

DO YOU REALLY NEED A TRUST?

CHECK LIST

Are you Prepared to Spend the Time and Money?

A standard trust deed will cost you \$600 + GST, property conveyancing and any mortgage transfers are an additional cost. More importantly, having established the trust you need to appreciate that it remains effective only so long as it is properly administered.

Are you prepared to:

- Find or pay for an independent party/trustee to help administer your trust (say \$200 per annum in a straight forward case)? Yes No
- Prepare or pay for the preparation of annual trust income tax returns (if required); approximately \$500 per annum in simple cases? Yes No
- Administer or pay for the administration of the annual gifting program required with most trusts (say \$120 per annum in straight forward cases)? Yes No
- Keep a trust minute book recording trustee meetings and decisions? Yes No

Conclusions

- If you answered **no** to any of the above, you and trusts might not be very compatible. In particular, failure to adequately maintain/administer a trust will soon render it ineffective.
- If you answered **yes** to all of the above, then consider the following questions.

Business Risk

All businesses involve financial risk to their owners. When considering the usefulness of a trust, try and identify the level of risk to your personal estate. Consider the questions below:

- Do the goods and services supplied by your business expose you to a significant risk of product liability or consequential loss claims? Yes No
- Are your employees exposed to a significant degree of physical risk? Yes No
- Do you trade in your own name (rather than through a company)? Yes No
- Are you a director of a company? Yes No
- If your business fell upon hard times, would your personal and business financial resources soon run out? Yes No
- Does your business depend heavily on other key personnel? For example, fellow business partners or senior employees who could

jeopardise your financial situation through breach of faith etc. Yes No

- Does your business own significant assets (for example, commercial property) or produce significant annual profits? Yes No
- Are your levels of business creditors and/or debtors high? Yes No

Conclusion

- If you answered **no** to all of the above, your business risk may be low or moderate. As a result, a trust may not be required against business risks.
- If you answered **yes** to any of the above (especially two or more), a trust should be seriously considered for moderating business risk.

Personal and Family Reasons

- Does your immediate or wider family include dependants or persons on lower marginal tax rates? For example, do you fund children going to university? Yes No
- Are you concerned about parties (known or as yet unknown) who may (through marriage etc) obtain an interest in family assets? Yes No
- Do you wish to protect personal assets from potential matrimonial property claims? Yes No
- Do you want to maintain key family assets within the family for future generations? For example, the family farm or holiday home? Yes No
- Do you wish to keep confidential the ownership of key assets? Yes No

Conclusion

- If you answered **no** to all of the above, you may not need a trust for personal/family reasons.
- If you answered **yes** to any of the above (especially two or more), seriously consider the costs versus benefits of establishing a trust.

Political/Government Considerations

It is becoming increasingly clear that state provided benefits such as education, health, superannuation and other assistance will become increasingly subject to means testing. That is, if you have even modest wealth, you may find yourself paying for these benefits. If you hold strong views about means testing, you may wish to consider utilisation of a trust in conjunction with your other estate planning objectives.

Do it Well, or Don't Do It At All!

If you decide that there are significant benefits to be obtained through establishment of a trust, remember, these benefits will only be permanently secured if the trust is properly maintained/administered from year to year.