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Trusts can help save taxes abroad

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With more and more super-rich individuals and non-resident Indians accumulating assets abroad, a question that one often encounters is: what is the best way to manage assets that are exposed to complex international regulations.
Industry experts say wealth management and estate planning by trust is one of the best ways to manage global assets, as it helps in hassle-free transfer of benefits to heirs and minimises tax exposure. Multi-jurisdictional family is a common phenomenon now.
Emerging opportunities and better returns on investments in India, recession in developed countries and growing uncertainties and difficulties in immigration processes has set the stage for reverse migration to India.
Increased awareness about wealth management and succession planning among those returning to India has brought to the fore the complex legal, taxation and regulatory issues in managing assets across the globe.
“Almost any asset can be held by a trust, including real estate, motor vehicles, valuable artwork, household items and company shares. But one should consider transferring appreciating assets into the trust before depreciating assets (such as motor vehicles). But it depends on how one intends the trust to be used and personal circumstances,” Bijal Ajinkya, a partner at Nishith Desai Associates, said.
Succession and wealth planning revolves around a whole body of law dealing with trusts and estates, which governs management of personal affairs and disposition of property in anticipation of an event such as the owner’s incapacity or death.
Another important part of such planning involves managing wealth through trusts, which is also used to fulfil wishes of philanthropic bequests or gift through creation, maintenance and supervision of charitable trusts.
Trust is a right in property, which is held in a fiduciary relationship by one party (trustee) for the benefit of another (beneficiary). The trustee is the one who holds the title to the trust property and the beneficiary is the one who receives the benefits of the trust.
Since many individuals neither set up trusts nor execute wills, there are different laws across geographies that determine where an individual’s assets go upon death in the absence of a will.
An individual can either set up a family trust while he is alive by declaring a trust via a trust deed or by his will.
Also, one needs to be aware of the taxation laws that comes into effect after the owner’s death.
“Trust management can be a good structure for estate planning, especially for those owning assets in the US and UK as it forms part of their laws,” Ashvin Parekh, a partner and national leader for finance services at Ernst and Young, said.
However, he warned that trust management may not be a suitable option in certain countries, which have not opened up for investments by non-residents.
In the US, after an applicable exempt amount, federal estate tax very quickly approaches 50 per cent of one’s taxable asset. The applicable exempt amount was $2 million in 2006, which has increased to $3.5 million in 2009, after which the estate tax was temporarily repealed for one year in 2010.
“Proper use of trusts can reduce one's tax burden,” Ajinkya added.

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