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TEMPLARS ThoughtLab

Building a Legacy: *Trusts for Wealth Preservation and Succession Planning in Nigeria*

Introduction

Building wealth is one challenge and preserving it across generations is another. For business owners and wealthy families, the real test is ensuring that succession does not fragment ownership, undermine business continuity or turn family disagreements into lasting disputes.

The need for effective succession planning is becoming more pressing. Many founder-led businesses are approaching a generational transition, more families hold assets across borders, and the Nigeria Tax Act 2025 and the Money Laundering (Prevention and Prohibition) Act 2022 have sharpened the focus on taxation, transparency and reporting. In this environment, trusts are increasingly used not merely as estate-planning tools, but as practical governance structures that support continuity, orderly decision-making and the protection of beneficiaries.

This article examines how trusts can support wealth preservation and succession planning, the principal structures available to Nigerian business owners and high-net-worth families, and how trusts compare with wills and other wealth-planning arrangements. It also considers the implications of family property, customary law and beneficiary disputes, the applicable legal, tax and regulatory requirements, and when a simpler arrangement may be more appropriate.

Why Trusts Are Increasingly Relevant to Nigerian Private Wealth

Three developments highlight the importance of early trust planning. First, many significant Nigerian businesses remain founder-led, making succession planning essential to business continuity and the orderly transfer of ownership and control. Where a founder's shares pass to several heirs, a previously concentrated shareholding may become fragmented, with competing interests, divided voting rights and uncertainty over leadership. A will can provide for the transfer of ownership, but it does not, on its own, establish a framework for managing the transition or keeping the shareholding together. Without such a framework, differences among family members, shareholders and management can escalate into governance disputes, complicate decision-making and ultimately undermine the stability and value of the business.

Second, Nigerian private wealth is increasingly diversified across jurisdictions and asset classes, spanning operating businesses, real estate, securities, offshore accounts and digital assets. These assets differ in how they are held and transferred, how they generate income and how they must be managed. A trust can provide a common governance framework for managing and preserving this wealth, while allowing rules to be tailored to the nature of each asset and the objectives of the family.

Third, families increasingly want succession arrangements that address not only who inherits wealth, but also how the wealth is managed, distributed and preserved across generations. A well-structured trust can set clear distribution criteria, allocate decision-making authority, protect the interests of young or inexperienced beneficiaries and preserve the value of a family business or investment portfolio. Muslim families may also consider a *waqf* or a trust structured to align with Islamic law, provided that the arrangement is carefully designed to reflect the family's succession objectives and comply with applicable personal law.

The significance of a trust lies in its ability to separate the ownership, management and enjoyment of assets within a single legal arrangement. Rather than transferring assets outright to beneficiaries, the settlor can establish rules governing how those assets are held, managed and distributed, while entrusting their administration to trustees. This can be particularly valuable where beneficiaries have different levels of financial maturity, where a family business must remain under a coherent ownership structure, or where wealth is intended to support successive generations. A trust can therefore provide a degree of continuity and structured decision-making that an outright transfer of assets may not achieve.

A trust nevertheless serves a different purpose from other wealth-planning arrangements and should not be regarded as a universal substitute for them. A will determines how property forming part of a person's estate is to devolve on death, while a shareholders' agreement can regulate the relationship between shareholders without necessarily addressing the wider management and distribution of family wealth. A holding company may consolidate ownership of business and investment assets, but does not, by itself, determine how the economic benefits of those assets should be applied for family members. A trust may complement these arrangements by providing a framework for the long-term ownership, management and distribution of wealth. The appropriate structure will depend on the assets involved, the desired degree of control, the needs of the beneficiaries and the costs and legal implications of the arrangement.

Types of Trusts and When to Use Them

The appropriate trust structure depends on when the trust is established, the assets involved, the intended beneficiaries and the objectives the settlor wishes to achieve. Understanding these distinctions is important because the choice of structure affects the timing of asset transfers, the degree of control retained by the settlor and the arrangements for administering and distributing the trust property.

