Name of CPD Activity Organizer	International Association of Registered Financial Consultants Hong Kong and Macau Centre Company Limited 國際認證財務顧問師協會港澳中心有限公司
Title of CPD Activity	Executive Certificate in Contemporary Financial Planning Program 當代財務策劃行政證書課程
CPD Reference No.	80/144/03

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Comparison of Trust with Other Asset-Holding Structures in Estate Planning

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Trust

Features

- An arrangement only, not a separate legal entity
- No need to be registered (it is unregistered)
- Settlor transfers assets to Trustee who holds for Beneficiaries or for purposes (charitable or non-charitable) 英國/香港不允許 non-charitable Trust
- Trustees owe fiduciary duties to the Beneficiaries
- Settlor may have reserved power and rights. Protector to ensure the Trustee is performing its duties.
- Some trusts may last indefinitely or for a maximum fixed period (subject to jurisdiction rules)
- Governed and administered by the Trust Deed. Letter of Wishes as non-binding guidance to the Trustees

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Trust

Benefits

- Certain privacy
- Succession planning and avoid probate
- Certain degree of asset protection
- Some flexibility to give Settlor some control (beware too much control)
- Provides flexibility of powers
  - Add or remove Trustees
  - Add or remove Beneficiaries
  - Can change governing law
  - Add or amend provisions
- Can have Protector to supervise the Trustees

Shortcomings

- Unlimited liability for Trustee
- Tax is complex
- Sham, nominee arrangements due to excessive control
- Uncertainty of Beneficiary's right to information

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Foundation

Features

- A separate legal entity
- Need to be registered and public record
- Corporate version of trust. Like a company but no Shareholders
- Created by a Founder. Managed and controlled by a Council which is similar to the Board of Directors. Founder may have reserved powers and rights. May also be Supervisory Person to supervise the Council
- Must be for a whatever lawful purpose (business or charitable) which may include people as beneficiary
- Reflects interest of the Founder
- A foundation holds its assets and, generally has limited liability to the value of its assets
- A Charter and Articles or Rules to set out the rules of operation and administration
- Perpetual and continues until winding up

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Foundation

慈善 → Foundation

Succession → Trust
or a part of Charity

Benefits

- Limited liability to creditors
- Use as succession planning vehicle and avoidance of probate
- Provide asset protection (assets no longer owned by Founder)
- Centralize family ownership
- Founder is able to retain control (unlike in the case of a trust) and full investment freedom
- Provide flexibility
- Similar tax benefits as a trust
- May continue indefinitely

Shortcomings

- Certain elements are public, reduced privacy
- A foundation through the Council owes no such duty to a Beneficiary until that Beneficiary is actually entitled to an interest
- Tax is complex
- Not straightforward to migrate or change the governing law / jurisdiction

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Li Ka Shing Foundation 李嘉誠基金會

Mission and Vision 理念願景

- philanthropy with societal impact through supporting education and healthcare initiatives
- 支持教育及醫療發展啟動世界向前

Initiatives 公益志業

- reform education 教育改革
- further medical research / medical services 醫學研究
- charity and anti-poverty programmes 公益扶貧項目

Source: https://www.lksf.org/?p=ajagp

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SHKP-Kwoks' Foundation
新鴻基地產郭氏基金

- **Purpose**
  - To support education and promote long-term development of culture on the Mainland
  - Offers scholarships to talented people for education and training to contribute to the development of the nation
- More than 5,000 students have benefited from over RMB 500 m donations

Source: https://www.shkpnews.com/en/education-funding-schemes?created_1=1&page=0

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Private Companies

Features

- A legal entity
- Need to be registered
- Holding assets through company
- A Private Trust Company can be limited by shares or limited by guarantee
- Shareholders are legal owners and have limited liability
- Managed and controlled by the Directors
- Memorandum and Articles of Association set out the rules of operation
- Continues until winding up

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Private Companies

Benefits

- Simple ownership. Easy and less costly to set up and run
- Limited liability to shareholders
- Retain control, power to appoint and remove directors
- Residence is where its central management and control is situated.
- Easier to migrate.

