CM ADVOCATES LLP



EMPOWERING WOMEN

Securing Legacies through Family Trust

INTRODUCTION

Every March, we celebrate International Women's Month—a time to honour the strength, resilience, and achievements of women in all aspects of life

Today's woman is boldly claiming her space, making strides in business, leadership, innovation, and community development- empowering the next generation of women to fearlessly pursue their dreams and turn them into reality.

As women continue to shape industries, build wealth and achieve financial independence, they must pay attention to what should be done to secure and preserve their hard-earned wealth for generations to come. Estate planning is the key to making that financial independence last.

What is Estate Planning?

Estate planning is the process of structuring and managing one's assets to ensure they are protected, distributed according to one's wishes, and safeguarded against potential risks. It provides the legal and financial tools necessary to maintain control over a person's wealth, minimize tax burdens, and create a legacy that benefits their loved ones throughout multiple generations.

Without proper estate planning, women remain vulnerable to financial instability due to unforeseen circumstances like third-party claims, debt, divorce, or family disputes. That is why it is crucial for every woman to leverage estate planning tools like family trusts to safeguard her assets, secure her family's future, and confidently shape her legacy.

Why a Family Trust is a Game-Changer for Women

A Family Trust is an estate planning tool that allows a person (settlor) to transfer assets into a private trust for the benefit of their designated beneficiaries. These assets are managed by trustees, ensuring that wealth is preserved and passed down in a structured and secure manner.

The modern woman can benefit immensely from family trusts because they provide robust asset protection in situations such as:-

- ***Divorce & Matrimonial Disputes*** – In Kenya, Section 6(2) of the Marriage Act explicitly states that trust property does not form part of matrimonial property. Consequently, trust-held assets are protected from division arising from matrimonial property disputes.

- ***Protection from Creditors*** – Under Section 3F(3)(c) of the Trustee (Perpetual Succession) Act, assets in a trust cannot be claimed by creditors of the settlor, ensuring financial security even in times of business or personal financial difficulty.

- ***Shielding Wealth from Unexpected Heirs*** – Without proper estate planning, hidden claims by extended family members, in-laws, or undisclosed second families can jeopardize a woman's contribution to the family wealth and the legacy intended for her children. Establishing a trust ensures family wealth is managed and distributed according to her wishes, shielding it from claims by unexpected heirs. Trust assets do not form part of a deceased person's personal estate, thus avoiding lengthy succession disputes that often take years to resolve.

- ***Protection from Third-Party Claims and Civil Suits*** -Trust-held assets are safeguarded against various third-party claims such as employment-related disputes, personal injury or accident claims, or other civil liabilities. By placing assets in a trust, women can effectively shield their wealth from unexpected legal actions that might otherwise threaten their financial security.

- ***Future-Proofing Generational Wealth*** – Women work hard to provide for their families, yet too often, wealth is lost within a generation due to poor financial planning. A properly structured trust ensures that assets remain within the family, benefiting children and grandchildren without external interference.

CONCLUSION

It is time for women to redefine their financial stories. Taking control of one's financial future is not just wise, it is essential. By embracing and establishing estate planning solutions like family trusts, women empower themselves, protect their loved ones, and transform their hard-earned wealth into a lasting legacy rather than a fleeting memory.

This Women's Month, choose strength over vulnerability, action over hesitation, and security over uncertainty. Consult a seasoned estate planning expert today and confidently shape the future you and your generation deserves. Wealth is power—let it be your shield, your legacy, and never your vulnerability.

The Wealth and Private Clients team at CM Advocates LLP prides itself in having a wide variety of resources, skills and experience on matters estate planning, wealth management and trust administration within the East African Region. We offer an edge to our clients based on our legacy of having structured, re-structured, amended, and incorporated several forms of trusts and therefore well capable of guiding you through the process of creating a valid family trust.

Should you have any questions regarding the subject of establishing a family trust, or related topic, please do not hesitate to contact us at ***law@cmadvocates.com***.

AUTHOR



Shalma E. N. Maina
Associate Advocate
snyambura@cmadvocates.com

CM ADVOCATES LLP

I&M Bank House, 7th Floor, 2nd Ngong Avenue
P.O. Box 22588 - 00505 | Nairobi, Kenya
T: +254 20 221 0978 | +254 20 221 1077
C: +254 716 209 673
E: law@cmadvocates.com