



## Discretionary and Family Trusts

A Guide to Establishing and Operating Trusts

## **Dear Reader**

Welcome to the Investax Group Resource Library.

Our resource library has been created to assist you to navigate your way through the a range of accounting, taxation, wealth and financial planning, retirement planning situations that you may encounter when considering property investment, tax planning or planning for your financial future.

We are specialist property tax accountants renowned for reliable tax advice and property tax accounting services for property investors.

The property, development and construction sectors are complex and continually changing. New legislation from the State and Federal governments with funding challenges change how we invest and do business every year

## **KNOWLEDGE GIVES YOU A HUGE ADVANTAGE**

We believe that knowledge gives you a huge advantage in creating and effectively managing wealth; in planning to reach your goals: and in being prepared for whatever unexpected twists and turns life may present.

That's why our team of experts has created this eBook that seeks to inform you of not only the benefits, but also the potential risks and pitfalls of various strategies and investments.

We trust you enjoy this publication and find it informative. Of course, your feedback is always welcome as we strive to continually offer content in a format that is relevant to you.

## **TAKE THE NEXT STEP**

We invite you to meet with one of our advisers to discuss what it was you were hoping to achieve when you obtained this document, and to establish if they can help you achieve your goals and objectives. Visit our website to discover our range of e books or to arrange an appointment with a member of our team. [www.investax.com.au](http://www.investax.com.au)

We look forward to meeting you soon.

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## Introduction

Although trusts are common, they are often poorly understood. Setting up a trust is often driven by a new business opportunity, a growing business, or a need to better structure your investments. When set up correctly, there are clear tax benefits when it comes to operating as a family trust.

The importance of the correct structure in which to hold your investment, (be it property or any other) and its correct use could mean the difference between losing or retaining your assets and the paying or not paying of hundreds of thousands of dollars in excess tax over the longer term.

Trusts are a fundamental element in the planning of business, investment and family financial affairs. There are many examples of how trusts figure in everyday transactions:

- Cash management trusts and property trusts are used by many people for investment purposes
- Money held in accounts for children may involve trust arrangements
- Superannuation funds are trusts
- Many businesses are operated through a trust structure etc

### Why a Trust and which kind?

Apart from any tax benefits that might be associated with a trust, there are also benefits that can arise from the flexibility that a trust affords in responding to changed circumstances.

A trust can give some protection from creditors and is able to accommodate an employer/employee relationship. In family matters, the flexibility, control and limited liability aspects combined with potential tax savings, make discretionary trusts very popular.

There are strengths and weaknesses associated with trusts and it is important for clients to understand what they are and how the trust will evolve with changed circumstances.

You should always obtain advice from a specialist tax adviser and a solicitor when considering setting up a trust.



## How Family Trusts Operate

### Discretionary Trust / Family Trust

A discretionary trust or family trust is a common type of trust used to hold assets or run a family business. It is one of the most common trust structures. Essentially, it is a relationship where a trustee holds property or assets for the benefit of a beneficiary or beneficiaries. The one who holds the assets is called a trustee. A trust is not a legal entity and it requires the establishment of a legal entity to enter into agreement for it on behalf of the trust. Trustees can either be an individual or a company.

