TRUST STRUCTURES EXPLAINED

Your Complete Guide to Wealth Protection & Tax Optimisation

Understanding trusts is essential for effective wealth management, asset protection and tax optimisation. This comprehensive guide will help you navigate the complex world of trusts and discover how they can benefit your financial future

What Are Trusts?

UNDERSTANDING THE FUNDAMENTALS

A trust is a legal relationship where one party, the trustee, holds and manages assets for the benefit of others, the beneficiaries.

A trust isn't a separate legal entity like a company, but it's treated as a taxpayer for some purposes. It acts like a **protective wrapper** around assets, giving the trustee the power to control how income and capital are used and distributed.

Common Uses for Trusts:

▶ Asset protection: Keeping family wealth separate from personal liabilities or business risks.

▶ Estate planning: Allowing smoother transfer of wealth across generations.

▶Tax planning: Distributing income to beneficiaries in lower tax brackets to optimise the overall family tax outcome.

Trusts offer a unique combination of **flexibility, protection and tax efficiency** that makes them an essential tool for serious wealth builders.

How a Trust Structure Works

VISUAL OVERVIEW

FAMILY TRUST
Annual Income: $135,000
Rental • Dividends • Business Profits

TRUSTEE
Decides distributions to minimize tax

$0	**$45,000**	**$45,000**	**$45,000**
WORKING SPOUSE	**NON-WORKING SPOUSE**	**ADULT CHILD**	**CORPORATE BENEFICIARY**
Salary: $135,000 Distribution: $0	Rate: 16% | Tax: $4,288	Rate: 16% | Tax: $4,288	Rate: 30% | Tax: $13,500

Note: Working spouse receives $135,000 salary from company (taxed separately)

Australian Individual Tax Rates 2025-26

Taxable Income	Tax on This Income
$0 – $18,200	Nil
$18,201 – $45,000	16¢ for each $1 over $18,200
$45,001 – $135,000	$4,288 plus 30¢ for each $1 over $45,000
$135,001 – $190,000	$31,288 plus 37¢ for each $1 over $135,000
$190,001 and over	$51,638 plus 45¢ for each $1 over $190,000

Detailed Tax Calculations

UNDERSTANDING THE NUMBERS

Without Trust - Individual Earning $270,000:

Single Individual - $270,000 (Salary + Trust Income)

Tax: $51,638 + ($80,000 × 45%) = $87,638 | **Medicare:** $5,400 | **Total: $93,038**

With Trust - Strategic Distribution + Salary Structure:

Working Spouse - Salary $135,000
$4,288 + ($90,000 × 30%) = **$31,288 tax | Distribution: $0**

Non-Working Spouse - $45,000
($45,000 - $18,200) × 16% = **$4,288**

Adult Child - $45,000
($45,000 - $18,200) × 16% = **$4,288**

Corporate Beneficiary - $45,000
$45,000 × 30% = **$13,500**

Tax Savings Analysis:

❌ **Without Trust**
$93,038

VS

✅ **With Trust**
$53,364
$31,288 + $4,288 + $4,288 + $13,500

Annual Savings
$39,674

Strategic Benefits: The trust structure provides **$39,674 in annual tax savings** (43% reduction), plus significant non-tax benefits: asset protection, business ownership within trust, flexible distributions, and estate planning advantages. The working spouse receives a commercial salary while trust income is distributed efficiently to family members in lower tax brackets.

Different Types of Trust

FINDING THE RIGHT STRUCTURE

There are several trust types, each with **unique rules and applications**:

🏠 Discretionary (Family) Trust

The most common structure for families and small business owners. The trustee has full discretion each year about how to distribute income and capital among eligible beneficiaries.

Key benefits: **Flexibility in income distribution**, strong for family wealth building and tax management.

📈 Unit Trust

Holds fixed entitlements beneficiaries (called unit holders) own units that determine their share of income and capital. Common for property developments and joint ventures where unrelated parties contribute capital.

Key benefits: **Clear, fixed ownership rights.**

⚙️ Hybrid Trust

Combines features of both: some income is distributed according to units held, while the trustee retains some discretionary powers. Useful in niche investment or complex family arrangements.

🔒 Testamentary Trust

Created through a Will. Comes into effect after death. Distributions to minors benefit from adult tax rates, offering **strong estate planning advantages.**

Trust vs Company Structure

COMPARING YOUR OPTIONS

	Trust	Company
Legal Status	Not a separate legal entity	Separate legal entity
Control	Trustee holds assets on behalf of beneficiaries	Directors/shareholders own and control
Tax	Income distributed to beneficiaries, taxed at individual rates	Flat 25% or 30% company tax (small vs large businesses)
Flexibility	**High:** income split can change yearly	Low: profit taxed at company rate, dividends paid with franking
Asset Protection	Good if using corporate trustee	Good: company assets separate from personal
Ongoing Costs	Moderate, annual trust returns, trust deed maintenance	Moderate: ASIC fees, company tax returns, director obligations
Asset Protection	**Family wealth, passive income, tax planning**	Trading businesses, reinvestment, growth companies

Tip: Many successful families and business owners use both, a trust holds shares in a company to **blend flexibility and corporate benefits.**

Disclaimer: This is not financial advice and is for educational purposes only. Please reach out to discuss your personal situation.

