Should I register a family trust?

Despite various attempts by the Government to intervene, a trust is in appropriate cases still a very effective tool. Various considerations should, however, be kept in mind when a decision is taken as to whether a trust should be registered or not:

Advantages

1. Risk management – transferring assets that could otherwise be attached by creditors to the trust;
2. Saving of income tax by distributing the income of the trust to the various beneficiaries of the trust taxed at a lower rate than, for example, the founder of the trust.
3. Saving estate duty – this is particularly effective where assets with rapidly appreciating values are transferred to the trust (estate duty is currently payable at 20% with the primary rebate fixed at R3 500 000.00).
4. Protection of minors – the trust mortis causa (trust created upon the death of the testator or testatrix) is most commonly used to protect minor heirs by appointing competent trustees to manage the inheritances on their behalf.

Disadvantages

1. Cost implications of registering the trust.
2. Cost implications of transferring assets from the founder or other donors to the trust.
3. The partial loss of control of the founder over his assets.
4. Other considerations, such as the exclusion from capital gains tax on the profits made on the selling of a primary residence, which is only applicable where the primary residence is registered in a natural person's name and not where it is registered in the name of a trust.

Before a trust is registered and used the above and other pros and cons should be carefully considered in the light of the circumstances of each case.

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You can complete a will instruction sheet here: Testament Instruksievel / Will Instruction Sheet