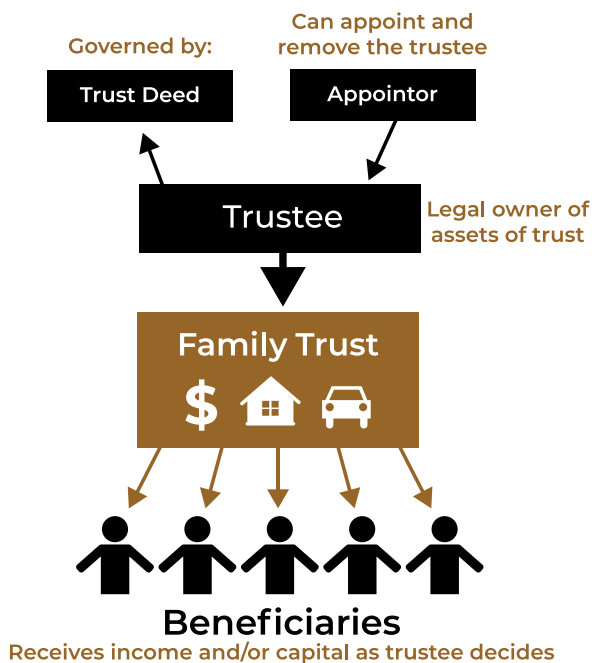


# How Family/Discretionary Trusts Operate

## How do Trusts work?

The Trust is the relationship or structure between trustees and beneficiaries. You could think of a Trust as a container of sorts, that things are placed within. All assets placed into the container become property of the Trust, controlled by the trustee for the sake of the beneficiary.

## How Family Trusts Work



## Discretionary Trusts: Advantages

### Asset Protection

Many business owners face a degree of risk in owning a business, for example if the business fails, they may be sued personally or put at risk of bankruptcy. Similarly, those in partnerships, particularly those with bank debts, can face similar risks. Assets that are within a family trust are protected from creditors, so even if a claim is made against you, the assets are not in your name and therefore cannot be accessed in these circumstances.

### Tax Advantages

Operating your business from a family trust and having the company act as trustee means you can retain the limited liability benefits of a company structure while taking advantage of the tax flexibility benefits of a family trust.

When set up correctly, there are clear family trust tax benefits for individuals and businesses. Because the trust itself does not pay tax, beneficiaries are taxed based on the amount of income placed in their name (as well as any other income they may have from other sources).

A family trust allows you to distribute profit amongst family members to utilise their income tax “tax-free thresholds”. If the business’ profits grow too large to distribute effectively, a family trust can also distribute to a separate company to cap the tax rate at 27.5 per cent.

### **Keeping it in the Family**

Whether you’re looking to keep your family home in the family or want to stagger inheritance distribution to ensure it’s not all spent at once, a family trust prevents Will contests and secures assets. Assets held within the trust do not form part of a deceased estate preventing contests to a Will or your child’s spouse claiming their share of an inheritance.

A family trust can provide long term financial support for your children or grandchildren, allowing you to invest in their long-term education and distribute family assets to future generations. A family trust can also be a great way to protect vulnerable beneficiaries who may make poor spending decisions if they were to control their own assets.

### **Discretionary Trusts: Disadvantages**

Any income earned by the trust that is not distributed is taxed at the highest marginal tax rate.

If you do find you are making a lot of profit as a family trust, those profits must be pushed out to beneficiaries. You could run out of beneficiaries and those beneficiaries will be paying highest tax rate. With a family trust, you can add additional beneficiaries if the trust deed allows for it, but care must be taken as capital gains tax and stamp duty may be triggered if done incorrectly.

The trust cannot allocate tax losses to beneficiaries either.

### **Family Matters**

Despite preventing some disputes within the family, there can be challenges in running the trust when other family issues occur. There can also be some complexities regarding succession planning and asset allocation upon the death of the trustee.

With a Will, you can dictate what goes to who, however, a family trust is separate to an individual’s will and you may be able to choose who controls the trust, you don’t dictate how they control it.

### **Negative Gearing**

One of the disadvantages of a discretionary trust is the loss of some benefits associated with negative gearing investments through the trust. Namely, if a discretionary trust acquires a property and borrows to invest in that property, then any losses generated are accumulated in the trust and cannot be distributed to the beneficiaries.

This is not such a problem if the discretionary trust itself other sources of income has but can give rise to significant problems for, say, PAYG-type taxpayers who wish to acquire a property and negatively gear at the same time. Obviously, the advantages of having the property owned by a discretionary trust may be outweighed in this case by the disadvantage of any negative gearing being generated in the trust itself.