An *inter vivos* trust is established during the settlor's lifetime. It can facilitate the transfer of assets into a managed structure before succession becomes necessary, allowing the settlor to establish the governance arrangements and distribution principles that will apply to the trust property. This may be particularly useful for business owners seeking continuity in the ownership of shares, or families wishing to provide for beneficiaries over an extended period. The effectiveness of the arrangement depends on its proper constitution and the transfer of the relevant assets to the trustees.

A testamentary trust is created under a will and generally takes effect following the testator's death, subject to the applicable legal and probate requirements. It may be appropriate where the testator wishes to provide for beneficiaries through structured distributions rather than outright inheritance. For example, a testamentary trust may provide for the maintenance and education of younger beneficiaries while preserving the underlying capital for their future benefit. Unlike an *inter vivos* trust, it does not ordinarily provide a mechanism for managing the relevant assets during the testator's lifetime.

A family trust is generally designed to hold and administer assets for the benefit of specified family members or an identifiable class of beneficiaries. Depending on its terms, it may support the preservation of family investments, provide for different generations and establish rules governing distributions and decision-making. The term describes the trust's intended beneficiaries and objectives rather than a distinct legal form, and the trust must still be properly constituted under the applicable law.

An offshore trust is established under the law of a foreign jurisdiction and may be considered where a family holds assets in multiple countries or has particular cross-border succession and wealth-management requirements. Such an arrangement requires careful consideration of the governing law, tax residence, reporting obligations, asset-transfer requirements and the treatment of the trust in Nigeria and each other relevant jurisdiction. Establishing a trust offshore does not, by itself, remove Nigerian tax or regulatory obligations, nor does it guarantee greater asset protection.

These arrangements are not necessarily mutually exclusive. A family may, for example, establish an *inter vivos* family trust during the founder's lifetime and also provide for a testamentary trust under a will for assets that remain in the estate. The central consideration is whether the chosen structure achieves the intended succession and wealth-management objectives in a legally effective and commercially practical manner.

Trusts, Wills and Succession Planning

Trusts and wills are complementary succession-planning tools, but they serve different purposes. A will directs how property forming part of the testator's estate devolves on death, subject to applicable law and the estate-administration process. A trust, by contrast, provides a framework under which trustees hold and administer property in accordance with the terms of the trust. Where assets have been validly transferred to trustees during the settlor's lifetime, those assets will generally no longer form part of the settlor's estate, so they are administered under the trust rather than the will and need not await a grant of probate. That transfer may, however, still be challenged, for example where the settlor lacked capacity or authority to transfer the asset, or where the transfer was made to defeat creditors.

The distinction is particularly important where a family business or investment portfolio requires continuity. Consider a founder who owns 80% of a private company and has four children, only one of whom works in the business. A will may divide the shares equally, leaving the children to exercise their voting rights separately and potentially in conflict. A properly structured trust may instead allow trustees to hold the shares as a single block, exercise the voting rights in accordance with agreed principles and apply dividends for the benefit of all four children. This can help preserve coherent ownership, although the trustees must act within their powers and comply with the company's articles of association and applicable law.

A trust does not necessarily eliminate the need for a will. Assets that have not been transferred into the trust may remain part of the settlor's estate, and a will may still be required to address those assets and other matters arising on death. Similarly, the creation of a trust does not automatically eliminate the possibility of disputes, nor does it dispense with the legal requirements applicable to the transfer of particular assets. The relevant ownership, succession and estate-administration arrangements must therefore be considered together.

For many families, the most appropriate approach may be to combine a will with one or more trusts and, where relevant, corporate and contractual arrangements. The objective should be to ensure that the different instruments operate consistently, avoid conflicting provisions and provide a workable framework for the transfer, management and preservation of family wealth.

Family Property, Customary Law and Beneficiary Disputes

In Nigeria, succession planning must account for the nature of the property, existing ownership rights and the succession rules that apply to the individual, which may be statutory, customary or Islamic depending on the person's circumstances and the form of any marriage. Before transferring assets into a trust, the settlor should confirm title, authority to transfer and any third-party rights or restrictions.

