Common Trusts

LONG BRIGHTBILL
ESTATE PLANNING

A Guide for Protecting Your Assets & Loved Ones

Trusts can play a crucial role in estate planning. They offer solutions for ongoing management and control over assets, while addressing the unique needs of your chosen beneficiaries. In this guide, we'll dive into common types of trusts designed for specific purposes.

Understanding the Basics

At its most basic level, a trust is a legal arrangement in which one person (the trustee) holds and manages property for the benefit of another (the beneficiary), according to rules established by the person who created the trust (the settlor).

Let's cover the essential terms:

- "**Settlor**" - the person who creates a trust.
- "**Beneficiary**" - the person(s) designated to receive benefits from the trust.
- "**Trustee**" - the person who controls the trust by managing assets and making distributions in accordance with the trust document.
- "**Trust**" - the governing document outlining the terms and conditions that guide the Trustee.

Asset Protection Trust (for any Beneficiary)

An Asset Protection Trust is designed to safeguard inheritance from creditors, divorce, lawsuits, or other risk exposure. Rather than passing assets outright to loved ones at death (which becomes fully exposed to creditors), the inheritance is held in a trust that can offer long-term protection and flexible levels of control. This is quickly becoming the go-to option for many families when contemplating how to structure passing assets at death.

This type of trust can be tailored to your specific goals. You may allow a beneficiary to participate in investment decisions, serve as a co-trustee, or eventually take full administrative control. Alternatively, you may restrict control and rely more heavily on an independent trustee if there is concern over the beneficiaries' ability to manage assets.

An Asset Protection Trust strikes a balance: the beneficiary can access and benefit from the inheritance, but the assets remain safeguarded from creditors, financial missteps, or life events that could otherwise erode the gift you intended for them.

Trust for Protection from Nursing Care Costs

A Medicaid Asset Protection Trust ("MAPT") is designed for individuals who want to preserve assets while planning for the possibility of long-term nursing care. Because Medicaid has strict income and asset limits, owning too much in your name can prevent you from qualifying for benefits that help cover these significant costs.

A MAPT allows you to transfer certain assets — often your home or investments — into an irrevocable trust so they will not be counted for Medicaid eligibility after the required 5-year "look-back" period. The Trustee manages these assets, but you may still reserve important rights, such as the ability to live in your home. While you cannot take trust assets back for yourself, the trust can preserve them for your beneficiaries rather than having them spent down on care.

This type of trust can help protect a family home, maintain generational wealth, and create a clear plan for future care needs. Because Medicaid rules are complex and highly state-specific, it is important to work with an estate planning attorney to determine whether a MAPT is appropriate for your situation and how it might fit within your broader long-term care strategy.

Basic Trust for Minor Children ("Minors' Trust")

This is a common alternative to an Asset Protection Trust. Instead of holding assets in a trust long-term, assets are managed on behalf of the child only until the child reaches an age when they are financially responsible enough to manage on their own. Minors' Trusts often allocate funds for the beneficiary's health, education, maintenance, and support, and provide for direct distributions when the child reaches certain ages, which you designate.

- Example: You may structure the trust to be used for the health, education, maintenance, and support of the child, and provide for direct distributions over time: (e.g. 25% of the trust at age 25; 50% at age 30; and, at age 35, the remaining assets would be distributed and the trust terminated). This is just an example; these trusts offer a lot of flexibility.

Parents and grandparents may also want to consider a Uniform Transfers to Minors Act ("UTMA") Account, which functions like a statutory trust. A UTMA Account is a financial vehicle designed to hold and manage assets for the benefit of a minor until they reach the age of trust termination (age 21 in Pennsylvania). Once the child reaches the age of trust termination, the funds automatically transfer to the child, who will then have complete control over the assets. There are also income tax benefits of a UTMA, which are beyond the scope of this guide. Because the trust cannot be extended beyond age 21, this type of account offers less flexibility when planning for minor and adult children.

Real Estate Holding Trust

A Real Estate Holding Trust maintains investment properties as long-term assets for your beneficiaries. This helps prevent premature sales and preserves the income, appreciation, and tax advantages you built during life.

When real estate passes at death, your beneficiaries typically receive a step-up in cost basis. Inside the trust, they can continue benefiting from:

- depreciation deductions (which reset to the new basis at death)
- tax-advantaged cash flow
- long-term appreciation
- professional management and guidance

The trust can direct the trustee to maintain records, manage the properties, hire professionals, and avoid unnecessary sales. It can also incorporate LLCs and provide flexible income streams to your beneficiaries, while still protecting the properties from creditors or poor decisions.

For families with investment real estate, this trust helps preserve the portfolio, maintain tax benefits, and support a multi-generational wealth strategy.

Revocable Living Trust

A Revocable Living Trust (“RLT”) is a trust you create during life, which you control and can amend or revoke at any time. In many states, these trusts are popular because they avoid probate and streamline administration.

In Pennsylvania, however, RLTs are a less common planning tool because:

- Probate is relatively straightforward and cost-effective by national standards, so avoiding probate provides less benefit here.
- Pennsylvania law imposes nearly identical administrative requirements for revocable trusts (once you die and they become irrevocable) as it does for probate estates.
- The ongoing cost of creating, funding, and maintaining a revocable trust often outweighs any probate fee savings for PA residents.

RLTs *can* still be appropriate in certain cases (e.g., if you own out-of-state property, incapacity planning preferences, and privacy concerns), but they are not the “default” tool in PA.