The development of a unit trust (one where the discretionary nature is preserved in the trust deed but allows the issue of units) is an attempt to overcome this negative gearing problem.

### Family Trust vs Company

One of the key differences between a trustee company and a trading company, is that the trustee company doesn't trade, it doesn't have its own tax file number and it doesn't lodge a tax return of its own. It simply makes decisions for and on behalf of the family trust.

Some other important distinctions are:

- Companies cannot access the 50% capital gains discount, whereas a family trust can. Small business capital gains tax discounts can be accessed by both.
- A company is paying tax at 30% or 25% and pays tax from the first dollar. However, a family trust doesn't pay tax and profits are pushed out each year.
- A company can accumulate profits and reinvest those profits into the business as working capital.

- Companies are great for doing business with unrelated parties and you will be protected by the Corporations Act. As for a trust, if a party is not within family group, you cannot bring them into the trust with you.

### Is a family Trust right for my business?

While the family trust tax and asset protection benefits are obvious, there is a lot to consider and a lot at stake. Entering into a family trust isn't a simple decision and requires careful consideration and planning for the future of your business and/or investments.

	TRUST	COMPANY
<b>CGT Discount</b>	✓	✗
<b>Retain Profit</b>	✗	✓
<b>Tax Profit</b>	0%	30% or 25%
<b>Tax is paid by</b>	Beneficiaries	Company
<b>SBE Concession including 50% discount</b>	✓	✓
<b>LAND TAX Threshold</b>	No except for (QLD and SA)	Yes





## Who Are Parties To A Trust

### The Trustee

The trustee can be an individual, individuals or a company and they are the legal entity who owns the assets and makes decisions on the trust's behalf. There can be more than one trustee and more than one beneficiary. In most cases, the trustees are usually parents or a company that they own, and the beneficiaries are their children or dependants.

The trustee owns and controls the business' assets, distributes income, and must comply with the obligations of the trust deed and act with the best interests of the beneficiaries in mind.

The trustee is also responsible for registering the trust for tax purposes, lodging tax returns and meeting any other tax obligations on behalf of the trust.

### Who will be Trustee?

Note as the decision maker, the trustee will be held responsible for actions by the trust, as is the case with any owner. We would normally recommend a company to be the trustee as the company would not own any assets and as such gives you an extra layer of protection, especially if you own assets in your name. If you as an individual are trustee, then your personal assets may be at risk in the event of legal action against the trust which insurance will or does not cover.

### Beneficiaries

The beneficiaries are the people entitled to the income and assets of the trust. The beneficiaries of the trust are usually members of a family (family group), as well as companies and trusts that are controlled by that family. For example, the primary or default beneficiaries may be a parent or parents and the secondary beneficiaries maybe children, grandparents, companies etc.

The role of the default beneficiary is to receive and/or decide the direction of any funds that aren't allocated by the trustee. It's also important to note that you cannot change the default beneficiary without triggering capital gains tax and stamp duty. Beneficiaries will generally include their share of the trust's net income as income in their own tax returns and if they receive income from other sources they will be taxed for these as well.

### Primary Beneficiaries

You need to identify the primary beneficiaries by name. Depending on the deed the beneficiaries can be changed at any time and you can make distributions to anyone even if you do not identify them here. With certain deeds there may be tax consequences so get this checked before doing so.

Financial institutions, when looking at a loan application in the trust name or an individually named borrower, will also review this section of the trust and would normally require any named initial beneficiaries to be part of a loan application. Related parties to the initial beneficiaries are not normally party to the trust and as such are not normally part of the above review unless they have actually received distributions.

The trust deed provides that the beneficiaries include such persons as are related to you as follows and as such there is no need to specifically identify them.

Note also that beneficiaries include companies and trusts associated with all the persons specifically identified.

