

TRUST BASICS – THE ELEMENTS

A trust agreement is a relationship whereby property is held in trust by one party for the benefit of another.

Although trusts have evolved to the point where there is a specialized trust to fit almost any estate planning goal or objective, all trusts require the same five elements for formation, including:

A. TRUSTOR – Also known as the “Grantor”, “Maker,” or “Settlor”, is the person who creates the trust and makes all decisions relating to the trust.

B. TRUSTEE – The Trustee is appointed in the Trust Agreement by the Settlor to manage and invest the trust assets and administer the terms of the trust. The Trustee can be an individual or an entity (such as a bank). As the Trustor, you may also appoint yourself as the trustee in certain types of the trusts.

C. BENEFICIARY – The Beneficiary receives the trust benefits that is, the income or principals' assets of the trust. A beneficiary may be an individual, an organization (such as a church or charity), or even a family pet. A trust may have several beneficiaries and may include both current (primary) and future (contingent) classes of beneficiaries.

D. TERMS – The terms of a trust are created by the Trustor and may include anything the Trustor wishes to include if a term is not illegal or “unconscionable”. When the Trustee administers the trust, he/she is obligated to carry out the trust terms exactly.

E. FUNDING – Assets must be transferred into the trust by the Trustor to fund the trust. Just about any type of assets can be used, including cash and securities, real property, and proceeds of a life insurance policy.