At Long Brightbill, many of our trusts come in the form of a RLT, so if you decide to utilize it for probate avoidance, it is always an option. We simply do not market them as “probate avoidance tools” because we believe that is marketing fluff and largely misleading to Pennsylvania residents.

Special Needs Trust (Supplemental Needs Trust)

The terms ‘Special Needs Trust’ and ‘Supplemental Needs Trust’ are often used interchangeably. The purpose of these types of trusts is to provide for beneficiaries without affecting eligibility for governmental needs-based programs, including Medical Assistance, Social Security Income, etc. These programs are often means-tested, which may exclude individuals who exceed income and asset limits. It can be crucial, therefore, to keep income and assets low. If the beneficiary were to receive direct distributions as an inheritance, they might not qualify for needs-based benefits.

Funds from the trust are used to supplement the beneficiary's needs, not to supplant (or replace) the funds available from benefit programs. Assets from a supplemental needs trust may be used for education, leisure, recreation, and comforts not provided by public assistance.

Similar to a special needs trust, an ABLE (“Achieve a Better Life Experience”) Account is a statutory trust designed for special needs beneficiaries. These Accounts are usually easier and more cost effective to set up, but there are limitations that must be factored into deciding which is best. These limits may include annual contribution limits and caps on the entire account. If you have a special needs beneficiary, you should explore together with an estate planning attorney all options available to protect the assets for your beneficiary.

Trust for a Beneficiary with Substance Abuse Disorder

This trust type is often used to avoid an outright distribution to a beneficiary struggling with substance abuse challenges, or to a person at risk of relapse. It allows you to set constraints around when and under what conditions you feel comfortable making distributions. For example, the trust may require the beneficiary to have demonstrated sobriety for some period, actively attend counseling, pass drug tests, or show other evidence of stability in life. These trusts can serve as a valuable tool to empower and encourage a beneficiary to address an underlying addiction, especially when you are no longer able to provide support due to incapacity or death.

Trust for a Beneficiary with Mental Illness

These trusts are tailored for beneficiaries suffering from mental health challenges. Depending on the severity of a beneficiary's mental health condition, you might consider a special needs or supplemental needs trust, discussed above. Special Needs Trusts may be overly restrictive is some circumstances, however, and a more flexible and customizable trust option might be more fitting for your beneficiary.

Similar to substance abuse challenges, many individuals with mental health disorders can find stability in life by attending to their mental or emotional needs through counseling, therapy, medication management, and other health and wellness alternatives. The trust can pay for these services. You may also allow for additional distributions if the trustee is satisfied that the beneficiary is regularly attending counseling or therapy, taking medications, or otherwise demonstrating stability. Alternatively, the Trustee might withhold distributions if there is evidence that the beneficiary would not be in a position to properly manage distributions. Trust assets may be allocated toward expenses related to mental health treatment and, in that way, may be an excellent tool to support treatment for your beneficiary.

Trusts for Federal Gift and Estate Tax Planning

It is worth mentioning Trusts for Federal Gift and Estate Tax Planning. There are many different types of irrevocable trusts that are used for Federal Gift and Estate Tax planning. The basic idea is that assets moved into a trust grow in value and may pass completely free of estate tax, which would otherwise be due if the transfers were made upon the death of the grantor.

Federal estate, gift, and generation-skipping transfer (GST) tax laws changed significantly in 2025. Congress made the higher exemption amounts permanent and set the federal exemption at $15 million per person ($30 million per married couple) starting in 2026, with annual inflation adjustments.

For many families, this means federal estate tax will not apply. However, for individuals or couples whose estates exceed these figures, trust-based planning remains essential, because the federal estate tax rate is 40%. Trusts can remove appreciating assets from your taxable estate, preserve wealth for future generations, and reduce the tax burden at death.

Spendthrift Trust

Let's begin by understanding the terms "spendthrift" and "spendthrift trust," as defined by Black's Law Dictionary:

- “Spendthrift” - one who spends money profusely and improvidently; a prodigal; one who lavishes or wastes his estate.
- “Spendthrift Trust” – a trust created to provide a fund for the maintenance of a beneficiary while simultaneously securing the fund against their improvidence or incapacity, placing it beyond the reach of creditors.

Some individuals create trusts to safeguard assets from a spendthrift beneficiary and their potential creditors. A spendthrift provision limits the beneficiary's ability to assign their interest and shields the trust assets from creditors until distribution. One important caveat: spendthrift provisions do not protect against certain “exception creditors.”

A spendthrift trust allows individuals to balance a desire to provide for a beneficiary's needs while protecting the assets from potential recklessness or third-party claims. It is a valuable tool in estate planning for those seeking to ensure responsible and controlled asset distribution. A spendthrift provision can be incorporated into various types of trusts.

Almost every trust has a simple “Spendthrift Provision,” which prevents a beneficiary from selling or assigning their right in the trust to a third party.

Conclusion

If you are considering a trust for one or more beneficiaries, please review these options together with your estate planning attorney. Transparency during the process will significantly increase the likelihood that you will land on the right structure for your loved ones. These trusts are not one-size-fits-all solutions; they must be tailored to specific situations. While there is some overlap, these trusts address a range of challenges, emphasizing the importance of careful planning. If you're considering incorporating trusts into your estate plan, consult with a trusts and estates lawyer in your state. It is also a good idea to review your previous estate plan to ensure that it is current with any changes in the law.