### Appointor

The Appointor (sometimes called the Principal or Guardian) has, in fact, the most powerful role in a trust and should be carefully selected. While the trustee is the one who decides what happens to the assets, funds and profits of the trust, it is the Appointor who has the power to change the trustee and appoint a new one. It is important to consult with your solicitor and include in your will the transfer of this role upon your death and that this power is passed on to the person of your choosing.

### Settlor

**The Settlor should never be the beneficiary of the Trust to avoid income tax issues for the trustee.** The Settlor is someone who puts down a sum of money to start the trust, commonly around \$10. Once the trust is established, the Settlor has no other role, entitlements, rights or connection to the trust.

This \$10 is a gift to commence (settle) the trust. It takes on the literal meaning of a gift i.e. you cannot give it yourself and the giver must not get back anything in return. Therefore the settlor can never be a beneficiary of the trust. We would normally see a friend gift you the funds. The settlor will need to sign the trust deed when you get it, to confirm the gift, after which they have no involvement.

## Company as a Trustee

- i. You need to set up the company and pay ongoing fees to ASIC. There is no need to complete and lodge a tax return if the company is only acting as trustee, provided the ATO has been notified that a return is “not necessary”.
- ii. **Who will be the shareholder?**

In normal circumstances the family decision makers i.e. husband and wife, but this is a personal choice. The entities identified as shareholders would be allocated one ordinary share each i.e. equal voting rights.
- iii. **Who will be directors?**

The shareholders will choose the directors. This can be anyone and is not limited to the shareholders but remember the directors will be the day to day decision makers so they will effectively control the trust. Normally we see our clients choose the shareholders identified above as the directors.
- iv. **Consent to Act as Director.**

You will need to agree to act as a director and we will send you the appropriate forms to sign and return before the company can be registered.
- v. Note the trustee company must have an Australian street address for both registered office and place of business
- vi. Note the majority of directors in the trustee company must have Permanent Residence or Australian Citizenship and have an Australian street address as their contact. Also note that if individuals are trustees the majority of these must also have Permanent Residence/Australian Citizenship and have an Australian street address as their contact address.
- vii. **Appoint a Public Officer.**

The Public Officer of a company is the person who deals with the Tax Office in relation to the company’s taxation affairs such as record keeping and submitting company returns..
- viii. **Choosing a Company Name.**

This will be a legally registered name and you cannot use what someone else has already chosen. Log onto [www.asci.gov.au](http://www.asci.gov.au)
- ix. **Tax Returns.**

If the company is acting as a trustee only there is no need to lodge a tax return as long as a tax return has never previously been submitted.
- x. **Ongoing costs.**

If the company is only acting as a trustee there would normally be no costs for tax preparation as no tax return is submitted. There will however be a need to pay the annual ASIC fees which are currently \$276.



# Operating A Trust

Although a trust can be established without a written document, it is preferable to have a formal deed known as a declaration of trust or a deed of settlement.

All types of trusts (with the exception of Superannuation Trusts) established in either NSW, NT or Victoria need to be duty stamped upon execution. Once the deed is stamped the the following applies.

### Step 1 - Opening up a bank account

To open a bank account for the trust you will need a copy of the stamped Trust Deed. This stamp will also show the date of stamping. Banks will often photocopy the deed for their records. The bank will also want to see a copy of the company registration if a company is the trustee. Normal ID proof for setting up a bank account will be required.

**Tip: Review your Trust Deed periodically**

It is important that you periodically review your Trust Deed. Legislative changes in state and federal government, Tax Rulings and compliance requirements may impact your Trust Structure. Consult your specialist tax adviser at least once a year.

The name of the bank account is:

Individual Trustees = *John Smith & Sue Smith as Trustee for Smith Trust* **or**

Company Trustees = *XYZ Pty Ltd as Trustee for Smith Trust*

Often you will see the above abbreviated like so:

*John Smith & Sue Smith ATF Smith Trust* **or**  
*XYZ Pty Ltd AFT Smith Trust*

Depending on the bank, you will see something similar to the above written on your statements. Don't be too alarmed if your bank labels the statement "The Trustee for the Smith Trust" and doesn't include the individual trustee's names; this is common practice for some banks and is fine.

