

PURPOSE TRUSTS

Unlike traditional trusts, a purpose trust is a type of trust that does not have named beneficiaries. The trust can be established and be in existence for specified purpose(s). Trusts for charitable purposes are also technically purpose trusts, but they are usually referred to simply as charitable trusts.

In most context, references to purpose trusts generally referring to non-charitable purpose trusts. In certain jurisdictions, statutory provisions allow for the creation of purpose trusts for non-charitable purposes including for private benefits purposes or as a tool for ownership succession. In this document, purpose trust refers to trust created for non-charitable purposes.

Key features of purpose trust

- > No requirement to appoint beneficiaries.
- > Objects for which the trust is established must be clearly defined in the purpose trust instrument.
- > Valid purpose must be stated in the terms of the trust. The purpose must be consistent with public policy and must be reasonable and attainable.
- > Must appoint at least one trustee to administer the trust.
- > Must appoint an enforcer whose duty is to enforce the trust in relation to its stated purposes.
- > May appoint a trust protector if the settlor wishes to.
- > Generally, a purpose trust can continue in existence for an indefinitely unless the terms of the trust provide for otherwise. However, statutory provisions of certain jurisdictions may impose a limit on the duration of purpose trust.

Benefits of purpose trusts

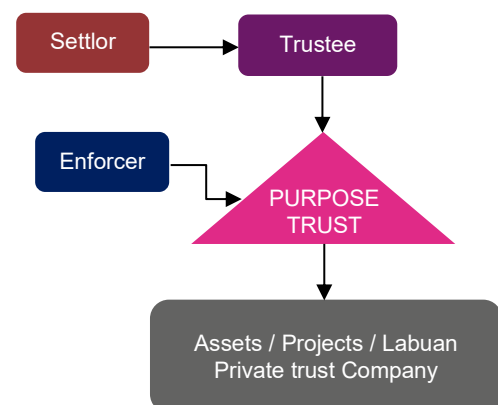
- > Useful solution where assets need to be held and applied for specific purposes without giving any person or class of persons a beneficial interest in those assets.
- > Highly flexible structure which can be used for a wide range of purposes, depending on the intentions of the settlor.
- > Offers comfort to the settlor as the Trustee is legally bound to ensuring that his original wishes and purposes for setting up the trust are adhered to.

Common uses of purpose trusts

- > In commercial transactions and refinancing arrangements that requires holding of shares in a special purpose vehicle used in off-balance sheet transactions, commonly known as “orphan” structure.

- > To hold voting shares in family-owned companies. Participating shares may be issued to family members, allowing them to benefit from success of the business, without the rights to sell or dissolve the companies
- > To hold shares in a Private Trust Company (PTC) which acts as trustee for trust(s) for the same family.
- > For social benefit projects, both public and private, that does not qualify as charitable under the law, but still serving defined purposeful objectives

Typical diagram of a purpose trust



- > **Settlor** – Creates the trust by transfer assets into a trust. Settlor may be an individual person or a corporate entity
- > **Trustee** – Holds the trust funds and responsible for its administration in accordance with the purpose of the trust
- > **Enforcer** – Ensure that the Trustee utilize the trust funds for the specified purposes and the Trustee acts in accordance with the terms of the trust. This person must not be the same as the Trustee.
- > **Assets** may include shares in private companies. The underlying companies could be under the management and control of the client without involving the Trustee. However, if the Settlor wishes to, the Trustee can manage and control the underlying companies.



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