



Understanding... Family Trusts

We all want to keep more money in our pockets. Family trusts provide one very popular way to legally minimise your tax and protect your assets.

What is a family discretionary trust?

A family trust is actually not a separate entity like a company. A trust is more correctly a legal relationship between the trustee (which may be a person or a company), assets (the trust property) and other people (the beneficiaries). A properly drafted trust deed provides flexibility in deciding who benefits from the income the trust earns and from capital gains.

These days trusts are used for two main purposes - income tax minimisation and asset protection.

So what can be done to minimise your tax?

Income tax minimisation is all about ensuring that the income of an entity is taxed at the lowest possible legal rate. So, if you are earning an income and your spouse is not, a family trust opens the door to dividing the income, and therefore being taxed at overall lower rates between you.

While all of your tax issues should be referred to your accountant, an example of tax minimisation may be that if your business is conducted through a trust rather than via a company, then the trust may distribute its income to individuals (for example your spouse or partner) whose marginal rate may only be 18.5%, as opposed to paying income tax at the company rate (if your business was owned by a company) of 30%. In this way you can take advantage of your partner's low marginal tax rate and tax-free threshold.

What about asset protection?

A family discretionary trust puts a firewall between you and your hard earned assets, and the possibility of them deteriorating in any unforeseen legal action. It is particularly useful if you have a high-risk business venture, and is an ideal option for entities from farmers to small business owners, professionals to self-funded retirees.

murdoch
lawyers



How can we help?

At Murdoch Lawyers we pride ourselves on our holistic approach to client care. Our clients value our good service, availability and down-to-earth practical advice. We see you as someone with a complex array of needs and requirements, rather than a person who presents with just one legal issue.

We will work with you and your accountant to decide if a trust structure is what's best for you. Items we address include:-

- making sure it's correctly set up from the start;
- making sure the trustees are aware of exactly what's in the trust fund and of their responsibilities;
- what happens if there is a debt and so on.

What costs are involved?

There are some ongoing costs which vary in addition to the initial establishment costs and depending on the ultimate structure chosen. The ongoing costs will include annual accounting and record keeping fees as well as an annual fee payable to ASIC, if a company was established to be the trustee of the Trust.

A structure consisting of two entities - a corporate discretionary trust with a corporate trustee and a separate investment company - may provide the ideal structure for a small business that will also make some investments, but will obviously be more costly to administer than a single entity.

The costs really need to be weighed up against the possible tax savings and asset protection that a trust may provide.

Need to know more?

Telephone 4616 9898 to make an appointment or to speak to a member of our Asset Strategies Group.

For more information,
please contact:-

murdoch
lawyers

138 Margaret Street
PO Box 963
Toowoomba Qld 4350
Ph: 07 4616 9898
Fax: 07 4632 6600
www.murdochlawyers.com.au
Email: info@murdochs.com.au