Customary law may affect both the ownership and the devolution of family property. Property that is family property under customary law is not the individual property of any one member and generally cannot be transferred into a trust without the consent of the family, acting through its head and principal members. Testamentary freedom is also limited in some cases as State Wills Laws may restrict dispositions of property that cannot be disposed of by will under customary law, and under Islamic law a Muslim may generally dispose of no more than one-third of the estate by will. Customary rules are, however, subject to the Constitution.

In *Ukeje v Ukeje*,[1] the Supreme Court held that a customary rule excluding daughters from inheriting their father's estate was discriminatory and unconstitutional. A trust should therefore be structured with regard to these rules and cannot be used to override rights that others already hold.

Trusts can reduce uncertainty by establishing clear rules for asset management, decision-making and distributions among beneficiaries. They cannot, however, eliminate disputes arising from contested ownership, unclear drafting or disagreements over how trustees exercise their powers. Careful drafting should clearly identify the beneficiaries, define the trustees' powers and duties, and establish workable procedures for distributions, decision-making and the resolution of disagreements, coordinated where appropriate with the family's corporate governance and succession-planning arrangements.

What Assets Can Be Held in Trust?

Subject to applicable law and the nature of the asset, a broad range of property may be held in trust, including shares in private companies, real estate, investment portfolios, cash and bank deposits, intellectual property, royalties, digital assets, life insurance policies and assets located outside Nigeria.

For business owners, placing shares in a private company in trust can promote continuity of ownership, facilitate succession and reduce the risk of fragmentation or disputes among beneficiaries. Before transferring shares, however, it is important to review the company's articles of association and any shareholders' agreement, including transfer restrictions, pre-emption rights and any regulatory approvals required for the company's sector.[2] These may affect both the validity of the transfer and the subsequent exercise of shareholder rights.

The effectiveness of a trust also depends on how each asset is transferred, held and administered. A transfer of land generally requires the Governor's consent under section 22 of the Land Use Act 1978, followed by stamping and registration of the instrument of transfer. Investment portfolios and digital assets require appropriate custody arrangements and clear investment mandates, while life insurance policies must be assigned or nominated in accordance with their terms. Intellectual property should be supported by clear records of ownership and, where relevant, licensing arrangements. Cash and bank deposits must be held in accounts opened in the trustees' names and administered in accordance with the trust instrument and the applicable banking arrangements.

Where the trust holds assets in several jurisdictions, additional care is required to ensure that the structure is effective and properly administered in each relevant jurisdiction. This may involve addressing local ownership and transfer requirements, tax treatment, regulatory approvals, reporting obligations, custody arrangements and applicable foreign-exchange rules. Addressing these issues early helps avoid a structure that is validly established but difficult to operate in practice.

Key Steps in Establishing a Trust

Establishing a trust begins with a clear understanding of the settlor's succession and wealth-management objectives, rather than simply a list of assets. The first step is to determine which assets require continuity of ownership, structured management or protection across generations, and whether a trust offers enough advantages to justify its legal, tax and administrative costs.

The choice of trustees is equally important. A professional or corporate trustee, such as a trust company registered with the Securities and Exchange Commission, may offer independence, established administrative systems and continuity, while a family member or trusted adviser may bring a deeper understanding of the family and its business interests. Many families combine the two. The right choice will depend on the complexity of the trust, the level of oversight required and the relationships among the settlor, trustees and beneficiaries. Whoever is appointed will owe fiduciary duties and must be willing and able to discharge them over the long term.

[1] (2014) 11 NWLR (Pt 1418) 384
[2] Companies and Allied Matters Act 2020, s 22 (restrictions on the transfer of shares in private companies) and the provisions of the Act governing the transfer and transmission of shares.

The governance framework should also be established at the outset. This includes determining whether the settlor should retain any powers to appoint or remove trustees, add beneficiaries or issue investment directions, and whether a protector or family council will have a role. Establishing a trust does not necessarily require the settlor to give up all involvement, but reserved powers must be carefully limited. If the settlor retains too much control, the trust may be treated as a sham, its assets may be treated as still belonging to the settlor, or the intended tax and legal treatment may not be achieved.

