

# Manage your wealth with ‘trust’

## Creation of a will and a testamentary trust can ensure effective succession planning as well as long-term and uninterrupted support for your loved ones

The COVID-19 pandemic has, like none other, reaffirmed the fragility of life. While it is not possible to determine how long one would live, the financial backup we leave for our loved ones is paramount for most of us.

But how do we guarantee that when we are gone, our loved ones do not face any financial disruption? What are the steps we can take today to ensure our wishes are heard and enacted upon after we are gone?

### The answer to this is a Will!

Creating Wills is not a common practice in India. However, we live in an unprecedented time, which has taught us that longevity is not guaranteed, and it is important to prepare for the worst.

According to the Indian Succession Act, 1925, passing on intestate, leads to wealth being divided equally between children (including stepchildren and illegitimate children) and spouse. This could open litigation, which would make an individual's wealth inaccessible to his/her family in the foreseeable future. Having financially dependent siblings or family members, who wouldn't ordinarily be entitled to your estate, also complicates things further. You may also want to make charitable contributions to a cause you believe in or your alma mater, or even provide for people who have served you well in your lifetime – all this is possible only if you have made a Will.

Wills are, therefore, an important document that help take care of your obligations qua your loved ones, related or not. It may be noted that Wills can only cover your self-acquired property and all inherited and HUF properties follow their own succession as per statute.

Wills are also a great way to set up trusts, if required, after demise. While a common type is a family trust, which is set in your lifetime, you can also provide for a testamentary trust, which is set up through a Will as an instrument for achieving some of your objectives after you are gone.



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“ COVID-19 has showed us that life is fragile and longevity is not guaranteed. Wills, while still not a common practice in India, is a necessity for every adult with dependents, irrespective of age. A Will ensures your loved ones' future is secured and they receive adequate support even in your absence.

In your Will, providing for a testamentary trust ensures that you do not commit to structures ahead of time and yet your loved ones receive the financial stability they require in your absence.

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A testamentary trust comes into being on the execution of your Will and accordingly transfers your designated property into a trust. This trust does not come into being until an individual is deceased. To explain, if someone has minor children and wants to ensure that their education and well-being is not disrupted and they continue to receive the required support until they reach majority or finish education, this trust is a perfect alternative. A testamentary trust will come into existence after the individual's demise and will ensure designated assets are put in place to take care of the children's education and other needs. These assets can then be passed on to the children, in a phased manner, after they grow up, instead of being presented to them at once as the beneficiary.

It is also advisable to name trustees to ensure that the trust meets the obligations for which an individual has reposed his/her wealth in them. If you have an executor for your Will, he/she can also be the trustee. You can set up multiple trusts for different family members or causes under the same Will. It is interesting to note that if you draw a testamentary trust in your Will and your children complete their education, attain majority and you feel that the trusts you had contemplated are not required any more, all you need to do is write a fresh Will.

This means you are not committing to any structures until the need actually arises. You can also draw out a Will as many times as you want, and the latest version overrides all the previous versions.

It is never too late to do the right thing – talk to your advisors and plan your Will and understand the relevance of testamentary trusts!

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Should you require any support on the subject, please connect with **Pallavi Joshi Bakhru** ([pallavi.bakhru@in.gt.com](mailto:pallavi.bakhru@in.gt.com)).