



FTL Estate Services

Discretionary (Family) Trusts

What is a Discretionary trust?

A discretionary trust is an entity that has a Trustee (a person or company that controls the trust) and beneficiaries, the latter being those persons entitled to share in the income and capital of the trust.

Assets of the trust can include any asset normally held by an individual.

The Trustee legally controls the assets of the trust and it is at their discretion to whom the income or capital from the trust is distributed from time to time. The Trustee however does not own the assets; they belong to the beneficiaries. The Trustee uses the assets on behalf of the beneficiaries and must act in their interests.

The beneficiaries are the persons or entities for which the Trustee acts. They can be individuals, other entities, companies or charities, but in the typical family trust will be members of a family group.

Discretion

The trust document (deed) gives the Trustee the right to allocate each year's net trust income among the range of beneficiaries within the trust in the discretion of the Trustee.

A beneficiary cannot insist on an allocation of income. The Trustee also has the power to allocate and distribute capital from the trust to the beneficiaries.

The Trustee's role can be controlled by an "Appointor" who has the power to appoint and remove a Trustee.

Distribution (vesting) of the Trust

The trust, except in certain States, cannot run indefinitely. Normally it will continue for up to 80 years and then the assets (or remaining assets) are distributed to the beneficiaries.

Advantages

- Flexibility in relation to distribution of income and assets among family members with possible tax savings due to income being distributed to lower taxed individuals.
- Assets in a family trust are generally not considered for pension purposes, unless distributed, and can therefore play a vital role in estate planning.
- Assets within the trusts make it more difficult to be attacked by creditors.
- It can be a useful means of separating assets in a de-facto relationship to ensure the assets are left to the de-facto's family

Further details can be found in our brochure "Estate and Succession Planning services" or by contacting your local FTL Estate Services office or national free-call 1800 623 530.

www.flinderstrustees.com.au

The above is intended to provide general information only and must not be taken or used as advice when preparing any document.