Shortcomings

- As registered, certain information made public. Less privacy than trust and foundation
- Registration of ultimate beneficial owners or significant controllers
- Directors do not owe fiduciary duty to shareholders

Partnership

- **Features**
  - An arrangement between partners to share profits and losses
  - A Partnership Agreement governs the operation and specifies the rights, powers and interests of the Partners
  - Partners are jointly and severally liable and have unlimited liability
  - Perpetual and continues until dissolved

Partnership

Benefits

- Unregistered arrangement, information kept private
- Flexible terms, flexible to dissolve
- Control and management remains with the Partners

Shortcomings

- Unlimited liability for Partners
- May own a company to limit their liability

	Trusts	Foundations	Private Companies	Partnerships
Legal Entity	No	Yes	Yes	No
	▪ A legal entity is separate from those relevant individuals to them. It can sue and be sued. Liability is limited to the values of such assets ▪ If not a legal entity then assets held by the persons ie Trustees or Partners ▪ Taxation is usually different for legal entities. Trustees are taxed on the income and capital gains of the trust.			
Ownership (and beneficial interests) of assets	Trustee is the legal true owner; beneficiaries are beneficial owners.	Because of no Shareholders, no clear and apparent legal and beneficial owners. Foundations have a purpose, and which can include persons as potential beneficiaries	Registered Shareholders are the legal and beneficial owners	Partners collectively. Partnership Agreement sets out the ownership arrangement
	• A separate legal entity will own and hold assets in its name. Liability is limited to the values of assets it holds			

	Trusts	Foundations	Private Companies	Partnerships
Control	The Trustee but may be subject to Reserved Powers Trust where Settlor can retain certain powers or Special Type of Trusts (BVI) where Trustee hold the shares of a company and let the Directors manage	Council which may include the Founder. Council members' appointment and removal by reference to Charter. Founder may be permitted to retain rights.	Directors who are appointed by Shareholders by reference to Articles of Association	Partners
Oversight	Protector. Enforcer for non-charitable trust	A Supervisory Person (Guardian) to supervise the Council	No such person. Rely on terms of Articles of Association	No such person. Rely on terms of Partnership Agreement

	Trusts	Foundations	Private Companies	Partnerships
Powers	The Trustees dispose and administer the trust. May also be reserved powers to Settlor or Protector	Council to manage and control	Directors to manage and control	Partners to manage and control
Duties	Trustees owe fiduciary duties to the Beneficiaries	No fiduciary duties owed to any Beneficiary. Council's duties to the foundation itself and vary depending on the Charter and governing law	Directors owe fiduciary duties to the company (not to the Shareholders) and vary depending on governing law. Specific duties of directors to a company (depend on jurisdiction law)	Partners have fiduciary duties to other partners

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	Trusts	Foundations	Private Companies	Partnerships
Liability	Trustees are personally liable with right of indemnity	Limited to the value of the assets it owns	Limited to the value of the assets it owns	Partners are personally liable to their ratios of interests
Continuity	Depending on the jurisdictions. Perpetual or for a maximum fixed period or flexible	Continue until wound up	Continue until wound up	Continue until dissolved per Partnership Agreement

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Trust Jurisdictions Comparison

Trust Jurisdictions Comparison

- The international trust market is competitive
- Private wealth owners have assets all over the world
- Consumers are free to choose depending on their needs and wants

Trust Law

Ownership 擁有權
Beneficial 享用權
Case Law

- Trust law is based on equity law 衡平法under common law
- Common Law base 普通法系
  - UK, HK, Canada, Singapore, USA
- Civil Law base 大陸法系/歐陸法系
  - PRC, Belgium, Austria, Italy, France, Japan, Brazil,
- Trust jurisdiction – where it is set up
- Local jurisdiction – trustee, admin, property location

	1. Requirement of Initial Capital	2. Validity of Trust and Object of Trust (Persons and Purposes)
Hong Kong	Yes	Not provided for non-charitable purposes. (有人 or 慈善目的)
United Kingdom	Yes	Not provided for non-charitable purposes.
Canada	Yes	Trusts for non-charitable purposes are invalid subject to exceptions (maintenance of grave sites)
PRC	• Requires certainty and legality of trust property • The initial trust property does not have to be transferred to Trustee by Settlor at the time of creation • But trust commences on registration of the only registrable property	• A trust must state its purpose, the name and address of the Settlor, Trustee and Beneficiaries, in writing • The ways and methods by which the Beneficiary will receive the trust property and the information already • Non-charitable purpose not possible

	3. Continuity of Trust	4. Asset Protection
Hong Kong	Unlimited duration	2 years or 5 years rule.
United Kingdom	Maximum Trust Period of 125 years.	6 years or 12 years rule.
Canada	Province by province	• No asset protection • Court will look through domestic trusts and companies to satisfy the claims of creditors
PRC	No limit on duration	• Unclear asset protection • Settlor entrusted the property to the Trustee • No specific law for asset protection • Community property rule