A trust is not, however, the right solution in every case. Where the wealth involved is relatively modest, or the assets and objectives are straightforward, a well-drafted will, a holding company or another simpler arrangement may achieve the desired outcome at lower cost and with less administration.

Where a trust is appropriate, the following roadmap provides a practical starting point:

S/No.	Practical Step	Details
1.	Define the objectives and identify the beneficiaries	Determine the succession, wealth preservation and management objectives the trust is intended to achieve, including the beneficiaries.
2.	Identify the assets and assess the legal and tax implications	Confirm ownership of the proposed trust assets, assess any restrictions on their transfer, and consider the applicable tax, regulatory and cross-border implications.
3.	Select the appropriate trust structure	Determine whether an *inter vivos*, testamentary, family or offshore trust, or a combination of arrangements, best meets the identified objectives.
4.	Select the trustees and establish the governance framework	Appoint suitable trustees, define their powers and responsibilities, and settle any reserved powers of the settlor and the role of any protector or family council.
5.	Prepare and execute the trust instrument	Ensure that the trust deed or other constitutive instrument clearly establishes the trust, identifies the relevant parties and property, and sets out the terms governing its administration.
6.	Transfer the assets and complete the necessary formalities	Complete the required transfers, registrations, consents and other perfection steps, and establish appropriate custody, banking and record-keeping arrangements.
7.	Establish ongoing administration and review	Maintain accurate accounts and records, document trustee decisions, monitor compliance with applicable legal and tax obligations, and periodically review the trust to ensure that it continues to meet its objectives.

Legal, Tax and Regulatory Considerations

Tax implications should be assessed before a trust is executed and funded. The analysis should cover the transfer of assets into the trust, income and gains arising during its administration, distributions to beneficiaries, subsequent disposals and the eventual termination of the trust. The Nigeria Tax Act 2025, which took effect on 1 January 2026, contains provisions on the taxation of settlements, trusts and estates and on the obligations of trustees.[3] The precise treatment will depend on factors such as the residence of the parties, the location and nature of the assets, the source of income and the powers retained by the settlor. Obtaining appropriate tax advice at the outset can help avoid unintended liabilities and ensure that the proposed structure achieves its intended objectives.

The transfer of assets into a trust may also require compliance with applicable consent, registration, stamp duty, valuation and sector-specific requirements. Share transfers must comply with the company's articles of association, any shareholders' agreement and applicable law. Depending on the assets involved and the nature of the arrangement, further obligations may arise under securities, banking and anti-money-laundering regulation.[4] These issues should be addressed during the initial structuring exercise rather than deferred until the trust is ready to be funded.

[3] Nigeria Tax Act 2025, in particular the provisions on settlements, trusts and estates and the related schedule.
[4] Money Laundering (Prevention and Prohibition) Act 2022; Securities and Exchange Commission (Anti-Money Laundering, Combating the Financing of Terrorism and Countering Proliferation Financing of Weapons of Mass Destruction in Capital Market) Regulations 2022.

Confidentiality is another important consideration, but it should not be confused with secrecy. A trust deed is generally a private document and, unlike a will admitted to probate, need not become publicly accessible. However, banks, trust companies and other regulated service providers are required to identify and verify the settlor, trustees, any protector, the beneficiaries and any other person exercising effective control over the trust, to establish the source of funds and wealth, to keep records and to monitor transactions. Beneficial-ownership requirements are particularly relevant to discretionary and offshore trusts, where the distinction between legal ownership, beneficial interests and effective control can be more complex.[5] The privacy a trust can offer must therefore be assessed against these disclosure and reporting obligations.

Cross-border funding and distributions require equally careful planning. The arrangements should take account of foreign-exchange regulations, the currencies in which payments may be made, and the documentation required for the receipt, investment or repatriation of funds. A trust may be validly established yet prove difficult to operate if the movement of funds between jurisdictions has not been properly addressed.

