

## Understanding Trusts: Types, Uses, and Key Considerations

| Type of Trust                             | Description   | Primary Function  | When/Why Useful   | Tax/Other Notes  |
|---|---|---|---|--|
| <b>Revocable Living Trust</b>             | A flexible trust where the settlor retains control, often acting as trustee. Assets pass to beneficiaries without probate.  | Avoids probate, provides privacy (trusts aren't public like wills), allows incapacity planning (successor trustee takes over if settlor is disabled). | For anyone with assets who wants to skip probate court delays/costs. Ideal for middle-class estates. Useful in SD for seamless asset transfer.  | Assets remain in settlor's taxable estate, no tax savings during life. No creditor protection since revocable. |
| <b>Irrevocable Living Trust</b>           | Settlor gives up control; can't revoke. Often used for gifting assets.  | Removes assets from estate for tax reduction, asset protection from creditors/lawsuits.   | High-net-worth individuals facing estate taxes (federal threshold ~\$13.61M in 2025 but could change). Protects against Medicaid spend-down for long-term care. In SD, strong for perpetual trusts. | Gift tax may apply on transfer; income taxed to trust or beneficiaries. Provides estate tax exclusion.         |
| <b>Testamentary Trust</b>                 | Activated by will upon death. Often for minors or spendthrifts.   | Controls post-death distributions (e.g., staggered payouts).  | When settlor wants conditions on inheritance (e.g., beneficiary gets funds at age 25). Useful for blended families.   | Goes through probate first; no lifetime benefits. Taxed as part of estate.                                     |
| <b>Charitable Trusts (e.g., CRT, CLT)</b> | Transfers assets to charity, with income to settlor/beneficiaries. Charitable Remainder Trust (CRT): Settlor gets income, charity gets remainder. Charitable Lead Trust (CLT): Reverse. | Tax deductions, supports philanthropy while providing income.   | Philanthropic clients; reduces income/estate taxes. CRTs good for appreciated assets (avoids capital gains).  | Significant tax benefits: deductions up to 30-60% of AGI. Irrevocable.   |
| <b>Special Needs Trust (SNT)</b>          | Holds assets for disabled beneficiaries without disqualifying them from government benefits (e.g., SSI, Medicaid).  | Supplements (not replaces) public aid; pays for extras like education and travel.   | For families with disabled children/adults. First-party (self-funded) vs. third-party (family-funded).  | Assets not counted for eligibility. Taxed to beneficiary or trust.   |

## Understanding Trusts: Continued

| Type of Trust                                    | Description   | Primary Function   | When/Why Useful  | Tax/Other Notes  |
|--|---|--|--|--|
| <b>Asset Protection Trust (APT)</b>              | Shields assets from creditors. Domestic APTs (DAPTs) allowed in states like SD. | Protects wealth from lawsuits, divorce, bankruptcy.                          | Business owners, professionals (e.g., doctors) at litigation risk. SD's DAPT statute allows self-settled trusts with strong protections after 2-year seasoning period. | Irrevocable; must transfer assets in advance. Tax-neutral if grantor-retained.                   |
| <b>Dynasty (Perpetual) Trust</b>                 | Lasts for generations (or forever in some states).                              | Preserves family wealth across generations, minimizes transfer taxes.        | Ultra-high-net-worth families. SD abolished the rule against perpetuities, allowing perpetual trusts — great for your location.  | Avoids generation-skipping transfer tax (GSTT) if properly funded (exemption ~\$13.61M in 2025). |
| <b>Spendthrift Trust</b>                         | Restricts beneficiary access to principal; protects from their creditors.       | Prevents irresponsible spending or creditor claims.                          | For beneficiaries with addiction, poor financial habits, or legal troubles.  | Creditors can't attach unless for necessities. Taxed to beneficiary on distributions.            |
| <b>Bypass (Credit Shelter) Trust</b>             | For married couples; maximizes estate tax exemptions.                           | Shelters assets up to exemption amount for heirs, provides income to spouse. | Couples with estates near federal tax threshold. Less common post-2017 tax changes but still useful.   | Uses deceased spouse's exemption; portable now, but trusts add control.                          |
| <b>Irrevocable Life Insurance Trust (ILIT)</b>   | Holds life insurance policies outside estate.                                   | Excludes proceeds from estate taxes; provides liquidity for heirs.           | High-net-worth with large policies. Fund premiums via gifts.   | Removes policy from taxable estate if settlor survives 3 years post-transfer.                    |
| <b>Qualified Personal Residence Trust (QPRT)</b> | Transfers home to trust while settlor retains living rights for a term.         | Reduces gift/estate tax on home value.                                       | For valuable residences; discounts future value.   | Irrevocable; gift tax on discounted value.   |
| <b>Grantor Retained Annuity Trust (GRAT)</b>     | Settlor retains annuity payments; remainder to heirs.                           | Transfers appreciating assets with minimal gift tax.                         | For assets expected to grow (e.g., stock); "zeroed-out" GRATs minimize tax.  | Success depends on IRS rates; great in low-interest environments.                                |
| <b>Pet Trust</b>                                 | Provides for pets after owner's death.  | Funds care for animals.  | Pet owners without heirs to rely on. Legal in most states, including SD.   | Taxed as part of estate; remainder to charity/heirs.   |