破產：
2years 任何都追到
5years 支不抵債才追到

	5. Anti-Forced Heirship反強制繼承權規則	6. Power of Protector
Hong Kong	Legislative provisions for the protection of movable assets transferred to a Hong Kong trust against a claim based on foreign succession rules	No legislation or case law for the role and powers of Protector
United Kingdom	No specific legislation, depending on judgement or court order	No legislation or case law for the role and powers of Protector
Canada	No specific legislation or case law to prevent forced heirship claims	No legislation or case law.
PRC	No legislation for anti-forced heirship	• PRC Trust Law and Chinese law do not recognize the role of a Protector • Beneficiary's right to supervision

	7. Reserved Powers to a Settlor	8. Protective Trusts
Hong Kong	Only powers of investment or asset management can be reserved only to the Settlor	Legislative provision for Protective Trusts
United Kingdom	No legislation	Legislative provision for Protective Trusts
Canada	No legislation	No such concept
PRC	• No equivalent of Reserved Powers Trust • but the Settlor and Beneficiaries are given other rights to supervise the Trustee.	No equivalent of a Protective Trust in China.

	9. Provision of information	10. "Foreign trust" regime
Hong Kong	• No statutory guideline is provided • Base on case law	N/A
United Kingdom	• No statutory guideline is provided • Base on case law • the Court to decide in each case when, what and to whom information provided by Trustee	N/A
Canada	• No statutory guideline is provided • Base on case law	N/A
PRC	A Beneficiary has a right to information	N/A

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Hong Kong as a Competitive Trust Jurisdiction

- After the reform and amendments to the Trust Law Ordinance in 2013, Hong Kong has a modern and competitive trust regime
- One of the most attractive destinations for trust planning in Asia
- The Trustee Ordinance provides the trustees with enhanced default powers of management and control when the trust deed is silent
- New provisions for improved protection for beneficiaries and their interests

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Strengths of Hong Kong

1. Transparent and efficient legal framework - robust and independent judicial system based on English common law and follow case law
2. Sophisticated trust law with a long history (originated in 1934) and sound supervision of trustees - There is not a single case of collapse and bankruptcy so far.
3. Abundant experienced professionals in trusts law and private client wealth management services - Most professional trustees in Hong Kong are subsidiaries of international banks, insurance companies, and large financial services groups.

Strengths of Hong Kong

4. A major well-established international financial centre and investment hub - access to world class banks, investment expertise and professional business services.
5. Chinese and English are both official language of Hong Kong. Most civil legal proceedings are conducted exclusively in English
6. Efficient market regulation and infrastructure – assets protection, property rights respect, anti-money laundering, anti-corruption
7. A low and simple tax system
8. Enormous growth prospects in the Greater Bay Area and Asia regions in the coming years

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星島網

獨家 全部

【專題】中產也追捧資產信託 家族辦公室需求增

2020-11-26 07:22



1/2 本港及大灣區億萬富豪人數眾多，連帶中產人士均對資產傳承需求殷切，資料圖片

Source: https://www.stheadline.com/article/2074908

人民网 people.cn 人民网 >> 滚动新闻

内地首代富豪过半年过50岁 家族信托渐趋火热

2015年05月22日10:11 来源：南方日报

原标题：内地首代富豪过半年过50岁 家族信托渐趋火热

近日，余彭年在深圳去世。在生前，他已做安排，委托香港瑞士信贷银行帮他设立了“余彭年信托”，将来他所有的财产都会归入到“余彭年信托”当中，并按照他生前的愿望捐赠给社会。借力“家族信托”的方式，余彭年实现了“裸捐”做慈善的遗愿。

Source: http://politics.people.com.cn/BIG5/n/2015/0522/c70731-27041623.html:

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The Asset and Wealth Management Activities Survey 2019 by the Securities and Futures Commission (SFC)

- As of 31 December 2019, the assets held under trusts (AUM) increased 11% to $3,844 billion (US$494 billion) from $3,467 billion
- assets held by Family Offices and Private Trusts, charities and other corporates accounted for HK$849 billion as at the end of 2019. This sector of the trust industry showed the biggest year-on-year increase (of 31% from 650 billion in 2018).

