



# The World of Trusts – the LightYear Docs Way

Discretionary, Leading Member, Family Protection and SMSF Death Benefits and Testamentary Trusts

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*“Trusts have been around for 1,000 years now so there is a big body of case and statute law that cover trusts. Their first tax use was in the 15<sup>th</sup> century when a landowner sought to tax a landholder’s estate on the death of the landholder. Conveniently the trust was used as a mechanism to void that death duty.*

*In Australia the trust has been around for centuries and adopted many of the equitable legal principles from English trust law. For accountants trusts are the bread and butter for tax minimisation but there are so many other uses.*



*Trusts are all around us from superannuation funds, managed funds, discretionary trusts, unit trust, testamentary trusts and the list goes on and on. Each has a special place and a special use.*

# Key Features of a Trust

- *A Settlor settles a trust with a small sum of money or property into the hands of the Trustee for the benefit of the Trust's beneficiaries*
- *For example a Child Maintenance Trust under section 102AGA of the ITAA 1936 sees property settled by one or more parents for the benefit of their children pursuant to a Family Law order. Any distributions to the children are not subject to penalty taxes under Division 6AA of the ITAA 1936.*



# Resident Minors Tax Rates

2017-18, 2018-19, 2019-20, 2020-21 – Resident

Eligible income	Resident tax rate
\$0 to \$416	Nil
\$417 to \$1,307	66% of excess over \$416 <sup>(1)</sup>
Over \$1,307	45% of the <b>entire</b> amount of eligible income <sup>(2)</sup>



# Reasons to use a Trust

- Taxation and income splitting
- Bankruptcy Protection
- Litigation Protection
- Family Law Protection
- Family Provisions Protection
- Bloodline limitation
- Protection and looking after disabled or special needs children
- Be careful of what income is and isn't

# The LightYear Docs Discretionary Trust Deed

- Has the traditional components and requirements of a trust but with the Trustee having a wide range of discretion
- Enables income splitting per the High Court case of *Commissioner of Taxation v Bamford*
- Allows a succession of appointors if desired
- Wide range of beneficiaries – not limited to lineage or bloodline
- Vesting rules of 80 years unless jurisdiction chosen is South Australia
- Can upgrade from a current discretionary trust to a LightYear Docs without a resettlement

# The LightYear Docs Leading Member Trust Deed

- Very close to the LightYear Docs Discretionary Trust Deed and has the same legal bones
- Provides for a succession of Leading Member Appointors to control the trust
- Must be used with Leading Member corporate trustee to ensure control
- Beneficiaries are limited to the bloodline or lineage of the Leading Member appointor and any entity they are associated with
- Spouse as beneficiary is an option

# The LightYear Docs Family Protection Trust Deed

- Very close to the LightYear Docs Leading Member Trust Deed and has the same legal bones
- Provides for a succession of Family Protection Appointors to control the trust
- Must be used with Leading Member corporate trustee to ensure control
- Beneficiaries are limited to the bloodline or lineage of the Leading Member appointor and any entity they are associated with
- Spouse as beneficiary is an option
- Best used with The Protector

# The LightYear Docs Testamentary Trust



- It comes from the Will of the deceased with terms and conditions to be inserted via the interview process
- They can be mandatory or optional
- Testamentary trusts can be created for multiple beneficiaries and over specific gifts and the residual estate of the deceased
- Children are excepted persons under the testamentary trust and taxed as adults
- Can be chosen to be for bloodline or lineage only



# The LightYear Docs SMSF Death Benefits Trust



- Very close to the LightYear Docs Leading Member Trust Deed and has the same legal bones
- Legally it can be created as a testamentary trust from the Will but family provisions issues or it can be created by the Trustee of the SMSF for the benefit of a dependant including ALL children and financial dependants
- If direct and to children then capital must pass on vesting of the trust to the beneficiaries
- Child beneficiaries are excepted from Div 6AA of ITAA 1936



# What's coming up

- *Virtual Strategy Summit* coming on 14 and 15 July with some great speakers and content. Not just technical but business, marketing, media and a whole lot more. See the link and for LYD users with no CPD requirements choose General Admission and use code LYNOCPD for free ticket. If you want 11 hours CPD then LYCPD for \$99 and will be a great event
- *Don't forget every Tuesday at 11am we have our VIP strategy session where you can ask me any question and watch out – no holds barred! Next week I am building two wills from client case studies from a LYD Strategist member. Claim a ticket from Sophia – [sophia@ilovesmsf.com](mailto:sophia@ilovesmsf.com)*



Email:  
[support@lightyeardocs.com.au](mailto:support@lightyeardocs.com.au)



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