



Individual Trustee FAQ's

What is a trust and is it legal?

A Trust is a recognised legal entity – acknowledged by the Australian Taxation Office, banks and other institutions. The Trust deed sets out the rules of the Trust. Each trust has a *Settlor*, a *Trustee* and *Appointers*. The Appointers are the ones for whom the trust is being set up (ie the person who asked you to be the trustee). The Settlor is the person who sets up the trust for them, and the Trustee is the person who is in charge of running the Trust (ie, you). Anyone can be a Trustee of a Trust and this is quite separate from their personal financial affairs. A Trust cannot act alone – it owns assets, earns income and holds wealth via a Trustee. All of the wealth belongs to the Trust NOT the Trustee. Trustees can be changed, but the money and assets remain in the Trust.

What are my duties as Trustee of this trust?

You will be required to sign a number of documents as the Trustee of the trust. Some of those documents may need to be signed in front of a Justice of the Peace (JP), and in some cases you may also be required to complete a Verification of Identity (VOI) at your local post office, which simply entails filling out a simple form with your details and producing 100 points of ID. You will also need to attend the bank with the person who has asked you to be a Trustee (the Appointers) in order to set up a bank account in the name of the Trust. You will be a signatory to the bank account, but you not be involved with the operation of the account. There may also be times in the future where changes to the documents are required and you will need to sign as Trustee. Otherwise you do not play an active role and need not be responsible for or do anything.

Will I be responsible in any way for the debts of the Trust?

No. Your assets are separate from the Trust's assets and they will never merge. As a Trustee, you do not become liable for the debts of the Trust or vice versa. Everyone remains separate and existing responsibilities do not change. We are taking all the risk and you are holding all of our assets and income for us.

What if creditors of the Appointer chase me because I'm Trustee for the Trust?

They cannot come after you. Any debt of the Appointers (the people who asked you to be trustee) is in their names only and cannot be attached to you in any way.

Will this affect my tax?

No. Most trusts will not earn any income at all as this trust doesn't trade or invest – it is purely for asset protection, and so nothing is taxable in your hands and nothing needs to be included in your tax return. In the unusual case where the trust does earn income, if the income is not paid out to the beneficiaries at the end of the financial year then it will be taxable in your hands but the Appointers will ensure that this is not the case. Any income will be regularly disbursed and you won't be affected.

Will there be any cost to me?

No. You will not be asked for payment for anything at all.

What about Centrelink and my pension or benefits?

If you declare that you hold the role of Trustee to Centrelink, they may ask questions and they may treat the Trust's income and assets your own – this is definitely not the case, but often it is easier to avoid this situation than to try to explain. If you do receive a pension or other benefits and don't wish to deal with this, then you should decline the role of Trustee.

Can I resign as Trustee?

Yes, you can resign at any time and another Trustee can be appointed in your place.

What happens if something happens to me eg if I get sick and can't do it anymore?

We will appoint another Trustee in your place.

What happens if something happens to you?

That is covered in the Trust deed – all the assets held in the Trust become part of my estate and go to my beneficiaries as directed in my will. At this point, your role ceases and nothing further is required of you.