities: Life Coaching, Relationship Management, and Family Counselling

ADDVALUE was recently conferred the “BEST PERFORMING CONSULTING ORGANIZATION” award by Govt. of India.