

Family Discretionary Trust Fact Sheet

A trust is a legal structure that allows one or more people (or companies) to manage property for someone else's benefit.

They are a good way to protect your assets, which is why many people choose to run their family business or manage their family assets through a trust.

They are set up to allow the person (or people) managing the trust to choose who can benefit from the trust and how much money the beneficiaries will receive.

In most cases, one or more family members will manage the trust for the benefit of the family as a whole.

At Murfett Legal, we can help you set up a Family Discretionary Trust. Before we do, there are a number of important decisions that you will need to make.

Dealing with family financial matters can sometimes be a delicate task, we have therefore put together the following fact sheet so that you are aware of exactly what is involved and what information you will need to provide us with.

Step 1: Decide who controls the trust.

The Appointor controls the Trustee and therefore controls the trust.

They can dismiss the Trustee at any time.

The Appointor can also be the trustee. It can also be a company.

Step 2: Decide who will be the Guardian.

The Guardian consents to trust distributions and amendments to the Trust deed.

He or she acts as a further check on the power of the Trustee.

The Guardian is often the same person as the Appointor, but does not need to be.

Step 3: Decide who will be the Settlor.

This is the person that legally establishes the trust but will never be a beneficiary.



Step 4: Decide who will be the Trustee.

The trustee controls the Trust but is subject to the Appointor's and Guardian's powers.

The Trust assets are usually in the name of the Trustee.

The Trustee can be a company or a person.

The Appointor, Guardian and the Trustee can be the same person.

Step 5: Decide what happens after the Appointor(s)/Guardian dies.

You will need to appoint someone to take over as Appointor/Guardian in the event that the original Appointor/Guardian dies.

This can be done in the Trust deed or by nomination in the Appointor/Guardian's Will.

Step 6: Decide who gets the income of the Trust if the Trustee doesn't make a distribution.

There needs to be a default person or persons named to take the income if the Trustee fails to make a distribution.

These people are referred to as the Specified Beneficiaries.

In a Family Trust, the Specified Beneficiaries are often the husband and wife and/or their children.

Step 7: Decide on the name of the Trust.

Other Important Information:

Fees involved are \$715 including GST, but plus disbursements (for 2 bound copies of the Trust Deed).

There is an additional cost if you require a corporate trustee (i.e. a company) to establish. This will be \$1,320 including GST and also includes a full company folder, Constitution, minutes and all required ASIC forms.

Changes to these instructions will incur additional costs..

Need More Clarification?

Feel free to get in touch by calling us on [\(08\) 9388 3100](tel:0893883100) or emailing us at reception@murfett.com.au .