

## The New Hampshire trust advantage

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Planning for your legacy is important, but more than half of Americans don't have a will. Many are focused on growing their wealth and minimizing taxes today, with little thought of how the structure of their assets or taxes might impact them or their loved ones at their death or disability. If you have spent years building up your wealth, you owe it to yourself and your loved ones to give some thought as to what kind of legacy you would like to leave.

Trusts are an essential part of planning for the protection of your assets. Over the last 15 years, New Hampshire has modernized its laws making it one of the best states in the country to create a trust—here are some highlights of the more useful planning techniques. While both residents and non-residents can utilize these trusts, many require a N.H. trustee for N.H. laws to apply.

### Examples of trusts you can plan

A **Revocable** or **Living Trust** is a trust that provides for the administration of your assets during your lifetime (or if you become incapacitated) and provides for disposition of your assets upon your death. The assets can either go outright to your beneficiaries or continue in trusts which can protect your beneficiaries from their own improvidence. While you're living and competent, you can change the terms and be the trustee.

A **Spendthrift Trust** includes a provision to protect the trust assets from your beneficiary's creditors and to a limited extent in N.H. from his or her spouse.

A **Unitrust** enables a beneficiary receiving income to receive a fixed percentage of the trust each year instead. This gives the beneficiary a more reasonable amount and allows the trust to be invested for total return instead of structuring the portfolio to produce more income.

**Quiet Trust** - In N.H., most trusts can be "Quiet" so you do not have to notify the beneficiaries when it is created. You can also provide a "No Contest Clause" which makes it extremely difficult for your beneficiaries or heirs to challenge the trust provisions.

**Pet Trust** - Trusts can now be created for your pets so that they are financially cared for after your death.

**Trust Decanting** - Once an irrevocable trust is created, it generally cannot be changed; however, in a few states like New Hampshire, an independent trustee has the power to transfer the assets from an existing irrevocable trust into a new irrevocable trust with similar dispositive provisions, but more flexible administrative provisions.

A **Special Needs Trust** is an irrevocable trust created for a disabled beneficiary. If properly drafted and administered, it protects the assets if the beneficiary is receiving government benefits.

A **Dynasty Trust** is an irrevocable trust that continues for multiple generations. In N.H., unlike many states, these trusts can continue indefinitely.

A **Self-Settled Asset Protection Trust** is an irrevocable trust you create for the benefit of yourself that protects a portion of the assets from your own creditors. Most states do not allow asset protection trusts, but N.H. allows them.

**Directed Trusts** divide fiduciary duties and liabilities among the trustee, the investment manager, and the distribution trustee. This is useful when you select different parties, and they are concerned about having liability for each other's acts.

### What about taxes?

N.H. doesn't tax N.H. irrevocable trusts. Assets distributed to beneficiaries are only subject to the N.H. interest and dividends tax if they reside in the state. Revocable trusts are taxed to you in the state you reside, but if you live in N.H., you will only pay a tax on the interest and dividends.

### What to look for in a trustee

The choice of a trustee and successor trustee is extremely important. A trustee should be trustworthy, financially savvy, and ideally understand fiduciary law. In addition, some trusts require an independent trustee who is not closely related to you. To take advantage of N.H. laws, the trust may need to be administered within the state, so your trustee must either reside or be a professional authorized to do business in the state.

If the person you select as trustee is not financially savvy, you may want to select

an investment manager with fiduciary experience to manage the assets and help navigate the complexities of administering a trust.

### Start planning your legacy

Whether you are a N.H. resident or live out of state, with proper planning, you can establish trusts in N.H. that protect and preserve your assets, creating the kind of legacy you would like to leave to your family, favorite charities, or other beneficiaries.

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