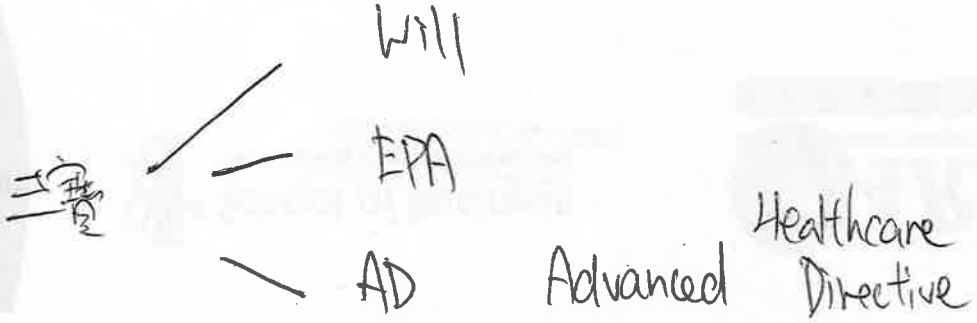
https://www.sfc.hk/web/files/ER/Reports/AWMAS_2019_EN.pdf

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Other Applications



Incapacity Risk

- To handle the risk of becoming physically or mentally incapacitated (accident, stroke, dementia)
- one will not have complete control of his own affairs and assets (finances: operating bank accounts, paying bills)
- Bank and investment accounts may be frozen
- A court application will often be required. Problems with court applications
  - may take a long time and costly, impacting investments
  - the applicant may be unsatisfactory
  - family members would fight over who should be appointed

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Enduring Powers of Attorney (EPA) 持久授權書

- EPA is a legal instrument which allows a person (the donor 授權人), while still mentally competent, to delegate legal authority by appointing an attorney(s) 受權人 who will take care of (manage) his financial matters in the event that he becomes mentally incapacitated.

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Enduring Powers of Attorney (EPA)

- The attorney is a trusted person (trust corporation) who understands and respects your wishes and preferences (choice is crucial)
- The attorney cannot take care of everything. Donor specifies over which has authority to act
- Specified financial affairs such as collect income or capital, to sell or lease real property, to spend money etc.

Standard Procedure or Formalities

- For an EPA to have legal effect, it must be made out in the prescribed form (standard forms) by the Enduring Power of Attorney Ordinance (CAP.501).
- To execute a EPA, donor must sign in the presence of
  - Registered medical practitioner and solicitor; OR
  - Registered medical practitioner, then within 28 days solicitor
  - Certify mental capacity and voluntariness/authorization
  - Bring the EPA to the High Court for registration

Revocation of EPA

- Donor may revoke when mentally capable
- After recovery from mental incapacity, Donor may revoke with court order confirming the revocation
- Attorney becomes bankrupt
- A or D dies
- By court order/direction

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Benefits

1. Enables an individual to choose a dependable / trustworthy person(s) who will respect his wishes and take care of his financial affairs if he becomes incapable of doing so
2. Avoids expensive and potentially distressing court proceedings for the appointment of someone (trustee) to administer the individual's affairs
3. Eases the difficulties, distress and conflicts in managing his affairs without proper authorization

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預設醫療指示

Always Plan Ahead

- Trust and EPA are not mutually exclusive.
- A Trustee can only manage assets within a trust
- EPA is only effective when a person loses mental capacity
- A person will not be putting all his money into the trust

安心三寶
- 持久授權書
- 遺囑
- 預設醫療指示

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Considerations of Using Trust in WM

- Tax implications of asset transfer into a trust are exceedingly complex
  - depends on the jurisdiction of the asset, the trust, the settlor and the beneficiaries
  - Some jurisdictions will tax the trust's asset income eg rental income in the UK + CGT on disposal of the property
- Is it worth transferring the asset given the taxes?
- Is there any benefit to holding it inside or outside the trust for tax purposes?
- Holding assets in trust have probate and succession benefits but cost of tax

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Considerations of Using Trust in WM

- Trusts are hard to change or amend later (life events like marriage, divorce, death, birth of children)
- Choice of jurisdiction, tax consequences
- Types of trust?

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Family Trust for HNW Clients

- What is the Family's attitude to wealth? charitable?
- Spent? Accumulated? Maintained?
- What should the basis of distribution be?
- Life time income, protect family assets
- When might distributions be made?
- Asset management issues
  - who will participate in the management of the assets and how will they be managed
- What are the Family's core values?
  - Family beneficiaries must participate in the business
  - Family beneficiaries must not be divorced

Family office → 財富投資
→ 保持家族 Core value

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HSBC

Private Trust Company.

