



Trusts and Trust Distribution Resolutions

 **lightyear**^{INC.}

with Grant Abbott
LightYear Training Group



Are you making full use of LYD and LYTG

- Over 40 New Three hour Training Programs to be presented in the next 18 months
- Specialist courses on SAPEPAA and SMSF
- Book in a team presentation with a member of Abbott and Mourly Lawyers to show you around all the documents on LYD and Success Resources - nush@abbottmourly.com.au



At LightYear Group we are always looking to the needs of accountants and planners clients and build strategies, documents and client communications for our firms to use and "wow" their clients.

It is an ever evolving Win - Win - Win partnership. It is proactive not reactive. LYG is where the world is going not where it has been.



And as times get tougher, the Commissioner is seeking to recoup all past largesse and tighten up tax collection. With AI coming soon - everything can be audited at once.

Plus litigation in the trust space is taking off and that includes Trusts with decisions like **Owies** changing the dynamic



Weakness of Tax based Discretionary Trusts

- All depends on the deed and set up
- Most important person of all is the Appointor
- What happens if the Appointor is incapacitated, dies or is sued?
- Is there a line of succession for Appointors
- Should have a corporate trustee as individual trustees are open to attack
- Dangers of named beneficiaries if Trustee does not consider each beneficiaries financial circumstances each year

APPOINTOR

TRUSTEE
COMPANY

DISCRETIONARY
TRUST



Ensure - Convert to a Leading Member Trust

Line of Succession

- LMA
- Successor LMA
- 2nd Successor LMA
- 3rd Successor LMA

**Leading Member
Corporate Trustee**

**Leading Member
Trust**

- More than a Discretionary Trust
- Built to protect family wealth for bloodline
- The key is the Leading Member Appointor (LMA)
- Important to have a line of successor LMAs
- Multi-generational and forever
- Holds all of the family wealth
- On death it splits into family groups
- No resettlement if you convert in line with ATO rules TD2012/21

ATO: TD2012/22 - Trust Distributions

Example 12: net income less than income of trust estate

53. Under the trust deed for the Merthyr Family Trust 'income' is not defined and so takes its ordinary meaning. The trustee does have a power to treat receipts as being on revenue or capital account.

54. In the 2011–12 income year the trustee made a \$110,000 operating profit against which it charged general expenses of \$10,000 and depreciation of \$10,000. The trust income for the year was \$90,000. For tax purposes, the depreciation was instead \$40,000. The net income of the trust was therefore \$60,000.

55. The trustee resolved to distribute the income of the trust to each of Gwen, Bryn and Owen in equal shares. As they were each entitled to one-third of the income of the trust (\$30,000), they are each assessable under section 97 on one-third of the section 95 net income (\$20,000).

Next Steps

- We are going into some very hard times so all clients need protection
- Use the tools and template documents on LightYear Docs which are provided by Abbott & Mourly Lawyers
- **Next step is to upgrade clients discretionary trust deeds to an AM Lawyers deed on LYD**