### Step 2 - The money and paper trail

We recommend you open a bank account for the trust in the name of the trustee and trust as described above and if possible, pay the vendor's deposit (seller of property) from this account. You may need to firstly bank the deposit into this account prior to paying the vendor. We need a paper trail to prove that the "Smith Trust" paid for the property. If it is necessary for any deposit monies or other

settlement funds to come from another account including your solicitors trust account (ie not the trust bank account) additional documentary evidence will be required to support the fact that these funds are the trust funds and that it has directed you to pay to another entity.

### Step 3 - Finance & Property Settlement

It is wise to employ an experienced broker with extensive knowledge and experience with Trust Loans. Banks and other lenders in Australia tend to view trusts as extra work without any additional reward. Trust applications are complex, often with legal issues to consider and more extensive paperwork to complete before approving the loan. Most bank managers, mortgage brokers and credit staff, don't understand how trusts work, so trust applications tend to get bounced between bank departments, resulting in delays and errors.

It usually takes 4-6 weeks to get loan approval. There are several documents that the bank will need from you to process a loan for a trust:

- A certified copy of the stamped trust deed.
- A certified copy of the company constitution (if there's a company trustee).
- Identification for all trustees, directors of trustees and beneficiaries of the Trust.

You should be ready to provide this information to your lender or broker as soon as the Trust is established or ready.

### Step 4 – Exchange & Settlement

Please ensure you provide a soft copy of your Trust deed to your Solicitor before exchanging any property or business contract. The exchange date is your future capital gain date. You will calculate 12 months from the date property is exchanged. Ensure you get a soft copy of your exchanged contract where it is clearly dated and signed by the vendor.

The settlement process is relatively simple for most of the general public when you engage an experienced solicitor. They take care of all the complicated processes and many moving parts. Your tasks are –

- Ensure your bank is ready for the settlement
- Ensure the Trust bank account has the money for the settlement
- Approve the settlement statement by checking the names and rest of the details.

After the settlement, you should forward the solicitor invoice, settlement statement from your Solicitor, Land title deed, bank loan contract and bank loan statement showing the loan drawdown to your accountant.

### Step 5 - Land Tax Registration

Different states have different treatment for land tax, particularly in relation to the threshold for which no land tax is payable. When deciding in which structure to use (i.e. payable purchase in individual name, company or trust) you must ensure you take the different treatments into account.

Most clients lodge their own land tax registration and **unless you specifically instruct us to do it**, we assume you will handle it. However, land held in a trust may be a little complicated hence it is advisable for you to request that we do the first land tax return for you. The way you register adversely affect the amount of land tax payable.

## STEP 6 - After Settlement

You should have your real estate agent to automatically deposit rent, less the expenses, into the trust bank account.

All income and expenses associated with the property must pass through the trust bank account. The surplus (rental income less costs related to investment property) from the trust bank account needs to be paid to unit holder and then unit holder needs to pay the interest on the loan because as per the concept the unit holder is a borrower (whether directly from bank or via On Loan Agreement from trust) and the interest should be paid by unit holder to claim the negative gearing in the individual's income tax return.

Simply notify your solicitor that you will **let them know the name to put on the contract after you have consulted your accountant.**

### Depreciation

Depreciation is effectively the wear and tear on assets. For property there are two types:

1. Division 43 (Capital Works). This is the rate applied to the building
2. Plant and Equipment – This includes all other assets such as Fixtures and Fittings and excludes land.

Depreciation allows you to write off as an annual expense the costs of the asset over its effective life. The effective life is used to create the rate at which you write off the asset. In simple terms if the asset would last 10 years the annual write off rate would be 10% per year, if 20 years then 5% per year and so on.

There are various rates that apply to different assets, and this is further complicated with different rates depending on purchase date. Depreciation is calculated using one of two methods being Diminishing Value or Straight Line yielding completely different annual figures but both reducing the asset value to Nil over time dependent on the rates used.

