CLIENT MEMORANDUM · HARMAN SIAN, CPA · JULY 2026

# An introduction to family trusts

What they are, why families use them, and the tax rules to weigh before setting one up — a plain-language overview before we talk specifics.

## 1 What a family trust is

A trust is a legal relationship in which one party holds and manages property for the benefit of others. A **family trust** is simply a trust created during your lifetime whose beneficiaries are family members, with its terms set out in a **trust deed**. Three roles define it:

### ✦ The settlor

Establishes the trust and contributes the initial property.

### ⚖ The trustee(s)

Control and administer the assets under the deed's terms.

### ☺ The beneficiaries

Benefit from the assets — income, capital, or both.

## 2 Why families use them

### ❄ Estate planning & freezes

In a classic estate freeze, the founder exchanges their common shares for fixed-value preferred shares, and the family trust subscribes for new common shares at nominal cost. The founder's value — and eventual tax bill on death — is "frozen" at today's number, while future growth accrues to the next generation inside the trust, with the founder keeping control through voting shares or the trustee seat.

### × Multiplying the gains exemption

Each individual has a lifetime capital gains exemption — $1.25 million for qualifying small business shares (for dispositions after June 24, 2024). When a business held through a trust is sold, the gain can be allocated among several beneficiaries, each claiming their own exemption — a family of four could shelter roughly $5 million. The shares must meet strict qualification tests, so this is planned years ahead, not at the deal table.

### ✪ Asset protection & control

Beneficiaries don't own trust assets — they have an interest in them. A discretionary beneficiary's creditors, or a marriage breakdown, generally can't reach what the trustee hasn't distributed — and staged distributions protect a child who isn't ready, or a vulnerable family member, from a lump sum. (One honest limit: a trust doesn't shield the contributor from their own existing creditors.)

### ⇄ Income splitting — what's left of it

Once the headline reason, now heavily fenced in by TOSI (next section). What remains: splitting with a spouse once the owner is 65+, allocations to family who genuinely work in the business (roughly 20+ hours a week), and capital gains qualifying for the exemption, which generally escape TOSI. The days of sprinkling dividends to a student child are over.

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### Bypassing probate

Trust assets don't form part of your estate, so they pass outside your will — no BC probate fees (about 1.4% of estate value), no court delays, no public record of who received what. On meaningful holdings, the probate saving alone can cover years of trust costs.

### Succession, decisions kept open

A discretionary trust moves value to "the next generation" without deciding today which child gets what — the trustee allocates as life unfolds: who joins the business, whose needs change. Succession planning with the decisions kept open until they're ready to be made.

## 3 The tax rules to weigh

### Tax on split income (TOSI)

Since 2018, income "split" to family members is taxed at the top rate unless a specific exclusion applies. Every plan gets tested against TOSI first.

### 21 The 21-year rule

Every 21 years a trust is deemed to dispose of its capital property, potentially triggering accrued gains — a critical date to plan for, not discover.

### Attribution rules

Income or gains can be attributed back to the contributor — a spouse, or where minor children are involved — undoing the intended split.

### Top-rate tax on retained income

Income kept inside the trust is taxed at the top marginal rate, so income is usually allocated out to beneficiaries and taxed in their hands.

### ⚠ Trust reporting has expanded — and keeps evolving

Enhanced T3 reporting (including Schedule 15 beneficial-ownership disclosure) applies to most trusts for tax years ending after December 30, 2023 — and after years of deferrals, certain **bare trusts** become subject to filing for taxation years ending on or after December 31, 2026, subject to proposed exemptions. **Confirm current-year requirements with us** — this area changes almost annually.

## 4 Costs and administration

A trust carries real obligations: legal set-up, a separate annual **T3 return**, trustee record-keeping, and professional fees. The honest test: **worthwhile when the planning value clearly exceeds the cost and complexity of maintaining it** — and not before.

### Wondering whether a trust fits your situation?

**Call 604-322-7100.** The right answer depends on your business, your family, and your timeline — we'll walk through it with you and your legal advisor before anything gets signed.