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Wealth Solutions Insights - Trusts

Executive summary

An increasing number of individuals are choosing to establish trust structures to protect and preserve their wealth, and to ensure proper succession planning. Peter Milnes is Managing Director at Rawlinson & Hunter, an international group of professional firms specialising in financial and taxation advice. He talks to Hubbis CEO Michael Stanhope about the basics of trust structures, how they are used, the types of assets that may be placed in trust and whether jurisdictions play a role in the establishment of trust structures.

PETER MILNES
Managing Director at Rawlinson & Hunter

A TRUST IS A LEGAL ARRANGEMENT BETWEEN A SETTLOR AND BENEFICIARIES WHEREBY ASSETS ARE TRANSFERRED FROM THE OWNERSHIP OF A SETTLOR INTO A TRUST RELATIONSHIP. The trustee takes responsibility and ownership or title of those assets, and manages those assets in the best interests of the beneficiaries. A trust is useful for structuring assets for succession planning, ensuring the longevity of those assets as well as continuity in how those assets are developed and managed over time, even after the settlor's passing.

Jurisdictions

The choice of jurisdiction in which a trust is set up depends several factors, including on the settlor's requirements, choice of legal jurisdiction of the trust, as well as the location of the trustee.

Other factors include the reserve powers the settlor may want to have, the level of asset protection they are looking for, as well as the longevity of the trust. "Different jurisdictions have different perpetuity periods," says Milnes. "For example, Singapore has 100-year perpetuity periods on specific trusts."

"For example, the settlor may decide that he would like one of his children to receive a distribution from the trust only at the age of 23, and only if they are not married," explains Milnes.

Types of assets

The types of assets that can be put into a trust include cash and real estate. Other assets types can include artwork and jewellery, as well as vehicles including aircraft, yachts and cars. Trustees are instructed on how the settlor wishes these assets to be managed, and these wishes will be followed even after the settlor's death.

"For example, the settlor may decide that he would like one of his children to receive a distribution from the trust only at the age of 23, and only if they are not married," explains Milnes. "Or they may indicate that a house can only be used by a specific beneficiary, or an item of artwork can only be distributed upon certain hurdles being raised."

Protection from liability

Another reason why trusts are set up is for asset protection. Milnes adds that settling assets such as houses and aircraft into a trust devolves ownership of the asset away from the settlor.

"In an instance where something happens with an aviation asset such as a private aircraft, if the aircraft went down for example; there is usually a fair amount of liability put upon that asset," he says. "If that asset is held in a trust or a private company, then any liability would only be put upon the legal title owner of the asset, and not on the individual who had settled that trust in the first place."