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# The (Quick) Skinny on Charitable Trusts

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I saw a case I thought would serve as a good example of the complexities of creating a charitable trust.

In regards to what it is, a charitable trust is just that. A trust established for charitable purposes. Some creators opt to create a charitable trust, rather than a tax-exempt corporation or unincorporated association, to carry out this charitable purpose. Trusts can be created while an individual is alive, or once they've deceased, and come in a variety of forms.

Trust property, which can be money or other forms of property, is transferred by an individual (the settlor) for a third party to hold and monitor in trust (the trustee). The positive in taking this route is that the trust must be carried out as the settlor has dictated (unless the purpose is illegal or involves criminal acts). And I can't tell you how many questions I get from people wanting to ensure that their desires for an organization are carried out with little interference. Another neat thing is charitable trusts may, in some instances, be converted into non-profit corporation later on. But there are a couple of pit-falls:

- In order to amend a charitable trust judicial interference is needed. So, if a settlor creates a charitable trust to further research on whether Amazonian polar bears exist, and they don't, a court proceeding must then take place in order for the trust to be modified so that it may carry-out a similar charitable purpose. Often called a cy pres proceeding.
- The same applies if the trust is created for the benefit of a charitable organization that has to terminate (which was the case [here](#)).
- A court proceeding is also required to remove a trustee.

- As an interesting side-note, in Texas the Attorney General is allowed to intervene in a proceeding involving a charitable trust.
- What works now may not necessarily work later. Some trusts come with pretty hefty instructions. And there have been instances where the trust begins to become a hindrance to itself. But the transactional costs of amending can be hefty and, in some instances, keep an organization from going in a new and healthier direction.
- Charitable trusts are not tax-exempt. Rather, the IRS treats them like a private foundation. Meaning termination, and governing instruments can be more onerous.

Just a quick overview. The logistics of creating a trust are a bit much and I wouldn't think to reiterate them fully unless I was trying to sedate. But it is good to know about other avenues of fulfilling one's charitable desires.