Business Standard

Plan your estate via trust route

It's a better option as it gives more control and cannot be disputed

Neha Pandey Deoras / Mumbai August 30, 2012, 0:55 IST

Hanisha Amesur, senior associate at Nishith Desai Associates, says more and more people — professionals, businessmen and industrialists — are now taking the trust route to diversify and protect their assets.

“There is no threshold limit for creation of a trust. Anyone can do estate planning via a trust,” says Amesur.

One can use a legal firm or a bank, or even do it oneself. The advantage is that trusts cannot be disputed unlike a will. Also, compared to a will, which in many cases is available on the internet, too, trust is a more private route.

In the do-it-yourself module, a trust document has to be prepared, which will include all assets it holds (all your investments such as shares, mutual funds, insurance policies, fixed deposits and movable/immovable assets) and who the assets will belong to in case you die.

COST BENEFIT

TRUST	WILL
Individual trust No cost	**Physical will** Rs 50,000 - Rs 1 lakh
Via trust companies Rs 3-5 lakh	**Online will** Rs 10,000 (Warmond Trustees &executives)
Via lawyer Varies, charge on per hour basis	
Banks 0.5-5 per cent of the total asset	**Video will** Rs 2,500-5,000

Then, apply for a permanent account number for the trust and open a bank account for it. Your existing investments can be gifted to the trust. If you wish to continue the investments, you can instruct your bank to debit the trust's account instead of your personal account.

“One can use a trust in various ways in their lifetime. For instance, one can decide to give money to his/her child when he or she turns 18,” says Prateek Pant, head, wealth solutions, at RBS Private Banking.

You can also receive gifts through your trust. Say, your mother wants to give you gold jewellery; she can gift it to your trust. Either you can be the sole member of the trust or there can be more than one member, including you (settlor) and any of your family members, even any or all beneficiaries. However, no one member of the trust can play all three roles of a settlor, beneficiary and a trustee.

The trust might or might not be registered. Registration becomes mandatory only in case of an existing immovable property being transmitted to the trust or if the settlor (you) is buying one through the trust.

But, transmission of property attracts 5.5 per cent stamp duty. The cheaper way is to write a will passing the immovable property as there would be only a registration fee, say experts. You need to pay a stamp duty also, in case of transmitting physical shares to the trust (at 0.25 per cent of the face value of the share). But, with dematerialised shares you are saved on that.

Trust documents need not be made on stamp paper, but plain sheets would do. If you want, you can use a Rs 100 stamp paper, which charges three per cent duty.

Both Amesur and Pant endorse estate planning through a trust vis-a-vis a will. Will is only one way of planning an estate. The other way is to pass on the assets through a gift deed.

Unlike a will, gift deeds have to made and given while you are alive and can be executed only if the person you are gifting it to accepts it.

The recipient, however, has the option to reject it. Unfortunately, gift deeds cannot be conditional. That is, you cannot say the assets can be used by the beneficiary after you die. Also, it can be disputed. Therefore, this is not advised because many a time a family member might stick around with you only for an asset. In comparison, a will works better.

Certified financial planner Jayant Pai says, “For individuals, making will works out to be the best as they don't have huge assets. Trust works for those who have taken debt. Trust keeps asset(s) outside the arm of the law. Hence, if such an individual is not able to repay the debt, his children's future is safeguarded by the trust.”