Depending on the value of the asset purchased you may be able to have an immediate write off or you can group certain value or cost assets into a pool or group of assets for different treatment.

### Quantity Surveyor's Report

You should contact a qualified and ATO approved Quantity Surveyor to prepare a Report on Depreciation of the building and fixtures and fittings who will consider the various methods etc as described above. We have names of Quantity Surveyors should you require one. This is extremely important as it can provide you with thousands of dollars of additional tax deductions.



# Frequently asked Questions

## FAQ's

### How do I get money out of the Trust?

Once you've opened up a bank account, money will be received and spent via that account.

Should you wish to take money out of the trust for your own personal spending you can withdraw cash or transfer the money into your own personal account. Note interest on funds borrowed for personal spending will not be tax deductible.

Of course, you will need to track the income and expenses including noting how much money the beneficiaries/unitholder received so at tax time it can be easily determined who got what. However it is perfectly ok for you (the beneficiaries/unitholders) to withdraw money as you please and at year end these will be classified in the appropriate manner.

### What name goes on the documents?

While this is a legal area and readers are advised to consult their solicitor on such matters, we thought we'd share with you our experience.

From our experience, when it comes to purchasing property through a trust, many people get confused as to what name goes on the contract of sale. Hopefully the following will help remove any misconceptions.

If you are purchasing for (or via) a trust, the name that goes on the contract of sale is the trustee. The trustee is the one who is registered as the legal owner. **Before finalising how you will sign the contract you must get specific advice from your lawyer as the rules often change and if you sign incorrectly then you could be subject to two stamp duties.**

There are only two different types of trustees; one is a company as trustee and the other is an individual (or individuals) as trustee(s).

Figure 1.

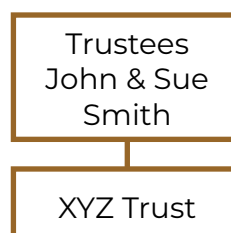
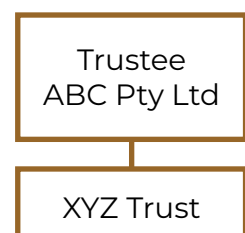


Figure 2.



To help clarify this concept, here are two examples.

In figure one, John and Sue Smith are trustees for the Smith Trust, therefore on the contract of sale you would write John Smith and Sue Smith. If your structure has a company as trustee, as in figure 2, then the contract will show the legal owner as ABC Pty Ltd and that is it, that's all you write. Generally we recommend that a company be established as the trustee.

In both these circumstances above the words "as trustee for the [name of trust] trust" are not needed, only the name(s) of the trustee(s) is needed.

Your structure must be setup before you exchange contracts of sale on a property. This means the trust deed must be executed before the date on the contract of sale.

Note the exchange date is the time in question when the trust set up needs to be completed. Settlement date is irrelevant to this exercise.



## Queensland and Western Australia

The exception to this rule is when you purchase in Queensland and Western Australia where it's a requirement to stipulate if the person or company is a trustee.

Again we advise you to get specific advice from your lawyer prior to signing as the rules can change and other states may change their requirements to have the trust identified.

In Qld and WA, the name on the contract of sale would be: (name of trustee) as trustee for the (name of trust) trust. For example, John Smith and Sue Smith as trustees for the Smith Trust or ABC Pty Ltd ATF XYZ Trust ATF stands for "Acting Trustee Form". Currently this is only necessary for the State of Queensland and Western Australia, however other states are in the process of adopting the same policy, so be sure to consult with your solicitor.

So why is this important? Firstly, for those who are in the process of establishing a new structure, as soon as they know the name of the trustee, they can proceed with the purchase of an investment. Secondly, if you have a trust structure it's important that you use the correct name of the trustee, to avoid any ownership and tax complications in the future.



