

- Urgent orders are e-mailed that day. Otherwise, documents will be sent to you by e-mail within 48 hours of receipt of the order.
- Price includes telephone support & all supporting documents.
- Liability for the taxation or asset protection issues is not accepted unless we have been asked to and given you a written advice.
- For fees on general commercial work, please telephone us to discuss your needs.

## Order Form for Single Family Discretionary Trust (Human Trustees)

1 Trustee's (parents) full name and address

Name \_\_\_\_\_

Address \_\_\_\_\_

2 Name of trust \_\_\_\_\_

3 Date documents will be signed \_\_\_\_\_

4 Place of Meeting \_\_\_\_\_

5 Full name and address of settlor

Name \_\_\_\_\_

Address \_\_\_\_\_

6 If the trustee is a sole trustee:

(a) is another party together with the trustee to be an appointor? Yes  No

If Yes, name of other appointor:

(b) full name of spouse:

if 6(b) n/a do you want a provision in the deed for a future spouse to be a beneficiary? Yes  No

7 Full names of trustees' children

\_\_\_\_\_

8 Names of other family entities to be listed as potential beneficiaries

\_\_\_\_\_

9 Please note that we normally only send documents to you by e-mail in PDF format. If you don't want them sent by e-mail please cross the box and we will post them to you.

10 Have you considered section 109XA of the ITAA 1936? Yes  No

11 Will the trust conduct a business? Yes  No

12 Do you want to register the trust deed at the Dept. of Land & Property Information? Yes  No

Unless you tell us otherwise, the standard trust deed structure as set out in the attached notes will be used.

Name of Firm \_\_\_\_\_

Contact at Firm \_\_\_\_\_

Email Address (to send documents) \_\_\_\_\_

Address \_\_\_\_\_

Postcode \_\_\_\_\_

Telephone \_\_\_\_\_

Facsimile \_\_\_\_\_

# Single Family Discretionary Trust (Human trustees)

## IMPORTANT NOTES

1. This trust is only suitable if the appointor (together with the trustees) is to have total control of the trust, other than possibly for replacement of the trustee. It is generally suitable for single families but never for more.
2. The settlor must be independent of the trustees and the appointor. The settlor must pay \$10 to create the trust from his or her own funds. The payment must not be refunded in cash or in kind. The settlor must not be a beneficiary or someone that you may want to be a beneficiary. We recommend that the settlor not be the accountant or professional adviser for the trust.
3. The appointor is normally the trustee and if there are more than 2, each of them acting jointly. The appointor has the power by their Will to nominate capital beneficiaries and the vesting date. The appointor should consider including the Will powers in the appointor's Will.
4. The appointor is also the party with the power to replace the trustee. The present law provides that an appointor's powers cannot be exercised by the appointor's trustee in bankruptcy to replace the trustee and vest the trust's assets in favour of a bankrupt beneficiary's estate. If bankruptcy of an appointor becomes an issue, if enough notice is given it can possibly be managed by changing the trust deed before bankruptcy happens.
5. Each appointor will have the power to nominate someone in their place.
6. The trustees are usually husband and wife. If the trust carries on a business, you need to consider the trustee's potential personal liability for trust debts. We normally suggest a company act as trustee of the trust, particularly where the trust carries on a business, but this too can have its limitations.
7. The trustees are potential beneficiaries (first group beneficiaries) as are the second and third group beneficiaries and the discretionary beneficiaries. In addition, they are all default beneficiaries in that order.
8. The first group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise, normally a husband and wife for whom the trust has been set up.
9. The second group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise and if both the first group beneficiaries have died. Normally they are the first group beneficiaries' (first trustees') children.
10. The third group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise and if the first and second group beneficiaries have died. They are the grand children and further issue of the first group beneficiaries.
11. The discretionary beneficiaries are additional beneficiaries who are entitled to income and capital if the trustee decides but not otherwise, and they are:
  - (a) spouses (including defactos) of the first and second group beneficiaries
  - (b) any persons or companies (whether beneficially or as trustees) as the appointor may appoint by written or oral notice to the trustees (providing it does not cause a resettlement)
  - (c) any religious institution or charity
  - (d) any trust of which a beneficiary is a beneficiary
  - (e) any proprietary company in which a beneficiary is a shareholder
  - (f) any deceased estate of which a beneficiary is a beneficiary