Professional Corporate Trustee or PTC

- One-stop service
- Establishment and ongoing management of trust
- Identify and analyze objectives, needs and concerns
- Recommend the suitable type of trust
- Prepare all necessary documents
- Arrange for the transfer of assets
- Full day to day admin
- Distribute according to trust deed

Private Trust Co.

PTC

→ Flexible (可訂作設定)

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Trust Designs for HNW Clients

- A Portfolio of estate planning tools to mitigate risks and maximise benefits
- Tax, legal and wealth (philanthropic) advisors come together to discuss the best solution for the client

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Case Studies of Family Trusts

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Child Protection

- Mr and Mrs H are middle aged couple with a 3-year-old son. They started their business 20 years ago and now the business is very successful with a stable clientele. As they are getting older, they are thinking about putting the core business to the management team and planning for retirement gradually. Their son is still very young and there is no plan for succession.
- Client's wants
  - Stable financial source
  - In case personal health deteriorates or the family business breaks down, their underage son would have sufficient living and educational funding before he can be financially independent

Proposal

- For the family business, set up EBT (Employee Benefit Trust) and reward the management team with low-cost stock options. This helps to increase the management team's sense of belonging and incentivize their performance as it is linked to the values of the company
- Sell some of the non-core business and have the funds transfer to a family trust. The beneficiaries are Mr and Mrs H and the son. Mrs H also act as the Protector.
- The Trust provides asset protection in the event of business failure and provide the future living, education, marriage, and entrepreneurship needs of the underage son.

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Support Parents

- Ms W is the owner of her own import-export trade business. Her husband is a French and lives in France. Ms W has to travel frequently. She has an old age father (77 years old) and mother has passed away many years ago. Her father cannot take care of himself after an accident two years ago. Ms W's younger brother and a nanny are responsible for taking care of her father now. All the caring expenses are supported by Ms W.
- Client's wants
  - Since she needs to travel frequently, and subject to higher risk, she intends to leave money to support her father so that he can be properly taken care of.
  - Her lawyer friend suggests that she can prepare a will and leave a certain amount for her father. But Ms W is afraid that her father is incapacitated to use the funds.
  - The alternative is to give the money to her younger brother for taking care of her father. But Ms W feared that the funds may not be appropriately spent on her father.

Proposal

- Ms W set up a family trust. Her father is one of the beneficiaries. (or a separate trust that specifically take care of her father's living and medical expenses)
- The Trust will distribute funds to her father every month according to the terms of the Trust. Her younger brother can be appointed as the guardian to manage and use the funds
- The Trust funds are not affected by Ms W's bankruptcy, divorce and forced heirship.

ANDY LAU SET UP AN EDUCATION TRUST FOR HIS DAUGHTER

Post by Super User - In Lesson From Famous - On 11 September 2012

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According to Taiwan's China Times, Andy Lau has set up an education fund for his daughter and plans to send her to kindergarten in Canada where a sister lives in Edmonton.



（香港11日訊）台灣中國時報報道，朱麗倩上月9日生女，劉德華（華仔）全面停工陪妻女，他因50歲老來得女，**對愛女未來提前規劃，計劃她到加拿大讀書，最近更砸1千萬港幣（約400萬令吉）成立教育基金。**

有親友透露，他連電話都少接，"他初為人父，每天和女兒玩得很開心，以前是工作狂，兩隻手機不離身，最近工作用電話几乎不開機。"華仔大姐在加拿大Edmonton定居，華仔計劃安排女兒到那裏讀幼稚園，還成立教育基金，知情者說："華仔無非就是想讓朱麗倩安心，雖說是教育基金，**這筆錢現在不會動用，他希望女兒18歲後自由運用。**"

Source: https://www.estateplanners.com.my/index.php/wealth-resources/all-resources/item/736-andy-lau-set-up-an-education-trust-for-his-daughter

Home > Entertainment > HK singer-actor, Nicholas Tse sets up foundation to benefit his two sons,...

LOCAL

像Trust

HK singer-actor, Nicholas Tse sets up foundation to benefit his two sons, Lucas and Quintus

By **Dimsumdaily Hong Kong** - 8:23PM Tue May 5, 2020

11247

Source: https://www.dimsumdaily.hk/hk-singer-actor-nicholas-tse-sets-up-foundation-to-benefit-his-two-sons-lucas-and-quintus/

8days

Leon Lai Sets Aside 40 Million Yuan (S$7.8Mil) For Daughter's Education; Funds To Be Managed By Girlfriend Wing Chan

No pressure at all, kiddo.