## And or Nominee

The use of the term And Or Nominee is sometimes used on a Contract of Sale eg John Smith and Sue Smith and or nominee. It is used to substitute a different legal owner at settlement than was used when the contracts were signed at exchange ie the substitute name to go on the title deed. You must seek legal advice if contemplating this usage as double stamp duty may apply if incorrectly or inappropriately used.

In simple terms the entity that is to take over if the term is triggered at settlement must have been in legal existence at the time the contract of sale was executed and the entities were appropriately connected or associated.

## Who can be a Witness?

The execution of your trust deed documents will require a witness to also sign in various areas after you and others sign the trust deed. The witness cannot be someone who is a party or identified in the trust deed including persons who are the directors of the trustee company.



## Can the Trust apply for a loan?

Yes it can, although the individual trustees or directors of corporate trustees are most likely required to personally guarantee the loan. Please note an original stamped deed (possibly certified) will be required as part of the documentation for any loan where a trust is involved even if the trust is not the actual borrower but maybe only the beneficial owner.

Where the individual wishes the interest expense in their name then it is simpler if the loan be in their name. The bank will normally require the individual trustee or directors of the trustee company to act as guarantor. In the above circumstances the loan is usually applied for by the individual(s) who then makes an investment in the trust by subscribing to units in the trust.

## Can I borrow in Personal names – when the property is in the Trusts

The answer is yes subject to the terms and conditions of your lender. Speak to your mortgage broker or accountant to ensure that the loan is fit for purpose.

It is important to decide which entity has the right to claim the interest deduction. In some circumstances the loan may be established under a different entity, depending on which party provided security or equity for the loan.

In these circumstances an 'Loan Agreement' is made between the entities to satisfy ATO requirements.

Contact your accountant if you need assistance.

### **When do we require on Loan Agreement?**

Clients will require a loan agreement to satisfy the interest deductibility if they take a loan out in the wrong entity. Typically when you take equity out from your personal property to purchase a property in the Trust, the bank issues the equity loan under the individual owners' name. Generally, you will use this equity loan to pay the new Trust property's deposit, legal fees and stamp duty. You may require a loan agreement or an on-loan agreement to satisfy the ATO that the Trustee of the Trust is servicing this equity loan; hence interest is deductible under the Trust as the Trust owns the property and the mortgage. If you do not do this administrative and legal work, you may lose the interest deduction for the equity loan altogether.

The legal team does this agreement and must be executed at the same time as the bank's original loan offer. Please consult with your advisor to ensure all the administrative work is done regarding the loan documents to satisfy the ATO.

### **Can the trust apply for a credit card?**

Yes it can, although the trustees' are most likely required to personally guarantee the credit card facility. If using a credit card, you can spend money for personal expenses and expenses relating to the trust. Expenses relating to the trust will be tax deductible to the trust, money spent on personal items will be considered income for you as a beneficiary.

### **How do I pay for my property expenses?**

You should get your real estate agent to notify Councils, water board etc to have all invoices sent to the real estate agent for payment. Try not to pay anything yourself.

The reason for this is simply that at the end of the year all expenses are summarised in one report from your real estate agent. This saves a lot of time at tax time. You will then pay for interest yourself so the annual statement from the real estate agent and your bank statements should be sufficient information for tax preparation. Please note that the settlement sheet (balance sheet prepared at settlement) showing adjustments and any other charges (legal fees, stamp duty on mortgage etc) will also be required to complete the trust tax returns, as these costs are also deductible over various time periods.

You should also have prepared a depreciation schedule from a qualified Quantity Surveyor for inclusion in the trust tax return.

### **Goods and Services Tax (GST)**

If you are using the trust for residential property ownership to hold and rent out then you do not need to register for GST but if you intend buying commercial property or running a business (subject to minimum revenue expectations) you will need to register for GST and the appropriate form in the trust order pack will need to be completed. Note: If developing residential property for sale then this is a business and you will need to register for GST.



