

# Topdocs Fixed and Non-Fixed Unit Trusts



Topdocs provides two types of unit trusts being "Fixed" and "Non-Fixed" unit trusts

**The differences between a Unit Trust that is "Non-Fixed" and one that is "Fixed" are:**

## **Non-Fixed Unit Trust**

The Non-Fixed Unit Trust gives you the ability to create up to five different classes of unitholders with different rights depending on the class. There may also be trustee discretion for allocation of income and corpus depending on the unit class selected.

With the non-fixed unit trust, unitholders cannot claim a tax deduction on borrowing costs associated with their unitholding. They also cannot receive the threshold benefit relating to NSW land tax provisions.

With the non-fixed unit trust, Trustees have maximum flexibility in relation to income distribution in line with Bamford case outcomes.

The Topdocs Non-fixed Unit Trust provides for a number of unit classes; ensuring you have the ultimate flexibility in determining the rights and responsibilities of each Unit Holder. Units are also able to be issued as income or capital units.

## **Fixed Unit Trust**

The Fixed Unit Trust has only one class of unitholders, all with the same rights to capital and income distributions of the trust in proportion to their unitholdings.

The Topdocs Fixed Unit Trust is a fixed trust for the purposes of both Schedule 2F of the *Income Tax Assessment Act 1936* (Cth) (for tax loss provisions) and the *Land Tax Management Act 1956* (NSW) (this means that this trust can (if selected on the order to be used for *Land Tax Management Act 1956* (NSW) purposes) receive the benefit of the tax threshold for land tax purposes.

**The Key Features of the Topdocs Unit Trusts include:**

## **Non-Fixed Unit Trusts**

### **1. Units**

The whole of the beneficial interest in the Unit Trust is held by the Unit Holders, in equal proportions to their respective Unit Holdings, subject to the rights attached to their Units.

The Trustee may at any time, with the consent of the Unit Holders, issue new units of any class. Units may also be transferred to other entities.

### **2. Unit Classes**

There are five classes of Units, each of which grants certain rights on the Unit Holder in relation to:

- a. Receiving, or not receiving, a rateable proportion of the net income of the Trust during each financial year;
- b. Receiving, or not receiving, a rateable proportion of the Trust Fund at termination;
- c. Granting the ability vote at a general meeting of the Unit Holders.

Descriptions of the different Unit Classes available in the Trust are located in both our paper and online order forms, or on our website at: <http://www.topdocs.com.au/unit-trust-establishment.html>

## **Fixed Unit Trusts**

1. **Units** - The whole of the beneficial interest in the Unit Trust is held by the Unit Holders, in equal proportions to their respective Unit Holdings and this right cannot be varied. There is only one class of units, all with the same rights to capital and income distributions of the trust in proportion to the unitholdings.

2. The Topdocs Fixed Unit Trust is a Fixed Trust for the purposes of Schedule 2F of the *Income Tax Assessment Act 1936* (Cth). There are a number of rules to be satisfied for a Trust to take advantage of the Trust loss provisions. You should discuss these with your lawyer or accountant if you require advice.
3. The Topdocs Fixed Unit Trust is a Fixed Trust for the purposes of the *Land Tax Management Act 1956* (NSW). This is optional in our Fixed Trust Deed and you would generally utilise this if the trust will be purchasing real property in NSW. Those trusts will receive the benefit of the tax threshold for land tax purposes.

### **Both Fixed and Non-Fixed Unit Trusts**

1. **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.
2. **Appointment and Removal of Trustees** - The Unit Holders by unanimous resolution may appoint or remove any Trustee of the Trust.
3. **The Trustee** - The Trustee of the trust may be a company, an individual person or a number of individual people.

You can now order the Topdocs Unit 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](http://www.topdocs.com.au) or call a Topdocs consultant on 1300 659 242.

Please note you can still order your Unit 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 Topdocs Unit Trust Establishment Package includes:**

The ability to order your documents online, and download them instantly; **or if order as full service:**

- 2 bound copies of the Unit 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.