

**HOW TO PROTECT YOUR ASSETS / WEALTH FROM YOUR MISBEHAVED / SPOILT / UNRULY CHILD OR HIS YOUR OWN DIVORCE & FROM UNSCRUPULOUS RELATIVES**

No Probate Duty  
No Need to Make a Will  
No Estate Duty or Inheritance Tax  
No Need to obtain Succession Certificate  
No need to spend Legal Fee to get Probate or Succession Certificate

**Advantages of forming a Trust**

**Liability**

- The liability of the Business Trust, whether Specific or discretionary is **LIMITED** to the Corpus and Undistributed Profit of the Trust.
- Like Shareholders of the Company but unlike the Partners of the Partnership Firm, the Beneficiaries are **NOT liable** for any Liability of the Trust even in case of Bankruptcy / Insolvency.
- Similarly, like Directors of the Company but unlike the Partners of the Partnership Firm, neither the Trustees nor the Beneficiaries of the Trust are liable for any Liability of the Trust even in case of Bankruptcy / Insolvency.
- Unlike the dividend, there is **NO NEED** to pay the Profit of the Business Trust to the Beneficiaries even if their accounts are credited for their share of profit in the Trust.
- Once the Profit of the Business Trust is transferred to the credit of the Accounts of the Beneficiaries, the same **CANNOT** be **ATTACHED** even if the Business Trust becomes bankrupt / insolvent.

**Tax advantages**

- **No MAT:** The Business Trust is NOT LIABLE to pay any Minimum Alternate Tax (MAT) as the MAT provisions are not applicable to the Business Trust.
- **No DDT:** The Business Trust is NOT LIABLE to pay any Dividend Distribution Tax (DDT) as the DDT provisions are not applicable to the Business Trust.
- **No Deemed Dividend:** The provisions of S.2 (22) (e) of the Income Tax Act 1961 are not applicable to the Business Trust i.e. any advance or loan given to shareholder will not be treated as Deemed Dividend even if the Trust has Accumulated Profit.

- The Income of the Business Trust is taxable at the same rate as that of Partnership including Limited Liability Partnerships (LLPs), Private and Public Limited companies i.e. 30% + Applicable Surcharge.
- Non-Applicability of S.56 (2) (vi) of the I. Tax Act: The provisions of Section 56 (2) (vi) of the Income Tax are not applicable to Private Trust and as such any sum received and / or any property / assets are received by it without and / or inadequate consideration could not be included in its total income within the frame work of section 56 (2) (v).

**Rights and duties**

- The Rights & Duties (Obligations) of the Trustees are the same as those of Directors of the Company.
- The Trustees of the Business Trust can **ENJOY** the same Benefits as those of directors of the Company in respect Commission, Salary, Remuneration & Perquisites.
- No Registration under any Act is required including the Indian Trust Act 1882 which governs any Private Trust including Business Trust.

**Compliance**

**No Legal Compliance:** The Business Trust is not required to comply with any legal requirements like LLP under the LLP Act or the Companies under the Companies Act. The only compliances required to be met by the Business Trust are in respect of Tax Laws.

**NO Statutory Records:** Unlike the LLPs / the Limited Companies, a Trust is not required to maintain any statutory records of whatsoever is required to be kept by the Business Trust.

**No Audit:** The Business Trust is not required to get its account audited except Tax Audit, if applicable.

**No filing of Accounts:** The Business Trusts are NOT required to file any accounts (Annual Accounts) and / or any Returns and / or any Forms of whatsoever nature EXCEPT with Tax Authorities.

**Amendment to trust deed**

**Too Flexible:** The Business Trusts are Extremely Flexible in nature inasmuch as one can add or remove any number of Beneficiaries. Any Beneficiary can resign / retire from the Trust at any time at their sweet will.

**Easy to Amend the Constitution:** The Trust Deed can be altered / amended / changed / modified / varied any number of times whenever required without any permission / sanction of any Beneficiary and / or any Authority and / or any Court.

The Trustees can alter / change / modify / vary the Share of the Beneficiary/ies at any time. The Trust can do the Business in "N" number of entities as the Proprietor / partner / promoter.

The Business Trust can enter into Partnership with any person including LLPs and Limited Companies.

The Business Trusts can promote / form / incorporate any Company by authorizing any Trustee and / or any person to become the subscriber to the memorandum & Articles of Association of any Company.

**Total Secrecy**

The Secrecy of Accounts can be maintained as there is no need to file the Annual Accounts, whether Audited or Unaudited with any Authority EXCEPT with the Tax Authority which is prohibited to disclose the state of affairs of any assessee without obtaining prior permissions of the assessee.

**Raising funds and investments**

Unlike the Limited Companies, Loans can be raised by providing Personal Guarantee of the Trustees and / or by furnishing Collateral Securities just like what the directors do in case of Private Limited Companies and / or LLPs.

Loans can be given / granted to and / or received from the Trustees and / or the Beneficiaries without any limitation, prohibitions or restrictions.

No Restriction on Investment Unlike the Limited Companies, the Business Trusts can make investments in any company/ies, concern/s, firm/s, HUF/s, AOP/s, etc. without any limitation, prohibitions or restrictions.

**Freedom to carry on any Business:** The Business Trusts can carry on any Business of whatsoever nature which is otherwise not prohibited under any laws. There are no limitations, prohibitions or restrictions on the Business Trust to carry on any business, calling, occupation. Unlike the Limited Companies which can carry on the business only specified in the Main / Incidental Objects of the Company.

The **ONLY LIMITATION** the Trust has is, it cannot be a Listed Entity i.e. it cannot raise money by issuing shares / debentures in the market. However, this limitation can be overcome by Trust through formation / incorporation of a Public Limited Company of which the Trust can become the promoter / subscriber / director of the company by authorizing any Trustee/s and / or any other person/s.

*The Trust enjoys the benefits of all forms of business organizations without suffering from any demerits / disadvantages / limitations / prohibitions / restrictions of whatsoever nature thereof. Trust is Compliance Free, Hassle Free, Tax Efficient / Effective and the most Efficient and Effective form of Business Organization. You can control & protect the wealth built by the Trust in the most effective and efficient manner. However, Extra Care is Absolutely Necessary while drafting the Trust Deed.*



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**ABOUT THE AUTHOR** He is a Chartered Accountant practicing since 1975 i.e. experience of over FOUR DECADES. He has gained expertise in domestic and international tax planning, company law and FEMA. He is a Commerce and Law Graduate from University of Bombay and FCA of Institute of Chartered Accountants of India. He has secured 37th rank in Intermediate and 30th rank at Final CA examination. He also has good working experience of over Four Decades in the field of Accounts, Audits, Foreign Collaboration, Management Consultancy, Tax Consultancy, Franchise Consultancy, Legal Drafting of Agreements of any nature and Stock Broking as NSE Member. He is running the week-end short course of 3 months duration on Entrepreneurship Development with a sole motive of creating and developing JOB CREATORS rather than JOB SEEKERS. Also, he is faculty member on various forms of business organization from the tax efficiency view. He has been speaker at seminar on the benefits available to minority communities under various Government Schemes, especially to Jain Community. He is actively connected with more than 20 Social Organizations (NGOs) in different capacities such as Trustee, Director, President, Vice President, Secretary, Treasure Convener and Managing Committee Member. He also provides free advice in the field of Business, Selection of Career, Finance, Legal, Management, Succession, Tax, Will, Trust, Marriage, Maintenance & divorce to the said organizations, its members and