

Documentation Focus

Discretionary Trust



The Topdocs Discretionary Trust provides for a wide range of beneficiaries within the family group, and also allows for distributions to associated companies and trusts of beneficiaries.

You can now order the Topdocs Discretionary Trust as an **instant download** document by logging in to our online ordering system. This means you can order your Trust online, and have the fully tailored documents downloaded to your computer within minutes. To order, visit www.topdocs.com.au or call a Topdocs consultant on 1300 659 242.

Please note you can still order your Discretionary Trust as full service in which case we will print and bind your documents for you. Full service orders can be made online as above (selecting Full Service as the delivery option) or via email or fax.

The Key Features of the Topdocs Discretionary Trust include:

1. Beneficiaries

The Trustees of the Trust can distribute the income and capital of the trust to the following entities:

- a. The **Specified Beneficiaries** of the Trust, as named at the establishment of the Trust.
- b. Where a **Specified Beneficiary** is a natural person, the spouse, widow, widower, parents, brothers, sisters, children, grandchildren, uncles, aunts, nieces, nephews, and cousins of that Specified Beneficiary and the spouses, widows, widowers, parents, brothers, sisters, children, grandchildren, uncles, aunts, nieces, nephews, and cousins of such firstmentioned spouses parents, brothers, sisters, children, grandchildren, uncles, aunts, nieces, nephews and cousins;
- c. where any **Specified Beneficiary** is a company (other than a corporation in the capacity of a trustee of a Trust or Settlement) - the members or shareholders for the time being of that company;
- d. where any **Specified Beneficiary** is the trustee of any Trust or Settlement - every person having a beneficial interest in that Trust or Settlement;
- e. Any persons or persons named as **General Beneficiaries** at the establishment of the Trust.

The trustees can also elect at any time to distribute to the following entities, by nomination:

- a. The trustees of any Trust that a beneficiary has a beneficial interest in;
- b. Any company at least one share of which is beneficially held by a beneficiary;
- c. Any other legal entity at least one share or other interest in is beneficially owned or held by a beneficiary;
- d. Charitable bodies.

2. Distributions of income and capital

The Trustees have the discretion as to whom distributions are paid to. Distributions may be made at the end of the financial year, or at any interim time during the course of the year as determined by the Trustees.

3. Distribution of capital at Vesting Date

The Trustee can nominate beneficiaries to receive the capital of the Trust at the Vesting Date prior to the Vesting Date, and nominate the proportion of the capital each beneficiary will receive.

Alternatively, if no nomination is made, the capital of the Trust at the Vesting Date will be allocated to the Specified Beneficiaries as tenants in common in equal shares for their own use and benefit absolutely.

4. Vesting Dates

All Topdocs Trusts are prepared on a state by state basis, ensuring the relevant perpetuity period applies according to the state the trust is registered in. Accordingly, Trusts established in SA will not be subject to an enforced perpetuity period. Unless otherwise nominated in the schedule of the Trust Deed by the client, the vesting date of the Trust will be that determined by the relevant states perpetuity period.

5. The Settled Sum

The Settled Sum is an initial amount of money that is used to legally create the trust. It is the role of the Settlor to pay the settled sum to the Trustees of the Trust at the establishment of the Trust

6. The Parties to the Deed

a. The Trustees.

The Trustee of the trust may be a company, an individual person or a number of individual people.

b. The Appointor

The Appointor of the Trust, as nominated at the establishment of the Trust, has the power to appoint and remove the trustees of the Trust. The Appointor may be a beneficiary of the Trust, and may also be the trustee of the Trust, but should not be the Settlor.

The Appointor is effectively the controller of the Trust, and therefore careful consideration should be given as to the person or persons appointed to this role, especially from the point of view of Succession and Estate Planning.

c. The Settlor

The Settlor's role is to transfer the settled sum into the trust. After this, the Settlor has no further role in the Trust. The Settlor should be a third party of the trust, and cannot be a beneficiary of the Trust or the Appointor of the Trust.

The Topdocs Discretionary Trust Establishment Package includes:

- The ability to order your documents online, and download them instantly; **or if ordered as full service:**
- 2 bound copies of the Discretionary Trust Deed, plus 1 unbound copy of the deed to scan;
- High quality leather look binder indexed with tabs to store your documents;
- Trustee minutes to establish the Trust, and to have the Trust Deed stamped by the local Revenue Office;
- Register of Beneficiaries;
- Detailed information on how to have the Trust Deed stamped by the local Revenue Office, including a covering letter;
- Information on how to open a bank account in the name of the Trustee/s; Register of Unit Holders.