## Tax Time Lodgement | What documents to provide to your Accountant

The setting up of a trust is not completed until your next tax return when it is identified as to the number and class of units which need to be issued in relation to the property purchased.

You will need to complete an authority for the trustee to act as trustee each time you acquire an asset. The relevant forms are in the trust pack and are all but complete, you only need to identify the asset and the date you gave the authority and this should be completed prior to exchanging contracts. Keep this completed document in the trust file and give to the accountant at tax time.

Your investment property should be a passive investment and should simply make money for you without being a burden. If you get your real estate agent to pay for everything, it will minimize your workload. If you have to pay for something yourself, please keep a list on a sheet of paper. We do not need the receipts, but you do need to keep them in case the ATO asks for them.

1. In the year of Purchase and Trust Establishment you need to bring with you the following:

- a. Quantity Surveyors Certificate
- b. Solicitor's settlement sheet & Memorandum of Professional Fees
- c. Real Estate rental property summary
- d. Bank statements for the Loan.
- e. Summarise extra payments made that were excluded from (c) above on a single sheet of paper.

You need to retain them in case of an audit from the Tax department.

2. Second and Subsequent Years. All the above except (a) and (b).

## Land Tax Lodgment & Information

31-Dec NSW & VIC land tax assessment date. Remember to review your land tax values and lodge a Land Tax Return by the due date.

30-Jun QLD, SA, WAS & TAS land tax assessment date. Remember to review your land tax values and pay the land tax.

For further information for land tax payable in each State, please refer to the website below:

NSW [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au)  
VIC [www.sro.vic.gov.au](http://www.sro.vic.gov.au)  
QLD [www.osr.qld.gov.au](http://www.osr.qld.gov.au)  
SA [www.revenuesa.sa.gov.au](http://www.revenuesa.sa.gov.au)  
WA [www.osr.wa.gov.au](http://www.osr.wa.gov.au)  
TAS [www.osr.tas.gov.au](http://www.osr.tas.gov.au)  
ACT [www.revenue.act.gov.au](http://www.revenue.act.gov.au)

## Important

It is your responsibility to lodge an Income Tax Return each year for yourself and all the entities that you control. Be aware that the lodgement deadline changes from year to year; to find out more contact your Client Manager. Keep in mind that the tax return preparation takes a minimum of 6-8 weeks during the busy period of July through to March of the financial year.

Due to the tax laws constantly changing, Investax provides free updates via our newsletter and website. To receive these updates it's important that you register your email address on our site. Sign up for Investax Insights at [www.investax.com.au](http://www.investax.com.au).





## Why Choose Investax Group

### Property Tax Specialist

We are specialist property tax accountants renowned for reliable tax advice and property tax accounting services for property investors.

We assist property investors with the following:

- Ownership Structure planning and asset protection
- Tax Planning & Tax Returns
- CGT, GST and Margin Scheme

### Small to Medium Business Tax Specialist

The last 15 years of industry experience taught us no two businesses are the same because different individuals operate them. Success could mean completely different things to different individuals.

At Investax, our business tax accountants and business specialists work closely with you to meet your personal business goal, strategic planning, succession planning, and use structure to create better tax planning and asset protection.

Our team has experience doing bookkeeping, BAS and Annual tax returns for clients ranging from but not limited to start-ups, online stores, family-owned businesses, law firms, real estate businesses, franchise models, mortgage businesses, property developers, Electricians, builders, medical practices, coffee and retail shops.

### Superannuation Tax Specialist

At Investax, our team understand that every decision you make regarding your super will impact your retirement. We know how critical it is to have a solid foundation for your superannuation investment journey. We collaborate with a reliable, trustworthy, and expert team of advisors in the industry to help you achieve your financial objectives. Our wealth management team can help you identify and achieve a realistic superannuation goal. If the plan is to purchase a property in the SMSF, our wealth management team and finance team can work together to achieve the best possible result for your retirement objective.



## CONTACT US

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