

# ESTATE PLANNING TRUSTS



## Resource Guide for Your Next Steps

Trusts are a tool that many can use to help manage and protect assets, plan for the future, and reduce estate tax liability.

Not just for the super wealthy, trusts are a tool that can be used for planning the management and distribution of assets over time and building generational security. They can also be used to help prepare for personal incapacity to ensure that your wishes and resources are directed according to your wishes.

*Everyone should have a purposeful estate planning strategy based on what matters most to them.*



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# TRUST Decision Tree

Should I consider a Trust -

... for probate avoidance? (Revocable Trust)

... to control distributions after my death? (Trust Examples/Types)

- Should the Trust be set up now (lifetime trust) or only after my death (testamentary trust)?
- What kind of Trust distribution terms do I want? (What are my objectives? What is the Trust purpose?)
- Who do I want to name as the Trustee... and as the back-up Trustee?
- Do I need to change ownership of my assets to make sure those assets will go into my Trust (either now or after my death)?
- Do I need to change beneficiary designations for any life insurance, IRA's, 401 k's, other retirement accounts, and/ or annuities to make sure those benefits will go into my Trust after my death.

## Basic Definitions

**Testator** – a person who creates a Will

**Testamentary Trust** – a trust created under a Will

**Revocable Trust** – a separate trust created during the Settlor's lifetime

**Settlor** – a person who creates a Trust

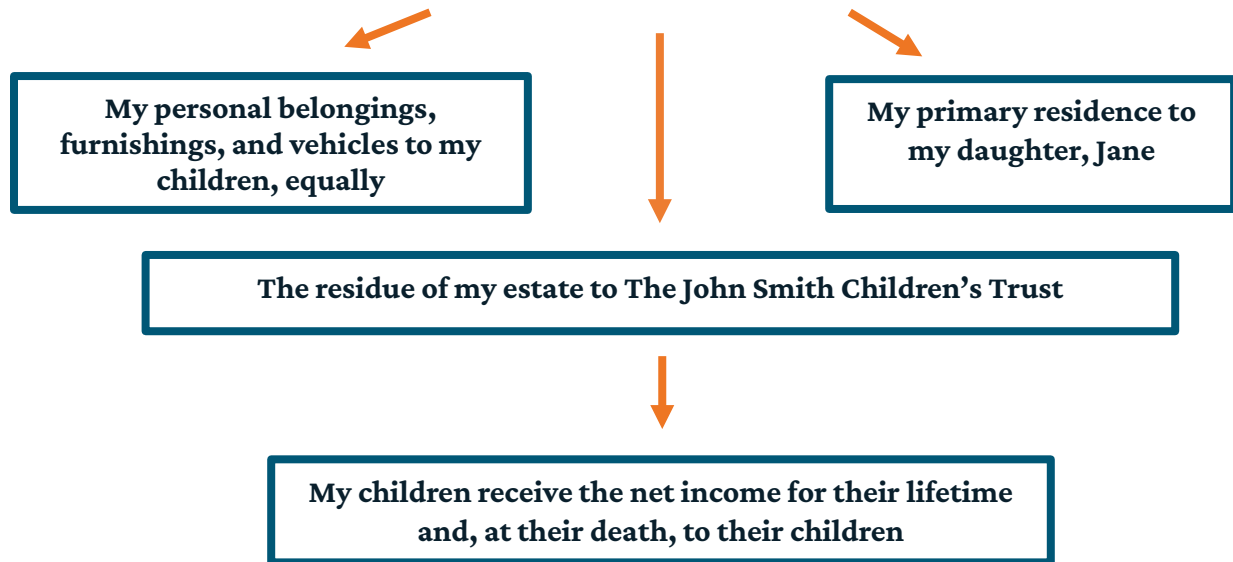
**Trustee** – fiduciary in charge of managing the trust assets