Kendra Tan
03 Jul 2019 at 16:13

Source: https://www.8days.sg/entertainment/asian/leon-lai-sets-aside-40-million-yuan-s78mil-daughters-education-funds-be-managed-girlfriend-wing-chan-559911

Tax on Life Insurance Policies

- Income tax or estate / inheritance tax?
- Generally not, but in some jurisdictions, under some conditions, and beyond exemption threshold, tax is charged.

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Insurance Trust can exempt the Tax.

Jurisdictions that Tax on Life Insurance

Belgium

- If the deceased was a Belgian resident and had life insurance to a named beneficiary, inheritance tax is usually payable on any benefits to be received. Each region has its own rules. Whether one is liable to pay inheritance tax on life insurance depends on the situation

France

- For contracts subscribed after November 20, 1991, premiums paid by the insured after age 70 will be subject to inheritance tax for the portion exceeding EUR30,500 (Article 757 B, FTC), conversely, interest generated by these premiums remains nontaxable

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

Germany

- The inheritance tax is calculated on all the assets an heir receives. This includes a payout from the life insurance and any other assets in Germany. Tax-exempt amount varies according to your relationship with the person giving you the inheritance. Beneficiary spouse is exempted.
- If B and G are not married. B takes out a term life insurance contract and puts G as the insured person. Should G die, B will receive money from his own insurance contract. Because the money is from his insurance policy and is paid to himself, inheritance tax is not applicable

Ireland

- Some beneficiaries may have to pay inheritance tax depending on their relationship to the insured, the amount of money they receive. Insurance payout to the spouse is exempted but not to any other persons

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

Japan

- life insurance proceeds are considered as properties of a recipient and subject to inheritance tax. Japan inheritance tax applies to the Beneficiary on the amount of the proceeds at the time of Insured's death who paid the premium

South Korea

- When the beneficiary receives insurance proceeds from life insurance due to the death of the policyholder, insurance proceeds shall be regarded as an inherited property if: (i) the policyholder is the deceased, or (ii) the deceased has paid the insurance premium even when the deceased is not the policyholder

Spain

- Under Spanish law, when the insured is a natural person other than the beneficiary, the life insurance policy proceeds to be received by the beneficiary are subject to Inheritance and Donations Tax (subject to certain exceptions).

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

United Kingdom

- The proceeds from a life insurance policy will fall into an individual's estate on death and trigger an Inheritance Tax (IHT) charge on assets passing. You won't have to pay any IHT on anything you leave to your spouse or civil partner, even if it's above the tax-free threshold. You can also pass on any part of your inheritance tax-free allowance to your surviving partner. That means your partner could then potentially pass on up to £650,000 free from inheritance tax. Assets include any insurance policies not in trust.
- If the owner not the insured die, the cash value on the policy will be taxed as owner's estate.
- According to HMRC HS321 Gains on foreign life insurance policies (2021), income tax is charged on full surrender, maturity, a sale or assignment of insurance policy.

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

United States

- Section 2042 of the United States Internal Revenue Code (IRC) stipulates that a life insurance policy is included in the taxable estate of a decedent if he/she owned the policy (incidents of ownership) at the time of death without regard to the identity of the recipient. There are implications for gift and transfer tax and estate tax liability.
- The whole amount of the death benefit is subject to estate tax if the deceased both owned and was insured by the policy on their date of death. If your spouse is your beneficiary, the life insurance payout is not taxed. If your beneficiary is anyone besides your spouse, such as a child or parent, your life insurance payout will typically be added to the value of your estate
- If the child took out the life insurance policy, or to any beneficiary the child designated. None of the death benefit would be included in the parent's estate and subject to estate tax in this case, because the decedent didn't own the policy

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

United States

- Changing ownership of a life insurance policy is considered a gift to the recipient
- say a husband purchases a life insurance policy for his wife, and their son will be paid the death benefit. Suppose the wife (the insured) dies and the son (the beneficiary) receives the death benefit. In that case, the IRS considers the life insurance payout a gift from the husband (the policyowner) to the son
- life insurance policy would only be considered part of your estate for tax purposes. It would not be included in your estate for other purposes, such as paying creditors
- "incidents of ownership" goes beyond mere ownership of the policy. If you have the right to amend the policy — say, by changing the beneficiaries or you can borrow against the cash value and the right to surrender or exchange the policy

Source: https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/tax/tax-pdfs/ey-final-worldwide-estate-and-inheritance-tax-guide-2022.pdf

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