Unit Trust vs Discretionary Trust

KEY DIFFERENCES EXPLAINED

	Unit Trust	Discretionary Trust
Ownership	Fixed units	**No fixed interest** - trustee decides
Suitable For	Multiple unrelated investors, JV projects	Family wealth, asset protection
Distribution	Proportional to units	**Flexible** - based on annual decisions
Complexity	Simple to calculate entitlements	More complex tax compliance

Example

Example: Two families buy a commercial property together, a unit trust clearly sets their fixed share. A family investing in shares and property usually prefers a discretionary trust for **tax planning flexibility.**

The Trustee

RESPONSIBILITIES AND STRUCTURE

The trustee legally owns the trust's assets and carries **fiduciary duties,** they must act in the best interest of the beneficiaries and according to the trust deed. Poor trustee decisions can have legal consequences.

Key roles:

- Manage investments and assets responsibly.
- Lodge annual tax returns.
- Lodge annual tax returns.

Corporate Trustee vs Individual Trustee

	Corporate Trustee	Individual Trustee
Structure	Company acts as trustee	Individuals act directly
Asset Protection	**High:** separates personal assets	Lower: personal liability risks
Continuity	**Easy:** change directors without changing trust ownership	Changing trustees can be costly (transfer of assets)
Cost	Higher upfront (ASIC fees)	Lower upfront costs

Best practice: Many accountants and lawyers recommend a corporate trustee, the extra setup cost is minor compared to the **long-term asset protection and simplicity** when people come or go.

Beneficiaries

UNDERSTANDING DISTRIBUTION STRATEGIES

Beneficiaries are the **ultimate owners,** they receive the trust's income or capital. They can include:

- Spouse and children
- Extended family
- Related companies (bucket companies)
- Charities (in some trust deeds)

Beneficiaries must be named or fall within the class described in the trust deed.

Distributing Income to Beneficiaries

The trustee decides each year who gets what. The aim is to:

- Allocate more income to beneficiaries in **lower tax brackets.**
- Avoid distributing to those already at the top marginal rate.
- Ensure all income is distributed by year-end to avoid penalty tax.

Example

Example: A family may distribute:

- **$120,000** to a non-working spouse taxed at 19%–32.5%
- **$45,000** each to adult children studying full-time
- Up to **$416** to minors under 18 (tax-free threshold for unearned income)
- The remaining amount to a bucket company at 30%

Tax Minimisation Strategies

MAXIMISING YOUR BENEFITS

Popular tactics:

1. **Income splitting**
   Spread income across family members to take advantage of lower tax brackets.

2. **Bucket company**
   Use a company as a beneficiary to accumulate income at company tax rates (25-30%) rather than individual rates.

3. **Timing distributions**
   Distribute income when beneficiaries are in lower tax brackets (e.g., during sabbaticals, parental leave, or studying).

4. **Capital gains management**
   Time asset sales to align with beneficiaries' tax positions and utilise the 50% CGT discount for assets held over 12 months.

Key Benefits of Trusts

WHY TRUSTS MATTER

Asset Protection

Separate trust assets from personal liability risks, protecting wealth from business failures or lawsuits.

Tax Optimisation

Distribute income strategically across family members to minimise overall tax burden.

Flexibility

Adapt distribution strategies each year based on changing family circumstances and tax positions.

Estate Planning

Facilitate smooth wealth transfer across generations while maintaining family control.

Investment Growth

Accumulate wealth efficiently through strategic income distribution and reinvestment.

Family Wealth Building

Create a structure that benefits the entire family while maintaining centralized control.

Important: While trusts offer significant benefits, they require **proper setup, ongoing compliance, and professional management** to be effective. Always seek professional advice.

Getting Started with Trusts

YOUR NEXT STEPS

Steps to Establish a Trust:

1 Professional Consultation
Chat with a qualified Financial Adviser or accountant to assess your specific situation and goals.

2 Trust Deed Preparation
Have a comprehensive trust deed drafted that suits your family's needs and objectives.

3 Trustee Setup
Establish a corporate trustee (recommended) or appoint individual trustees.

4 Asset Transfer
Transfer initial assets to the trust and begin implementing your wealth-building strategy.

5 Ongoing Management
Maintain proper records, file annual returns, and review distribution strategies regularly.

Key Considerations: Trust establishment costs typically range from **$2,000-$5,000**, with ongoing compliance costs of **$1,000-$3,000** annually. The benefits often far outweigh these costs for most families.

Not sure if a trust fits? Take the quiz