

# Trusts in Financial and Gift Planning

*Where Local Good Grows*

**Hendricks County Community Foundation**

## The Many Benefits of Trusts

Trusts often produce welcome benefits in estate and gift planning. Different types of trusts are designed to help individuals provide added security for family members and other loved ones, reduce probate expenses and tax costs, and control the use and disposition of property for many years into the future—even after death. Charitable trusts also provide an opportunity to make major gifts without compromising personal income or family financial security.

## What Is a Trust?

A trust is an agreement between an individual (the "grantor") and a trustee. The grantor creates the trust and transfers legal ownership of specific property to the trustee, who then invests the property and disposes of it according to the terms of the trust agreement.

The trust agreement is a blueprint for the management, investment, and use of the trust property. Each trust agreement is drafted by an attorney to accomplish the grantor's specific goals by:

- Defining how the trustee is to invest the property
- Providing directions for the payment or accumulation of income earned by the trust
- Naming one or more immediate beneficiaries and defining individual benefits and rights
- Directing how long the trust will last and how the trust property will be distributed when the trust term ends
- Defining the rights of all beneficiaries and the powers and obligations of the trustee
- Defining the grantor's rights (if any) to change or modify the agreement, receive income or other distributions, change the trustee, etc.

Taking the time to plan and draft the trust agreement, choosing the right person to serve as trustee, and providing flexibility to meet changing circumstances are critical to a successful trust.

## A Trust in Your Will

Instead of leaving property to various people outright in your will, you can direct that all or part of your estate be held in trust for specified family members or other beneficiaries. For example, your will could direct that

trust property be held for the benefit of your spouse for life, then distributed equally among your children when your spouse dies. By creating a trust in your will, you can:

- Free your spouse or other beneficiaries from investment and management responsibilities
- Determine the ultimate beneficiaries of your estate
- Control how your beneficiaries will use and enjoy your property

When you die, your estate will transfer specified property to the trustee according to the provisions in your will. The trustee will then pay trust income and principal to the trust beneficiaries as directed by the trust document. For example, depending on the needs of your beneficiaries, you might provide that they receive a specified amount, or the income produced by the trust, or income plus whatever amount of principal they request or need.

When writing your will, you should compare creating a trust to making outright gifts and determine which will best accomplish your personal objectives. Consider that a trust can provide an annual income to a family member plus a deferred gift to us. Or conversely, you can create a trust that will provide an annual income to us, then pass the remaining trust property to family members after a specified number of years.

## A Revocable Living Trust

With the exception of the timing of its creation, a revocable living trust offers virtually the same advantages as a trust set up in your will—it lets you control the disposition of your assets after death. In addition, because you create the trust during life, it can also help you manage your affairs during life and provide other features that may make it an attractive estate planning strategy.

Typically, you can change a revocable living trust at any time during life. You can:

- Receive all trust income for life
- Add or remove property from the trust
- Modify or cancel the trust arrangement at any time

However, at death, the trust becomes an irrevocable plan for managing and disposing of your assets. Let's look at an example that illustrates why the revocable living trust is a popular planning tool.

**STEP ONE—CREATING THE TRUST:** Bob works with an attorney to develop a comprehensive plan for the disposition of his estate. His major concern is to provide financial security for his wife, Anne. To accomplish this, he creates a revocable living trust. The trust agreement provides that after his death, Anne will receive all trust income for as long as she lives. In addition, the trustee will pay out as much principal as Anne needs for her health, support and maintenance. The agreement also authorizes the trustee to:

- Handle Anne's financial affairs in the event of her illness or incapacity, and
- Pay certain amounts from the principal to any of Bob's children to meet emergency financial needs.

At Anne's death, the trust property will be divided equally among the children.

**STEP TWO—FUNDING THE TRUST:** Bob transfers most of his investments and other assets to the trust, and names the trust as beneficiary of his life insurance and retirement plan benefits. It is important to note that even though Bob's assets are held in the trust, Bob is in full control. In fact, Bob could have served as the trustee himself (with a named successor to take over in the event of his death or incapacity), but it is not necessary for control, as he reserves the right to change the trust terms or cancel it entirely if he wishes.

**STEP THREE—REAPING THE BENEFITS:** Bob has several reasons for creating a revocable living trust instead of establishing a trust in his will. He wants to:

1. **Minimize probate costs.** Property transferred to the trust during life is not usually part of the probate estate, which often results in substantial savings.
2. **Ensure immediate availability of property.** Property passing through probate can be tied up for months or even years, but trust property remains productive and is immediately available for distribution under the trust terms.
3. **Avoid public scrutiny of the estate.** While a will becomes a matter of public record during probate, a trust agreement is private and not available for public examination.
4. **Delegate day-to-day investment and management responsibilities.** The professional trustee will continue to prudently handle all trust property in the event of Bob's death, disability or incompetence.

## Benefits of a Charitable Remainder Trust

Earlier, we mentioned a special kind of trust that lets you provide income to yourself or your family and then name a qualified charitable organization to receive the remainder of the assets. This is called a charitable remainder trust, and it provides enhanced tax and financial benefits when you meet certain legal requirements. With a charitable remainder trust, you can enjoy:

- An income for life
- An immediate and substantial income tax charitable deduction if you itemize
- No immediate capital gains tax when you transfer appreciated property
- Freedom from the responsibilities of investing the trust assets (if you choose another person or entity as the trustee)



In many cases, a charitable remainder trust is an excellent planning tool, as well as a means of making a generous gift that can shape the future of our institution.

## The Next Step

Each family is different and every situation is unique. We invite you to contact us with any questions or concerns or for a more detailed discussion of the various kinds of trusts and what they can accomplish. It would be our privilege to work with you to explore the role a trust might play in meeting your overall planning, retirement, and philanthropic goals.

**OUR MISSION:**

**The Hendricks County Community Foundation partners with generous people to realize their charitable goals while addressing community needs in meaningful and lasting ways.**

**OUR VISION:**

**Hendricks County is a vibrant, giving community.**

*Where Local Good Grows*

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