**Beneficiary** – person/entity named to receive assets under a trust

**Remainderman** – person/entity who receives assets when trust is over

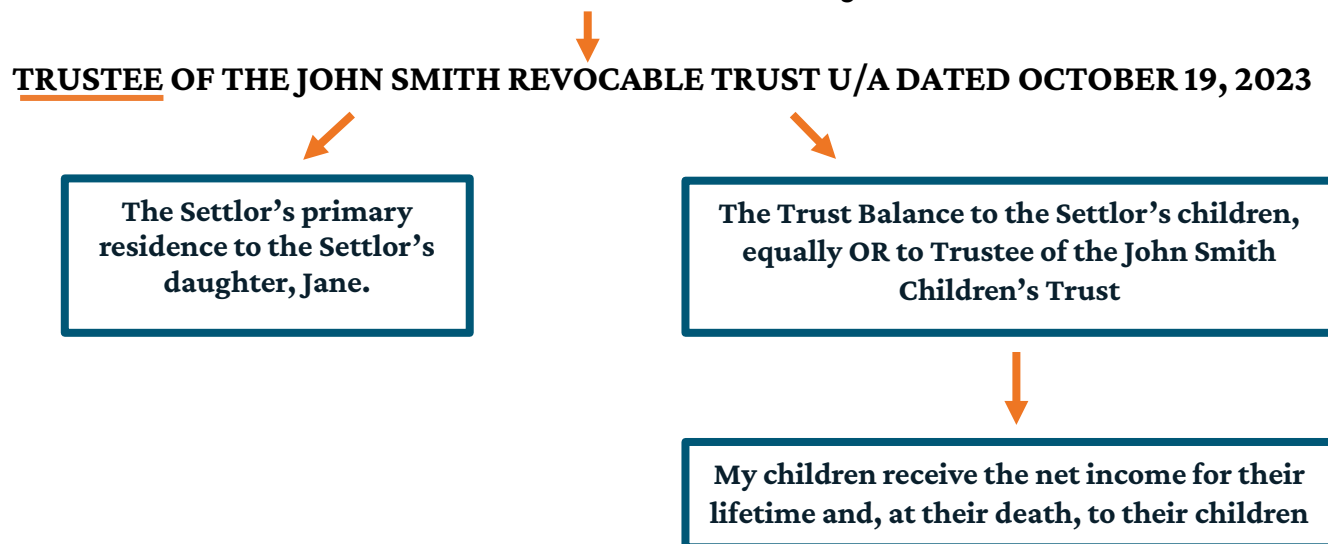
# Testamentary Trust

## LAST WILL AND TESTAMENT OF JOHN SMITH



# Revocable Trust

## LAST WILL AND TESTAMENT OF JOHN SMITH



# Trust Types and Uses

**Trusts** are a **tool** that many can use to help manage and protect assets, plan for the future, and reduce estate tax liability.

## **PROBATE AVOIDANCE**

- Keep privacy of family circumstances and family financial info
- Reduce delays/quicker access to funds
- Avoid probate fees
- Avoid out-of-state probate for out-of-state real estate
- **BUT DOES NOT** protect from lawsuits or nursing homes

## **CHILDREN (& others)**

- "Young" children (control until later specified age)
- Child with special needs/ disability (preserve Medicaid, etc. benefits - "Special Needs Trust")
- Child's poor financial skills (controlled payouts)
- Child's addiction issues (controlled payouts)
- Divorce protection for married child (protects inheritance if divorce occurs)
- Creditor protection for child (protect against lawsuits, e.g. , car wreck, creditor claims, malpractice)
- Control distribution after child's death, e. g., to grandchildren
- Vacation home ... family land (maintain common ownership for use by all children)

## **SPOUSE**

- "Second" marriage\* (provide for spouse ... but when spouse dies, payout to your children from prior marriage)
- Remarriage concerns\* (provide for spouse ... but ultimate payout to children)
- Disabled spouse (e.g., dementia) (preserve Medicaid nursing home benefits, VA benefits, etc. - "Special Needs Trust")
- Spouse poor financial skills (controlled payouts)
- Spouse not a U.S. citizen (special tax planning - "Qualified Domestic Trust")

*\*note - SC law requires minimum share for spouse unless waived by spouse, e.g., Prenuptial Agreement.*

**SECOND HOME USED BY CHILD/PARENT – “Residence Trust”**

- Obtain 4% primary residence property tax status in addition to your own home
- Retain control over home right to sell, right to terminate Trust, etc.

**MEDICAID AND VA BENEFITS**

- Irrevocable Trust protects assets and qualify for Medicaid and/or VA benefits (5-year disqualification rule)

**TAX PLANNING**

- "Large" estates (current estate tax exemption \$13m/\$26m, but in 2026 the amount reduces to \$7m/\$14m)
- Charitable giving (e.g., Charitable Remainder Trust to preserve lifetime income, balance to designated charity upon death)

# Responsibilities of a Trustee

- Follow the Trust document.
- Manage the assets such as marketable securities, business interests, and real estate.
- Safeguard and value assets, which may require appraisals for some assets.
- Evaluate and make distributions based on wishes of grantor.
- Be impartial in decision-making between current beneficiaries and keep remainderman in mind.
- Handle recordkeeping.
- Prepare and file tax information.
- Inform beneficiaries.
- Work with client's advisors including attorneys and CPAs.

# Responsibilities of a Beneficiary

- Keep the Trustee up to date on contact information and changes in circumstances.
- Send budgets and tax returns when needed under the terms of the Trust.
- Provide receipts/estimates when requesting a distribution.

# Notes/Plan of Action

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*This document is meant to help you **start** planning for the future. It is not meant to replace the legal, financial, or tax advice from professionals with whom you share details of your finances and assets.*