



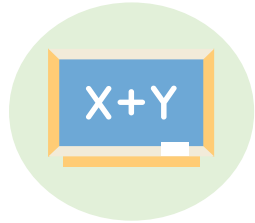
M2K Advisors

# Basics of Trust – Part II

SUCCESSION PLANNING SERIES #22



# Key Terms



## Settlor

A settlor is a person who creates the Trust and conveys the legal title of his property to the trustees. Settlor is also called as the “Author” of the Trust.

## Trustee

A person who accepts and undertakes an obligation under the Trust to administer and manage the trust property for the benefit of persons for whom the trust has been settled.

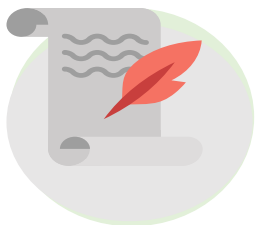


## Beneficiary

The person for whose benefit the trust is created is known as the beneficiary.

## Beneficiary Interest

The beneficiary’s right against the trustee as owner of the Trust Property is known as “Beneficial Interest” or “Interest”.



## Trust Deed

It lays out the details about who the beneficiaries are and also the rules, rights, control, management and the complete mechanism as regards the operation of the Trust.

## Trust Property

Any assets that the settlor transfers to the trust. It can be real estate, personal property, a bank account, securities, patents, business interests, etc.



# Parties to a Private trust

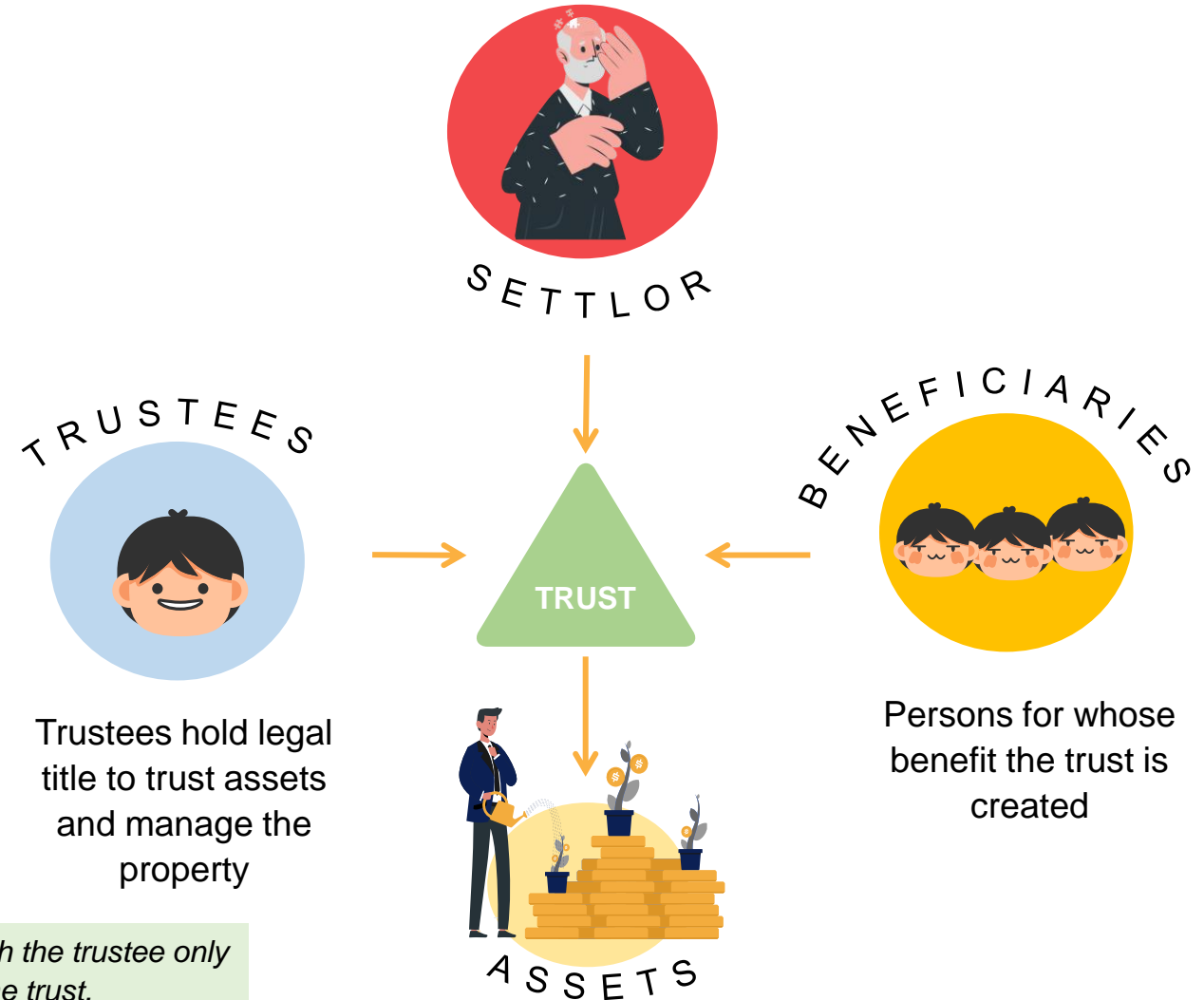
The important parties in any Trust are the **settlor**, **trustee** and the **beneficiaries**. In addition to them, a protector / trust advisor may be appointed under the Trust Deed.

A **Protector / trust advisor** is a person who guides the Trustee to exercise their administrative and dispositive powers properly so as to ensure that the wishes of the settlor are fulfilled and the trust continues to serve the purpose for which it was created.

The recommendations of the protector are advisory in nature and are not binding on the trustee\*.

*\*The ultimate decision, with respect to any trust matter, remains with the trustee only or in some cases with the settlor depending upon the structure of the trust.*

Vests the property in the trust and conveys legal titles to the trustees



# Role of Settlor

The important roles of a Settlor are as follows:

- 1** The settlor **initiates the process** of creation of a Private trust.
- 2** The settlor plays a vital role in **finalizing the terms of settlement**, deciding the nature of trust and determining the shares of beneficiaries.
- 3** In case of trust with certain rights reserved for the settlor, the role of settlor **exists to the extent of such reservation**.

**For example** – The Trust deed may provide that any appointment / removal of trustees, during the lifetime of the settlor, should be made only with the consent of the settlor. In such a case, the role of the settlor exists with respect to appointment / removal of the trustees.



# Role of Trustee



Upon declaration of the trust, the legal ownership of the trust property is transferred from the settlor to the trustee for the benefit of the beneficiaries and the trustee shall deal with the trust property in the same manner and with same care as if it were their own property.

A trustee acts as the fiduciary for the beneficiaries and is responsible to manage the property entrusted to him by the settlor.

The trustee is duty bound to fulfil the purpose of the trust and follow the instructions given by the settlor.

A trustee is required to maintain accurate accounts of the trust property.

In addition to the powers expressly conferred by the Indian Trust Act, 1882 and the Trust deed, the Trustee may perform all acts appropriate and necessary for realization, protection and benefit of the trust property unless specifically restricted by the Trust deed.

# Succession Knowledge Series



Please find below the list of completed alerts from the series. In case you have missed the previous alerts, click on the hyperlink for the completed alerts to refer the same.

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