These considerations show why establishing a trust requires more than selecting a structure and executing a trust deed. The intended benefits may be undermined if assets are not properly transferred, if the trust conflicts with existing ownership or governance arrangements, or if its administration does not keep pace with changes in the family, the business or the regulatory environment. The practical challenge is not only to establish the trust correctly, but also to ensure that it continues to operate as intended.

Common Pitfalls and How to Avoid Them

Establishing a trust is only the first step; its effectiveness depends on how well it is maintained as circumstances change. Businesses evolve, beneficiaries relocate, trustees retire, assets are disposed of and tax laws change. The trust deed should therefore provide sufficient flexibility to accommodate changing circumstances without undermining the trust's original purpose. This should be supported by regular trustee meetings, properly documented decisions, reliable financial records and periodic legal and tax reviews. The table below highlights common pitfalls and practical measures for avoiding them.

S/No.	Common Mistake	How to Avoid It
1	Overlooking corporate governance arrangements	Ensure that the trust deed is consistent with the company's articles of association, shareholders' agreement and other relevant governance arrangements, including any applicable board and family governance rules.
2	Failing to provide for liquidity needs	Align anticipated distributions with the trust's available cash flow and investment strategy, while making adequate provision for beneficiaries' recurring needs and exceptional expenses.
3	Assuming that an offshore trust eliminates Nigerian obligations	Assess the applicable tax, ownership, foreign-exchange and reporting requirements in each relevant jurisdiction, taking account of the parties, assets and transactions involved.
4	Failing to review the trust as circumstances change	Establish a periodic review process and maintain accurate accounts, properly documented trustee decisions and appropriate communications with beneficiaries.
5	Retaining excessive control over trust assets	Clearly define the settlor's reserved powers and the trustees' responsibilities in the trust deed. Ensure that the trustees exercise their own judgement in accordance with the deed and keep the trust assets separate from the settlor's personal affairs, while respecting any properly reserved powers.

[5] Money Laundering (Prevention and Prohibition) Act 2022; Financial Action Task Force, *Guidance on Beneficial Ownership and Transparency of Legal Arrangements* (March 2024).

6	Assuming that a trust provides absolute protection from creditors or legal claims	Establish the trust for legitimate wealth-management and succession purposes, ensure that assets are properly transferred, and assess existing liabilities, third-party rights and applicable rules governing challenges to asset transfers. Avoid arrangements intended to defeat creditors or other lawful claims.

Conclusion

For Nigerian business owners and families, trusts can be an effective means of preserving wealth, facilitating succession and providing a structured framework for the ownership, management and distribution of assets across generations. Their particular value lies in the ability to establish clear rules for managing assets and providing for beneficiaries, while supporting continuity in family businesses and reducing the risk of fragmented ownership. Depending on the objectives pursued, a trust may complement a will, a holding company or other succession-planning arrangements, rather than replace them.

The right structure will depend on the nature and location of the assets, the needs of the beneficiaries, the degree of control the settlor wishes to retain, and the legal, tax and administrative implications. *Inter vivos*, testamentary, family and offshore trusts serve different purposes, and their suitability must be assessed against the family's circumstances and long-term objectives. A trust must also respect existing ownership rights, family property arrangements and applicable customary and Islamic law; it does not override those rights or rule out litigation. Its effectiveness depends on proper structuring, valid transfers of assets and administration consistent with the trust instrument and the law.

A trust is not a universal solution. For some families, it provides the continuity, governance and flexibility needed to preserve wealth across generations; for others, a will or a simpler arrangement will achieve the desired outcome more effectively and at lower cost. The starting point should therefore be a clear assessment of what the family or business seeks to achieve, followed by the choice of a structure capable of delivering those objectives within the applicable legal and regulatory framework. With appropriate professional advice, careful structuring, proper implementation and disciplined ongoing administration, a trust can form a valuable part of a broader wealth-preservation and succession strategy, helping to protect value, manage competing interests and provide greater certainty for future generations.

If you require any further information, do not hesitate to contact us.