

Is your trust structure still right for you?



Family trusts remain one of the most flexible and tax-effective structures used by Australian families and small business owners. But a trust that suited you five, 10 or 20 years ago may not be the best structure for your current circumstances. Wealth grows, family situations evolve, tax rules shift and businesses expand over time – and all of these changes can affect whether your existing trust deed is still fit for purpose.

So, as we approach the end of financial year, it's a good time to review your trust arrangements.¹

There are many reasons for taking another look at your trust, including:

- The trust deed no longer reflects your financial or family priorities.
- Distributions are not as tax-effective as they once were
- Your list of beneficiaries hasn't been updated with new partners, children or grandchildren
- The trustee may not be appropriate now because of age or illness
- Administration may now be a burden and outweigh the original advantages

There are also some triggers that mean you may need to consider a more complex, or even a completely different structure and these can include the following:

A significant increase in investment or business income

When income increases, so does the complexity of distribution planning. A basic trust may struggle to distribute income efficiently if there are fewer adult beneficiaries; the beneficiaries are already in high marginal tax brackets; or family circumstances have changed (children have grown and are now earning higher salaries)

You are accumulating assets across multiple entities

If investment portfolios, rental properties or business activities have expanded, a more sophisticated structure may provide better asset protection, simpler management or clearer succession pathways.

The trust is being used as part of a broader family wealth strategy

As intergenerational wealth becomes a priority, a traditional discretionary trust might not offer

enough flexibility in some areas such as estate planning, managing capital gains or managing assets for vulnerable beneficiaries.

You are preparing for the sale of a business or major asset

A review is critical if a trust is to be involved in the sale of shares, business assets or property. Different structures can affect access to CGT concessions, including the small business CGT concessions.

Next steps

The good news is that there are several ways to adjust the trust structure without starting from scratch, including:

Amend the trust deed – Many deeds allow for amendments to bring the document up to date such as modernising distribution provisions, clarifying beneficiary classes or updating powers given to trustees.

Change the trustee – If the trustee is no longer appropriate, a change can be made to appoint someone more suitable or a corporate trustee to improve governance and reduce risk.

Update beneficiaries or redefine classes – Some trust deeds allow for updating the list of beneficiaries or adjusting who can receive distributions. This can help ensure the trust continues to serve the family as it is today, not as it was decades ago.

Wind up the trust – If the trust is no longer useful, it may be best to wind it up to reduce costs and complexity, although capital gains tax and stamp duty implications will need to be carefully managed.

Change the structure – Depending on your goals, alternatives such as a company structure or a self-managed super fund may be more suitable.

Consider hybrid or testamentary arrangements – Where estate planning is involved, testamentary trusts or hybrid structures might offer more control or flexibility, particularly if supporting future generations is your priority.

Why you might add a corporate beneficiary

Another option is to use a corporate beneficiary (often called a “bucket company”), which is commonly used to cap tax on trust distributions at the corporate tax rate.ⁱⁱ

Here are signs it may be time to introduce a corporate beneficiary:

Your trust’s beneficiaries are approaching higher marginal tax brackets

If your individual beneficiaries are already earning significant incomes, distributing trust profits to them may result in unnecessary tax. A corporate beneficiary allows the trust to distribute income at the company tax rate.

You need an entity to hold retained earnings

A company can retain earnings at the corporate tax rate. These funds can later be reinvested, loaned back to the trust under a properly structured loan agreement or used for asset protection strategies. (Note that this must be managed carefully. Failing to structure loans correctly can result in unintended deemed dividends and tax liabilities.)

You want more flexibility in managing year-to-year tax outcomes

Corporate beneficiaries help smooth variations in trust income across years by offering another distribution option.

You are planning business or investment growth

As your financial affairs become more sophisticated, having a corporate beneficiary can expand the range of future planning options including reinvestment strategies, gearing, or structures such as corporate groups or family investment companies.

A family trust can be one of the most valuable tools in your financial toolkit if it keeps evolving with you. Whether your wealth is growing, your family is changing, or your business is expanding, taking time each year to review your trust structure ensures you remain aligned with your objectives and compliant with tax law.

A review now can save tax, reduce risk and set your family up for greater flexibility in the years to come.

Please give us a call if we can help.

Annual trust deed reviews matter more than ever

Trust deeds, once signed, are often forgotten. But they shouldn't be.

A trust deed is a legal document, not a set and forget structure. Taxation laws, case law and ATO guidance continue to evolve. So do family circumstances. A deed that doesn't reflect current rules or needs can create serious issues.

An effective review checks:

- If the trust deed allows streaming of capital gains and franked distributions
- Whether all intended beneficiaries are included (such as new partners, children and grandchildren)
- If the appointor/guardian clause still reflect the right person or succession plan
- For any outdated clauses or references to repealed legislation
- Whether the trust have a vesting date approaching
- If the deed allows distributions to corporate beneficiaries (if you're planning to add one)

An annual deed review is one of the simplest ways to prevent expensive problems later.

ⁱ <https://www.ato.gov.au/businesses-and-organisations/trusts>

ⁱⁱ https://sprintlaw.com.au/articles/can-a-company-be-a-trust-beneficiary-in-australia/#What_Is_A_Trust_And_Where_Does_A_Corporate_Beneficiary_Fit_In

Belmores

70 Belmore Street
Yarrowonga VIC 3730

P 03 5744 1221

E bwm@belmores.com.au

50 Belmore Street
PO Box 200
YARRAWONGA VIC 3730
E belmore@belmores.com.au

134 Melville Street
NUMURKAH VIC 3636
P 03 5862 1411
E
belmoresnumurkah@belmores.com.au

1-7 Albert
PO Box 246
MYRTLEFORD VIC 3737
P 03 5752 2288
E
belmoresmfdbright@belmores.com.au

Belmores Wealth Management ABN 61 185 654 130
is an Authorised Representative (No. 1240947) of
Belmores Wealth Management Pty Ltd ABN 64 648 164 505 | AFSL
531762
BRIGHT VIC 3741

P 03 5755 1327
W <https://www.belmores.com.au/>

This advice may not be suitable to you because it contains general advice that has not been tailored to your personal circumstances. Please seek personal financial advice prior to acting on this information. Investment Performance: Past performance is not a reliable guide to future returns as future returns may differ from and be more or less volatile than past returns.